

## Trading Standards Enforcement Policy

### 1. Introduction

- a) “Enforcement” is defined as including any advice, inspection, action, instruction or warning, caution, prosecution (or other types of court action) taken in relation to a person or organisation who is or is believed to be acting unlawfully.
- b) It is the Council’s procedure that only officers authorised through the delegated powers described in the Constitution will take enforcement action.
- c) The Council was a signatory to and remains committed to the aims of the 1998 [Enforcement Concordat](#). Anyone undertaking an enforcement role on behalf of the Council in any capacity must have regard to the principles of the Enforcement Concordat, which we hold to be good practice, together with any additional requirements as laid down by codes of conduct, legislation or other provisions contained in this Enforcement Policy.
- d) Anyone having a duty to enforce the law must ensure that they deal with those subject to enforcement action courteously, fairly and objectively.
- e) The Human Rights Act 1998 is directly relevant to those in the public-sector undertaking investigations.
- f) Where an enforcement role is shared with another Agency, it is the policy of this authority to undertake joint enforcement activity to minimise any unnecessary duplication and delay. Joint working may be undertaken with agencies including other local authorities, the Police and HM Revenue & Customs, or any other relevant agency as appropriate.
- g) This policy should be read in conjunction with several other pieces of legislation and Council procedures relating to enforcement. These include: -
  - Investigations: The Criminal Procedure and Investigations Act 1996 (known as CPIA), the Police and Criminal Evidence Act 1984 (known as PACE) and relevant Codes made under PACE.
  - Surveillance: The Regulation of Investigatory Powers Act 2000 (known as RIPA).
  - Council procedures: codes of conduct & Corporate Complaints Procedure
  - Trading Standards: Home/Primary Authority arrangements,
  - Investigation Process: Legal process guidelines.
- h) This policy will be reviewed formally on a regular basis but any interim need to make amendments, such as in the case of a change in legislation, will not trigger a full review.

## 2. The Regulators Code

We are required to comply with the [Regulators Code](#). This is a statutory code of practice intended to encourage regulators to achieve their objectives in a way that minimises the burdens on business. The purpose of the Code is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement among the regulators to which it applies. This approach will ensure that regulators are efficient and effective in their work, without imposing unnecessary burdens on those they regulate.

## 3. Enforcement Policy: General

- Enforcement officers will comply with the principles of the Enforcement Concordat in connection with the enforcement process.
- Enforcement officers will comply with the Regulators Code and have regard to the provisions of any other Code of Practice published by a Government Department or other advisory body as necessary.
- Any enforcement action will be proportionate to the seriousness of the infringement. This does not preclude court action as a first step although no prosecution will be undertaken without subjecting the case to the tests outlined in the [Code for Crown Prosecutors](#) published by the Crown Prosecution Service.
- Where necessary statutory powers that exist to enable investigations to continue outside the Council's boundary will be used.
- Covert surveillance of individuals will be carried out when appropriate, but will be conducted within the legislative framework.
- Together with the other Authorities within the North-East area we work in conjunction the National Trading Standards Board Regional Investigations Team (NE). This government-funded team operates on a regional basis. It works across local authority boundaries. Where we consider it appropriate we will request the Regional Tasking Group to consider tasking the Regional Investigations Team to investigate where it appears that potential criminal activity may go beyond the Redcar & Cleveland area.
- The Authority has a firm commitment to ensuring full and equal access to all services. This may include:
  - the provision of translators for interviews where the interviewee's first language is not English.
  - the carrying out of enforcement visits outside normal office hours when the business concerned operates at those times.
  - The explanation of actions to fulfil commitments under the General Data Protection Rules under the Data Protection Act 2018.

## 5. Enforcement Actions

Trading Standards has a policy of taking a graduated approach to enforcement actions **but this does not preclude formal enforcement action as a first recourse if the circumstances warrant**. In broad terms the options range from the informal to the formal and can be categorised as follows:

- **Advice and Guidance:** are intended to assist individuals, existing and prospective businesses and other organisations in complying with legal obligations. This may be achieved through guidance given during visits, explanatory leaflets, social media, etc. The resolution of issues through discussion is often achievable.
- **Informal Warnings:** are used to reinforce advice and guidance where minor breaches of the law have been identified or it is considered not to be appropriate to take more formal action. Warnings of this type may be given verbally or in writing.
- **Formal Enforcement Action:** includes the use of statutory notices (which include Fixed Penalty Notices, Improvement Notices and Suspension Orders), Simple Cautions and prosecution. Formal action may also include the seizure of goods documents or other items where legal power exists and it is proper to exercise it. Where there is a need to dispose of goods in order to prevent them re-entering the market and a defendant is unlikely to voluntarily surrender items, the authority may apply to a court for a forfeiture order.
- **Proceeds of Crime:** is a procedure that we will use to take action in appropriate cases to recover assets that have been accrued through criminal activity with the principal objective of removing the assets so that they cannot be re-invested in further criminal activity.