

Trading Standards Service Compliance and Enforcement Policy

Introduction

This document explains the Compliance and Enforcement Policy of Lincolnshire County Council's Trading Standards Service and sets out what businesses, individuals and communities as a whole can expect from our Enforcement Officers. This policy should be read with our Prosecution and Enforcement Sanctions Policy.

Our policy takes into account the statutory duties, obligations and principles set out in the Regulators Code (made under the Legislative and Regulatory Reform Act 2006), The Enforcement Concordat and the Human Rights Act 1998. As a service we aim to conduct our enforcement activities in a manner that is consistent, fair, transparent, accountable, proportionate and targeted.

The Purpose of our Enforcement Policy

Securing Compliance with legislation is one of the mechanisms by which the Trading Standards Service achieves its overall objectives to:

- **Objective 1:** Develop our use of intelligence to scan and test the market place and tackle those organised criminal networks and unscrupulous businesses who deliberately, repeatedly or recklessly engage in fraudulent trading practices that harm the interests of consumers and legitimate businesses. Whilst rogue trading can occur in any trade sector we have identified the following that specifically impact our local communities:
 - Doorstep Crime and Scams;
 - Cybercrime;
 - Illicit Tobacco;
 - Product Safety ;
 - Second-hand Car Sales;
 - Intellectual Property, and
 - Food Fraud.
- **Objective 2:** To support economic growth by helping businesses to comply with their legal responsibilities and enhancing public protection through delivery of our chargeable business advice services and through increasing the number of our business partnerships.
- **Objective 3:** To engage with the public, communities, businesses and partners to increase resilience and safeguard the vulnerable against scams, rogue trading and unfair business practices.

To do this we enforce a wide range of business and consumer protection legislation relating to quality, quantity, safety, description, commercial animal welfare and prices of goods and services.

We undertake our duties in a variety of ways including inspection, sampling, test purchasing, testing, investigation and legal proceedings as well as by informing, advising and educating businesses and consumers.

This policy adopts principals developed in conjunction with TSEM¹ to help us to promote an efficient and effective approach to regulatory enforcement and in turn improve regulatory outcomes without imposing unnecessary burdens on legitimate businesses.

The effectiveness of legislation protecting businesses and consumers is largely dependent upon the compliance of those it intends to regulate. The service recognises that most businesses want to comply with the law and we will endeavour to help them and others to meet their legal obligations.

In circumstances where we may share an enforcement responsibility with another agency e.g. The Competition and Markets Authority, The Food Standards Agency, Environmental Health and the Police, we will endeavour to coordinate with these agencies to minimise any unnecessary overlap or time delay and to maximise our effectiveness.

Our Enforcement Principals:

Targeting

We will endeavour to prioritise and direct our regulatory resources effectively. To achieve this we will develop and use comprehensive, intelligence led risk assessments to focus our resources to issues of most need. We aim to ensure that the majority of our formal enforcement activities are focussed on those who are criminally intent, flout the law or act irresponsibly.

Proportionality

We will endeavour to ensure that when we take enforcement action it is proportionate to the circumstances surrounding the breach of legislation and that the sanctions we apply are meaningful. Where we serve a notice we will inform the recipient of any process of appeal.

Accountability

We will be accountable for the efficiency and effectiveness of our activities whilst remaining independent in the decisions we take.

Fairness and Consistency

We endeavour to treat all consumers and businesses fairly. No decision, response, or action by the Service will be affected by the race, politics, gender, sexual orientation, mental or physical capability or religious beliefs of any suspected offender, complainant, witness or officer of this service.

¹ TSEM is a partnership of local authority Trading Standards Services covering the East Midlands Region comprising the County Councils of Lincolnshire, Nottinghamshire, Derbyshire, Leicestershire and Northamptonshire with the City Councils of Derby, Leicester and Nottingham.

We will endeavour to ensure that our enforcement practices are consistent and we will adopt a similar approach in similar circumstances to achieve similar ends. When undertaking enforcement activity we will give due regard to the provisions of the Police and Criminal Evidence Act 1984, The Regulation of Investigatory Powers Act 2000, The Human Rights Act 1998 and the Code of Practice on Powers of Entry issued under the Protection of Freedoms Act 2012.. In particular we will respect a person's right to a fair trial, right to respect for private and family life and the protection of property.

