

WEST YORKSHIRE TRADING STANDARDS SERVICE ENFORCEMENT POLICY

INTRODUCTION

This document sets out the enforcement standards that businesses are entitled to expect from West Yorkshire Trading Standards Service. It commits us to consistent, equitable and open enforcement practices.

Our primary aim is:

“to ensure a fair deal in the market place for buyer and seller alike.”

PROPORTIONATE ENFORCEMENT

The chief function of central and local government enforcement work is to protect the public, the environment and honest traders. Carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving local economy.

The effectiveness of legislation in protecting consumers or particular sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business, and others, meet their legal obligations without unnecessary expense. At the same time, we will take firm action, including prosecuting where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

PROVIDING ADVICE AND INFORMATION

We recognise the importance to businesses of receiving accurate, up to date and helpful advice. To that end, we provide access to information 24 hours a day, via our West Yorkshire Trading Standards Service website. Voicemail is available to leave messages for our staff, when we are closed. Some officers are contracted to be available “7 Days/ 24 Hours” per week to enable visits to be carried out outside normal working hours. In addition, we have access to interpreters and translators, for those occasions when businesses or consumers do not have English as their first language.

ENFORCEMENT CONCORDAT

We have signed, and adopted, the central and local government “Concordat on Good Enforcement”. Included in the term ‘enforcement’ are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the Concordat we commit ourselves to the following policies and

procedures, and we undertake to provide information to show that we are observing them.

PARTNERSHIP WORKING

To ensure that the local economy is not prejudiced by unfair competition, we monitor the standards of other traders in the same sector. This work is complemented by joint enforcement and advice initiatives, carried out across the Yorkshire and the Humber Region.

Wherever practicable, our enforcement activities are co-ordinated with other enforcement agencies. This will minimise unnecessary duplication and delays and will increase our overall effectiveness. Joint working may be carried out with agencies such as the Police, DEFRA, Environmental Health Officers and HM Revenue and Customs officers.

Whilst we do not have any direct responsibility for the activities of other agencies, we will abide by this code throughout joint operations and encourage our partners to do likewise.

INVESTIGATING ALLEGED OFFENCES

On occasions, Enforcement Officers deal with potential criminal offences or civil breaches for which legal proceedings may be taken against an individual or a company. Every alleged legislative breach will be courteously and thoroughly investigated to establish all the facts. During this period of investigation, it is not unusual for officers to use their powers to take samples, inspect records or seize goods and documents.

At the conclusion of the Officer's enquiries, a decision will be made whether to deal with the matter informally, or whether to pursue a more formal course of action, which may ultimately lead to prosecution or civil sanctions being applied.

INFORMAL ACTION

Minor incidents are normally dealt with at the time of the visit and involve the Enforcement Officer drawing the matter to the attention of the business. The Officer will always leave a report of the visit, which will include advice where necessary. A further written warning and guidance may be sent following the visit. Rarely will a minor or technical infringement result in more formal action being taken, particularly if it is capable of immediate rectification. A follow-up visit will be made, where circumstances demand, to ensure minor matters have been rectified. However, if repeated previous advice has been ignored, an Officer may choose to treat the incident in a formal way.

FORMAL ACTION

In more serious cases the Enforcement Officer is required to prepare a report for Senior Officers of the Service. This report will contain a full and balanced account of the facts surrounding the case and will be used to decide if the matter should proceed to prosecution or civil action. Traders are always given the opportunity to offer an explanation of both the circumstances surrounding the commission of the offence, and any “due diligence” precautions that may have been taken to prevent such an offence occurring.

Officers must record this explanation at a formal interview, which takes the form of a question and answer discussion. This interview is always written down or tape-recorded. Traders are invited to seek legal advice prior to these interviews taking place or to be accompanied by a legal representative at the interview itself. Whilst these interviews can be stressful, they are intended to ensure that a complete picture of the incident is obtained.

All investigations and interviews are conducted strictly in accordance with the provisions of the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence Act 1984

Senior Officers decide on the appropriate course of action in line with Home Office Guidelines. These detail a two-stage decision making process:

- An evidential test
- A public interest test

The initial stage ensures that there is enough evidence to provide a ‘realistic prospect of conviction’. If this is not the case a prosecution will not be taken. If this test is met the decision is taken as to whether a prosecution is in the public interest.

