

Enforcement Policy

The Trading Standards Service of East Sussex County Council aims to contribute to the promotion and development of a safe, fair and equitable trading environment for all consumers, businesses and visitors in East Sussex.

The principal objective of enforcement action is to ensure that non-compliant businesses comply with trading standards legislation in future and that the interests of consumers and legitimate businesses are safeguarded.

We will do this by means of advice, information, education and enforcement; including the prevention, detection and, where appropriate, prosecution of offences.

This policy sets out the enforcement practices that will be followed by East Sussex Trading Standards when dealing with non-compliance by businesses with laws enforced by the service. It helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

This is in accordance with the statutory Regulators' Compliance Code. A copy of the code is available on request or may be downloaded from

<http://webarchive.nationalarchives.gov.uk/+/http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/the-regulators-compliance-code>

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

Where possible, problems will be dealt with by advice and assistance. We may also ask traders to give us assurances as to their future compliance with the law. When appropriate, we will give positive feedback on a trader's performance.

Investigations into alleged breaches of the legislation will be carried out in a fair, equitable and consistent manner; will be proportionate to the risks and in accordance with the requirements and principles of the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 (RIPA) and all applicable statutory codes of practice.

The ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness will not affect the decision to take enforcement action.

A breach of the criminal legislation this service enforces will not automatically be the subject of prosecution. The range of formal actions that will be considered include:

Written warnings – used where a minor offence has been committed and it is not deemed appropriate to take any further action. The warning is recorded on the business's and/or individual's record and would be taken into account if subsequent offences are committed.

Simple (formerly 'Formal') Cautions – used to deal quickly and simply with less serious offences and avoids unnecessary appearances in criminal courts. There must be evidence of sufficient guilt to give a realistic prospect of conviction and the party concerned must admit the offence. A Simple Caution is recorded on a business's and/or individual's record and could affect the decision to prosecute, and/or the penalty, if subsequent offences are committed.

Prosecutions – will be considered when appropriate as a way to secure and/or to draw attention to the need for compliance with the law or where traders may be deterred from offending through the conviction of others.

We will only prosecute offences when:

- we believe it to be in the public interest to do so; and
- there is sufficient admissible evidence to ensure a realistic prospect of conviction, in accordance with the Code for Crown Prosecutors. A copy of the code is available on request or it may be downloaded (in a selection of languages) from http://www.cps.gov.uk/publications/code_for_crown_prosecutors/

The following public interest criteria will normally be taken into account:

- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk to the public/animals
- Whether the victim was part of a vulnerable group
- The failure to comply with a statutory notice or respond to advice
- Obstruction of an authorised officer
- The disregard of legal requirements for financial reward
- Significant financial loss to a third party
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Minor breaches of a number of statutes.

Prosecutions will only be instigated with the approval of the Head of Trading Standards.

Injunctions – If it is felt that a trader is indulging in a course of conduct detrimental to consumers, consideration will be given to requesting the trader to sign an undertaking that the conduct will cease or to applying for an Enforcement Order in the County Court or High Court. This action could be in addition to any other enforcement action.

Breach of duty – Some of the legislation this service enforces imposes a duty on businesses to comply with certain requirements. A breach of that duty can result in the issuing of a penalty charge notice (also known as a fixed penalty notice).

Proceeds of Crime – Confiscation proceedings will be considered against criminals who have profited from their crimes. This will help to change behaviour and act as a deterrent to future non-compliance.

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 with our eighteen partner local authorities which comprise the Trading Standards South East Authorities (TSSEL).

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, Her Majesty's Revenue and Customs (HMRC), District and Borough Councils and Fire and Rescue officials.

All exchanges of information will fully comply fully with the requirements of the Data Protection Act 1998 and the Enterprise Act 2002.

Complaints – If you are unhappy with the service that you have received, feel that we have not followed the policy outlined above, or wish to appeal against a notice served on you, you should contact the complaints manager at the office below. If you are still unhappy, she/he will explain to you how you can take your complaint further. Alternatively you may ask for a copy of the leaflet 'How to Complain' from the address below, or from any County Council office.

Trading Standards Service
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