

## **National Trading Standards Regional Investigation Team South West, hosted by Bristol City Council.**

### **Enforcement Policy.**

The Government set up National Trading Standards (NTS) in 2012 as part of changes to the consumer protection landscape. NTS delivers national and regional consumer protection enforcement. Its Board is made up of senior and experienced heads of local government trading standards from around England and Wales with an independent Chair. Its purpose is to protect consumers and safeguard legitimate businesses by tackling serious national and regional consumer protection issues and organised criminality.

Bristol City Council is the host and main prosecuting authority for investigations carried out by the National Trading Standards Regional Investigation Team (RIT). This team covers the South West geographical Region and is financed by National Trading Standards.

The RIT targets criminals involved with doorstep crime, counterfeiting, consumer and business fraud and other related crime. It investigates criminal cases that are detrimental to consumers or businesses that occur on a regional, cross boundary or national level, and in appropriate cases, bringing them to a just conclusion through the courts or other means using appropriate criminal and civil sanctions.

Investigations may be assigned to the RIT through the regional and national tasking arrangements following the NTS Intelligence Operating Model.

The purpose of the Team is not to provide advice, information or carry out inspections of regulated businesses; these activities are carried out by local authority Trading Standards Services.

The RIT work in partnership with local trading standards authorities, other regional investigation teams, and other enforcement agencies to maximise effectiveness. Investigations may be carried out wholly by officers of the RIT, assisted by other NTS teams or officers of local authority Trading Standards Services or any combination thereof.

The team's investigations are subject to the same best practice principles found in legislation and codes that are outlined within Bristol City Council Enforcement Policy but where Bristol City Council is not the prosecuting authority and the RIT has been assisting a Local Authority or agency then the investigation will be subject to the enforcement policy published by that authority or agency.

[Legislation and guidance](#)

This policy has been prepared having regard to current legislation and statutory guidance including:

**The Legislation and Regulatory Reform Act 2006** requires that we have regard to the Principles of Good Regulation when carrying out an investigation i.e. that it is (i) targeted to situations that need action; (ii) proportionate; (iii) accountable; (iv) consistent; and (v) transparent.

**The Regulator's Code** provides a set of principles for Regulator's to have regard to:

- (a) Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
- (b) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
- (c) Regulators should base their regulatory activities on risk.
- (d) Regulators should share information about compliance and risk.
- (e) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
- (f) Regulators should ensure that their approach to their regulatory activities is transparent.

**The Regulatory Enforcement and Sanctions Act 2008 (RES)** provides for a risk based approach to regulation and a set of principles for regulatory inspection and enforcement based around risk and proportionality that primarily introduces a duty on regulators not to impose or maintain unnecessary burdens on business.

**The Consumer Rights Act 2015** allows local authorities to take legal proceedings in other local authorities areas enabling the NTS enforcement teams to operate effectively locally, regionally, across regions and nationally.

**Code for Crown Prosecutors** - When deciding whether enforcement action is necessary and proportionate, the authority making the decision will follow the guidance in the Code for Crown Prosecutors issued by the Director of Public Prosecutions and only start or continue a prosecution when the case has passed both stages of the Full Code Test. The Full Code Test has two stages, the evidential stage, and the public interest stage.

**Other** - Where appropriate, recovery of criminally deprived assets will be pursued under the Proceeds of Crime Act 2002 together with victim compensation. All investigation activities will be undertaken with due regard to the provisions of the Police and Criminal Evidence Act 1984, The Criminal Procedure and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000, the Human Rights Act 1998 and Equalities Act 2010, together with any other relevant legislation or guidance that may be brought into force from time to time that affects the conduct of criminal investigations.

Formal Action

The prosecuting authorities for investigations that are conducted by or on behalf of the NTS Teams are local authorities. In accordance with the Legislative and Regulatory Reform Act 2006 each local authority must produce, publish and regularly review an Enforcement Policy. NTS teams will have regard to the local authority Enforcement Policy that recognises the specific role of an NTS team or a stand-alone policy statement for the NTS team.

It is the primary objective of NTS teams to investigate and instigate proceedings for contraventions of consumer and business offences arising from legislation as detailed in paragraphs 10 and 11 of Schedule 5 of the Consumer Rights Act 2015, whether or not those offences are later supplemented in court with more appropriate charges of fraud, conspiracy or similar.

The prosecuting authority, for any NTS supported investigation, will take formal enforcement action, where appropriate. For the purpose of this policy the range of options for action may include; Referral to another agency for action, written warnings, statutory notices prescribed by legislation, written undertakings prescribed by legislation, civil injunctions, simple cautions, enforcement orders, prosecution, and, any other remedy that may be made available to the prosecuting authority by statute.

Where formal enforcement action is necessary, the NTS team and prosecuting authority will consider the most appropriate course of action (from the range of sanctions and penalties available above) with the intention of:

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit for noncompliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with criminal convictions
- Being proportionate to the nature of the offence and harm caused
- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

All enforcement activity undertaken under such policy statements will have regard to the Human Rights Act 1998 and Equalities Act 2010.