

Dorset Council **Trading Standards Enforcement and Complaints Policy (including Service Standards)**

This document outlines the enforcement and complaints policy of the Dorset Council Trading Standards. *This is agreed as a continuing policy from Dorset County Council Trading Standards Service and sits below the over-arching Dorset Council Enforcement Policy.*

It provides information on:

- the purpose of our enforcement policy
- our principles of inspection and enforcement
- our compliance with the 'home authority' principle
- our enforcement actions
- what you can expect of us
- our accessibility/advice details
- our commitment to you
- complaints, compliments and comments about our Service
- how we can help consumers and businesses.

We are committed to the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006, the Enforcement Concordat and the Regulators' Compliance Code.

'Enforcement' includes any action taken by officers aimed at ensuring that businesses or individuals comply with the law – these actions may range from offering advice, information and issuing public warnings, to cautioning and instituting legal proceedings/prosecutions.

Enforcement decisions will be fair, impartial, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Decisions will not be influenced by improper or undue pressure from any source.

1. The Purpose of our Enforcement Policy

Trading Standards aims 'To provide a fair and safe environment for the consumers and businesses of Dorset, through education, advice, enforcement and by working together with our partners'. We enforce a wide range of business and consumer protection legislation relating to quality, quantity, safety, description and price of goods and services.

We carry out our duties in various ways including: inspection, sampling, test purchasing, testing, investigation and prosecution, but also by informing, advising and educating businesses and consumers.

The purpose of our enforcement policy is to provide a framework to make sure that we work in an equitable, practical and consistent manner.

We recognise that most businesses want to comply with the law. We will endeavour to help these businesses and others to meet their legal obligations without unnecessary expense. When a business does break the law, we will consider all the surrounding circumstances before deciding whether formal action is appropriate. A prosecution will only be brought if it is in the public interest to do so.

2. Our Principles of Inspection & Enforcement

Targeting

We aim to prioritise and direct our regulatory effort effectively.

To achieve this, we will use 'national' risk assessment schemes or, where these are not applicable, we will implement a 'local', comprehensive, intelligence led risk assessment scheme.

Such risk assessments will have regard to all available, relevant and good-quality data. We will give due consideration of the combined effect of the potential impact and likelihood of non-compliance – this approach will enable us to focus our resources on the areas that need them most and to ensure that persistent offenders are identified quickly.

Proportionality

We will ensure that enforcement action is proportionate to the risks involved, and that the sanctions applied are meaningful.

Accountability

We will be accountable for the efficiency and effectiveness of our activities.

Fairness and Consistency

We will treat all consumers and businesses fairly.

We will ensure that our enforcement practices are consistent – this means that we will adopt a similar approach in similar circumstances to achieve similar ends.

We will have regard to national guidelines in our decision-making processes.

Openness and Transparency

We are committed to the open provision of information and advice in a format that is accessible and easily understood.

We will ensure that there is always a clear distinction between those actions necessary to comply with the law, and those which we recommend as best practice but which are not compulsory.

Supporting the local economy

We recognise that a key element of our activity will be to facilitate and encourage economic progress against a background of protection. Wherever possible, we will work in partnership with small businesses and with voluntary/community organisations to assist them with meeting their legal obligations without unnecessary expense.

Reducing enforcement burdens

If there is a shared enforcement role with other agencies, we will consider co-ordinating with these agencies to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness.

3. Compliance with Primary Authority Principle

We support the Primary Authority scheme (and Home Authority Principle), which has been developed by food and trading standards authorities to promote good enforcement practice and reduce burdens on business.

We will therefore:

- provide businesses for whom we are the 'Primary Authority' with appropriate guidance and advice as well as Dorset based businesses
- maintain records of our contacts with these businesses to reduce the amount of information they have to provide to us
- support efficient liaison between local authorities
- provide a system for the resolution of problems and disputes

4. Our Enforcement Actions

Wherever appropriate we will deal with a breach of the law by advice.

In deciding what enforcement action to take against an offender we will have regard to the following aims:

- to change the behaviour of the offender
- to eliminate any financial gain or benefit from non-compliance
- to be responsive and consider what is the most appropriate sanction for the particular offender and the regulatory issue concerned
- for the action to be proportionate to the nature of the offence and the harm/potential harm caused
- to restore the harm caused by regulatory non compliance, where appropriate
- to deter future non-compliance

The range of enforcement options available to us includes the following:

a. No action

- In certain circumstances, contravention of the law may not warrant any action.

b. Indirect action

- including referral to another authority or agency for information or action.

c. Verbal/written advice or warning

- where a relatively minor offence has been committed but is not thought appropriate to take any further action, in which case the suggested corrective action and a timescale will be given.

d. Fixed Penalty Notices

- Certain offences are subject to Fixed Penalty Notices (FPN) - they are recognised as a low-level enforcement tool.
- Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer a FPN on a first occasion, without issuing a warning. This avoids a criminal record for the defendant.

e. Statutory Notice

- these are used as appropriate in accordance with relevant legislation (they usually require offenders to take specific action or to cease certain activities).

- Examples include improvement notices, prohibition notices, suspension notices together with notices covering seizure, forfeiture or voluntary surrender of goods/documents.

f. Injunctive action under the Enterprise Act

The range of actions under this legislation includes the following:

- informal undertakings
- formal undertakings
- interim orders
- court orders
- contempt proceedings

g. Caution in accordance with the current Home Office advice

- to deal quickly and simply with less serious offences and to avoid unnecessary appearances in criminal courts.