We support the Primary Authority Partnerships Scheme developed to promote good enforcement practice and reduce unnecessary burdens on businesses.

Openness and Transparency

We are committed to the open provision of information and advice in a format that is accessible, easily understood and implemented. We will ensure that there is a clear distinction between those actions necessary to comply with the law and those which we recommend as best practice but are not compulsory.

How we make our decisions in respect of any potential legal proceedings are explained in our Prosecution Policy.

The Enforcement Options Available to us

There are a variety of sanctions available to us where there is a breach of legislation and they include:

- **Indirect Action**-including referral to another local authority or enforcement agency for information and/or action.
- **Verbal or Written Warning**-where relatively minor noncompliance is identified and further action is not deemed appropriate. The warning will contain suggestions for corrective action differentiating between what is required and what is "best practice" and setting a time frame.
- **Statutory Notice**-notice prescribed in law. Only to be issued in accordance with specific statutory provisions.
- **Fixed Penalty Notice**-may be issued in the case of minor infringements when our officers are working with other agencies who have the power to issue them.
- **Forfeiture** – may be sought in conjunction with a prosecution or separately where legislations permits.
- **Taking Possession of Animals** – When a veterinary surgeon certifies that "protected animals", as designated under the Animal Welfare Act 2006, are suffering unnecessarily or are likely to suffer if there is no change in their circumstances we may take them into our possession and apply for Orders to recover the costs involved including transportation, accommodation, feeding, veterinary treatment and disposal.
- **Undertaking**-may be sought to correct or prevent further noncompliance on a voluntary basis or a statutory basis through the Civil Courts.

- **Enforcement Orders**-may be used to deal with criminal or civil breaches of law in accordance with the Enterprise Act 2002 and are sought through the Civil Courts.
- **Licence Reviews** – may be sought where the holder's fitness to hold the licence is brought into question
- **Simple Cautions**-may be used to deal with criminal breaches where Court action is deemed inappropriate having regard to the guidance contained in The Code for Crown Prosecutors. A copy of the code is available from www.homeoffice.gov.uk.
- **Prosecution**-may be used to deal with criminal breaches where deemed appropriate having regard to our Prosecution and Enforcement Sanctions Policy and The Code for Crown Prosecutors.

In appropriate circumstances, sometimes working in partnership with other agencies, we may seek alternative penalties or sanctions. These alternatives may include:

- Recovery of assets under the Proceeds of Crime Act 2001
- Disqualification of company directors under the Company Directors Disqualification Act 1986
- Victim Compensation

Availability of this Policy

This Compliance and Enforcement Policy and our Prosecution and Enforcement Sanctions Policy are available to anyone and are published on the Lincolnshire County Council website at www.lincolnshire.gov.uk.

Commenting on this Policy

Anyone who wishes to make comments about the content of this Policy or the manner of its application is invited to send them to us by any of the methods outlined below.

These comments will assist us in the continual monitoring and review of this policy. This is important to help ensure that the policy remains up to date and reflects the views of our community and changes in legislation. Please contact us should you require any further information on how we carry out our work, if we can be of further assistance to you or if you have a complaint about the provision of our service.

If you remain dissatisfied or feel that you cannot talk to us you may wish to complain directly to Lincolnshire County Council. You may do this by any of the methods shown at www.lincolnshire.gov.uk.

Comments about our Service

If you wish to make a complaint or compliment us on the service we provide please contact us or use our online Compliments, Comments and Complaints form which can be found at www.lincolnshire.gov.uk

How to contact us;

Internet: online reporting form at www.lincolnshire.gov.uk/tradingstandards

By phone: via Citizens Advice on 0808 2231133

Lines open Monday to Friday 09:00 – 17:00

Closed on bank holidays and public holidays

By post: Lincolnshire County Council Trading Standards, Myle Cross Centre, Macaulay Drive, St Giles, Lincoln, LN2 4EL

(Postal address only, there are no facilities for personal callers)

Lincolnshire County Council

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