The final decision is always made in the light of all the circumstances identified. However, even if the evidence in the report warrants a prosecution, the public interest factor allows discretion not to automatically proceed with a prosecution.

ENFORCEMENT ALTERNATIVES

For criminal cases the eventual course of action taken may be one of the following: -

- Issue a written warning
- Offer a simple caution
- Proceed with a prosecution

A prosecution is likely to be pursued if the alleged infringement:

- Was fraudulent, or involved the deliberate or persistent breach of legal obligations (e.g. disregarding warnings and/or formal notices) in circumstances which caused, or were likely to cause, material loss or prejudice to others, or
- Caused, or was likely to cause, loss or prejudice to others through negligence or gross carelessness, or
- Endangered the health, safety or well-being of people or the environment, or
- Involved obstruction of an authorised Officer carrying out his or her duties.

In circumstances where the need for a prosecution is considered to be borderline, a simple caution may be issued by agreement with the defendant. The purpose of these cautions is to prevent an unnecessary court action, where the defendant fully admits the offence and agrees to it being cited in court, should a future infringement occur. No court proceedings are involved.

No enforcement action will be taken when there is insufficient evidence available to establish an offence or extenuating circumstances apply, such as serious illness of the offender.

For civil cases the eventual course of action may be one of the following:-

- An informal undertaking
- A formal undertaking
- An Enforcement Order

Civil action is likely to be pursued if the alleged infringement:

- Causes consumer detriment and is the result of consistent and persistent breaches of criminal or civil legislation by the trader
- The trader has not responded to the reasonable efforts of the enforcement body to cause him to cease the activity that is resulting in consumer detriment

PLEASE REMEMBER

- We are here to help if you need any advice on the trading standards legislation that we enforce
- Trade Associations and independent consultancy services can also help
- Closer partnerships between business and local authorities means better public protection, fair trading and can prevent any unintentional infringements.

COMPLAINTS AGAINST THE SERVICE

Any concerns about the standard, lack of action or inefficiency in carrying out regulatory or advisory duties should be made to:

Graham Hebblethwaite
Chief Trading Standards Officer
FREEPOST NEA 10185
Morley, Leeds
LS27 8YY

Tel: 0113 253 0241
E Mail: info@wyjs.org.uk
Fax: 0113 253 0311

Or by using the form on our Internet site at www.wyjs.org.uk

The Chief Officer, or in his absence his nominated deputy, will acknowledge receipt of written complaints, thoroughly investigate the matter and send a formal response as soon as is practicable.

If you remain dissatisfied please contact your local Councillor.

Any complainant who is still dissatisfied will be advised of the procedure to contact the Local Government Ombudsman.

Details of the number of complaints received and the outcome of the investigations will be published on our Internet site, and can be made available in written form if requested.

EQUAL OPPORTUNITIES

We will either translate any documents or arrange a translator if you need one. Please contact us on 0113 2530241. Our organisation has a firm commitment to ensuring full and equal access to all the services we provide.

FEEDBACK

We welcome feedback on this and all other documents we produce and also on any of our policies and practices. As far as it is reasonable to do, we will meet the needs of our stakeholders, whether they are consumers or businesses

If you have any comments, or are unhappy with the service received, please contact us at the address below.

FOR OTHER LEAFLETS AND ASSISTANCE

If you have a consumer or business enquiry please contact Consumer Direct on 08454 04 05 06. All other enquiries should be directed to:

West Yorkshire Trading Standards Service
FREEPOST 10185
Morley
Leeds
LS27 8YY

Tel:	0113 253 0241
E Mail:	info@wyjs.org.uk
Fax:	0113 253 0311
Consumer Direct:	08454 040506

As part of our commitment to e-government this booklet is available to view, download or order on our website at www.wyjs.org.uk. The website also contains information about the Joint Services, further details about the services we offer and how to let us know your views

ENDORSEMENT BY THE JOINT SERVICES COMMITTEE

West Yorkshire Trading Standards Service's Enforcement Policy was approved by members of the West Yorkshire Joint Services Archives, Archaeology and Trading Standards Sub-Committee on 29th June 2007. Additional statements of enforcement policy may supplement it.