A caution is an admission of guilt but it is not a form of sentence, nor is it a criminal conviction - it may be cited in court in certain circumstances. A record of the caution will be recorded on the NAFN (National Anti-Fraud Network) database, which can be accessed by other enforcement authorities.

h. Prosecution

A prosecution will only be undertaken when the evidence passes the 'Evidential Test' and when it is in the public interest to do so – we will have regard to the Crown Prosecution Service Code of Practice.

Where it is necessary to carry out a full investigation, the case will be progressed without undue delay. All investigations into alleged breaches of legislation will be conducted in compliance with statutory powers and all other relevant legislation (and relevant Codes of Practice), including the requirements of:

- Police and Criminal Evidence Act (PACE)
- Criminal Procedure and Investigations Act (CPIA)
- Regulation of Investigatory Powers Act (RIPA)
- Human Rights Act (HRA).

As part of the investigation process, persons suspected of breaching legal requirements will, wherever possible,

- be formally interviewed in accordance with PACE
- be given the opportunity to demonstrate that a statutory defence is available
- have the opportunity to give an explanation or make any additional comments about the alleged breach.

Before a decision to prosecute is taken, the alleged offence(s) will be fully investigated, a Report compiled by the Investigating Officer and the file reviewed by a Senior Manager.

We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, including potential harm and loss and its significance in making the decision to take formal action.

i. Proceeds of Crime Actions

- Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct.

Applications may be made under the Proceeds of Crime Act for confiscation of assets in serious cases. Proceedings are conducted according to the civil standard of proof. Applications are made after a conviction has been secured.

5. What You Can Expect of Us

a) Incoming Telephone Calls

- Answered personally within four rings
- Provide an initial response at the time of call or within one working day

b) Personal Callers (Business and Consumer Advice)

- Visitors to main reception areas will be advised where possible but it may be necessary to make an appointment. The Citizens Advice Consumer Service is the first point of contact for consumers. Businesses are advised to call the duty officer on 01305 224702.

c) Incoming Letters and emails, including written requests for consumer and business advice

- Acknowledged within 2 working days of receipt
- Straightforward matters given full response within 10 working days (5 working days for business advice)

d) General

- To keep people informed on unresolved issues at no longer than monthly intervals

e) Inspection of Business Premises

- Provide written notification of any problems found or any alleged offence at the time of visit or within 10 working days
- Provide statutory written inspection reports on all food inspections at the conclusion of the visit

f) Verification and Calibration Activities

- Carry out verification on weights and measures equipment within 5 working days of receipt of the request or within 5 working days of the date requested
- Carry out calibration work within 10 working days of receipt of the measures

g) Invoices

- Pay undisputed invoices within 30 days of issue date

You are entitled to expect our staff to:

- be courteous and helpful
- identify themselves by name and produce identification if requested
- provide a contact point for any further dealings
- give clear and simple advice
- confirm advice in writing on request, explaining why action is required and over what time-scale
- clearly distinguish between what you must do to comply with the law and what is recommended as best practice
- minimise the cost of compliance by requiring proportionate action

- give you reasonable time to comply (unless immediate action is necessary in the interest of health, safety or to prevent evidence being lost)
- notify you if the matter is to be reported for legal proceedings
- advise you of the procedure for making a complaint or representations in cases of dispute
- maintain confidentiality

Before any legal action is taken there will be an opportunity to discuss the case, although if we are considering a prosecution it will be a formal interview.

Where a right of appeal against a formal action exists other than through the courts, advice on the appeal mechanism will be clearly set out in writing at the time the action was taken.

6. Accessibility and Advice

Businesses can telephone the **Trading Standards Business Advice Line: 01305 224702.**

Farm businesses, or anyone with a particular concern about animal health and welfare, can telephone the **Animal Health Helpline: 01305 224475.**

Email Trading Standards at: tradingstandards@dorsetcouncil.gov.uk

Trading Standards webpages: <https://www.dorsetcouncil.gov.uk/business-consumers-licences/trading-standards/about-dorset-trading-standards.aspx>

Consumers requiring consumer advice or wanting to report a matter to the Trading Standards Service should call Citizens Advice consumer service on 0808 223 1133 (Calls are free from mobiles and landlines)
or visit: <https://www.citizensadvice.org.uk/consumer/>

Address: Dorset Council Trading Standards, County Hall, Colliton Park, Dorchester, Dorset DT1 1XJ

General telephone number for all Dorset Council services: 01305 221000.

7. Our Commitment to You

This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the following

- Right to a fair trial
- Right to respect for private and family life, home and correspondence

We are committed to providing open, equal and timely access to our services.

As we are continually seeking to improve our standards, this policy is subject to regular review.

8. Complaints, Compliments and Comments

If you are unhappy with the service you have received, or we have failed to live up to our promises, managers are always willing to discuss with you the cause of your dissatisfaction, and will try to find a solution.

If you wish to make a complaint or send us a compliment or comment about our service:

- please contact the Service Manager for Trading Standards at the address above, or
- you can register a comment, compliment or complaint with Dorset Council at:
<https://www.dorsetcouncil.gov.uk/your-council/comments-compliments-and-complaints.aspx>
- contact your local Dorset Council councillor.

If you are still not satisfied, and feel you have been caused injustice, we will tell you how to complain to the Local Government Ombudsman.

We can produce this document other formats and languages if required. To request that call 01305 224702.

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