

**London Borough of Camden Enforcement Policy**  
**Business Compliance – Trading Standards**

<b>Contents</b>	<b>Page number</b>
<b>Introduction</b>	<b>3</b>
<b>Purpose of enforcement</b>	<b>3</b>
<b>Method of enforcement</b>	<b>4</b>
<b>Publicity</b>	<b>6</b>
<b>Responsibilities and competency</b>	<b>6</b>
<b>Complaints</b>	<b>6</b>

## 1.0 Introduction

1.1 The London Borough of Camden (LB Camden) trading standards' aims are to create a fair and safe trading environment in order to encourage the economic development of legitimate businesses, to protect consumers and the environment. We will proactively work with business to advise and assist with compliance.

We use an intelligence-led approach to target our limited resources to the areas that most require our attention.

1.2 The purpose of this policy is to detail the matters all officers working in trading standards will take into consideration when deciding what action to take whilst carrying out their regulatory duties.

1.3 This policy covers the enforcement work of the trading standards team for all premises within the LB Camden and where the law permits for those businesses based outside the borough of Camden.

1.4 This Policy should be read in conjunction with:

- The Code for Crown Prosecutors
- Criminal Procedure and Investigations Act 1996
- Police and Criminal Evidence Act 1984 (PACE)
- The Enforcement Concordat and any relevant codes of practice under the Regulatory Reform Act 2006
- Statutory Code of Practice for Regulators December 2007: Department of Business Enterprise and Regulatory reform
- Regulatory Enforcement and Sanctions Act 2008
- Regulators' Code

## 2.0 Purpose of enforcement

2.1 Trading standards provide general information, advice and guidance to make it easier for businesses to understand and meet their regulatory obligations. We will carefully consider the impact of any regulatory intervention to ensure that our action is proportionate. Where appropriate, we will seek to achieve compliance through early engagement, mediation, education and advice. Where this is not deemed by officers as the most appropriate route, their decisions will be recorded and justified.

2.2 Prior to any enforcement action we may take, we will provide an opportunity to discuss the circumstances of the case and take these into account when deciding on the best approach. This will not apply to circumstances where we need to prevent or respond to a serious breach or where to do so is likely to defeat the purpose of the proposed action. When trading standards is conducting an investigation into possible criminal offences any discussion of the case may need to be by way of formal interview in accordance with the Police and Criminal Evidence Act 1984.

2.3 In considering formal action, 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 and its significance.

This may include:

- the potential or actual harm or loss
- the impact on the well-being of the individual
- the potential or actual harm to the environment.

2.4 When considering any enforcement action against businesses based outside LB Camden that have registered a Primary Authority partnership with another local authority, we will in accordance with the requirements of the Regulatory Enforcement & Sanctions Act 2008, notify the Primary Authority of the action we propose to take.

2.5 When making our enforcement decisions we will ensure we are fair, independent and objective. There will be no influence by issues such as race, disability, socio-economic factors, age, politics, gender, sexual orientation or religious beliefs of any council employee, offender, victim or witness. However, where a victim has been targeted by an offender by virtue of their status, for example ethnicity or where the perpetrator is young or vulnerable, consideration will be given to this when deciding on any course of action. These decisions will not be affected by improper or undue pressure from any source.

2.6 All officers in trading standards when taking enforcement decisions will use this policy as a guide, but every case must be decided on its own facts.

### **3.0 Method of enforcement**

LB Camden uses discretion in deciding whether incidents or complaints should be investigated. Investigations are undertaken in order to:

- determine causes
- establish whether action has been taken or needs to be taken to prevent a recurrence
- secure compliance with the law
- identify lessons to be learnt
- to influence the law and guidance
- decide what response is appropriate to a breach of the law

3.1 To maintain a proportionate response, resources available for investigation of incidents will be devoted to the more serious circumstances.

3.2 If no breaches of legislation are discovered, or if the officer believes that a complaint or contravention does not warrant investigation or action, then he may decide to take no action.

### 3.3 The following sanctions are available to the council:

- Informal warnings
- Fixed / Variable Penalty / Monetary Notices
- Refusal, revocation or suspension of licence
- Statutory Notices
- Stop / Prohibition Notices
- Simple Cautions
- Undertakings / Injunctive Proceedings
- Prosecution
- Confiscation / Forfeiture

Any sanctions and penalties imposed will be consistent, balanced, fairly implemented and relate to common standards which ensure that individual safety and welfare, public safety, financial security, or the environment is adequately protected. Where it is clear that jurisdiction for enforcing any matter or imposing any form of sanction rests with another regulator, the matter will be passed across to them accordingly; however this will not preclude an investigation from taking place to ascertain relevant facts.

### 3.4 The aim of using sanctions and penalties is to:

- Protect the public and other businesses from harm
- Stop the infringing conduct immediately
- Change the behaviour of the offender
- Deter future non-compliance and reassure the community
- Restore the harm caused by regulatory non-compliance
- Eliminate any financial gain or benefit from non-compliance
- Be proportionate to the nature of the offence and the harm, or risk of harm caused and with consideration as to the public stigma that might come with receiving a criminal conviction

In deciding which sanction is appropriate, the service will have particular regard to the following criteria:

- Whether the breach was pre-meditated, committed deliberately or recklessly, or without due diligence;
- Whether there are any prior complaints and convictions or other information relevant to the individual or trader's history;
- Inadequate mitigation or explanation given by the individual or trader. Also, the individual or trader's attitude and in particular, whether they were obstructive or co-operative;
- The prevalence of the type of breach and whether a particular sanction could act as a deterrent and encourage compliance generally;
- The effect of the breach on the victim or affected person, in particular where the victim or affected person is in some way vulnerable or the infringement resulted in death or serious injury.

Where appropriate, the council will seek to recover all costs incurred in carrying out any proceedings (including staff time) from relevant parties to ensure that the financial burden of the infringement is not borne by the authority and ultimately the tax-payer.

#### **4.0 Publicity**

- 4.1 LB Camden will make arrangements for the publication annually of the names of all the companies and individuals who have been convicted in the previous 12 months of breaking trading standards law.
- 4.2 LB Camden will also consider in all cases drawing media attention to factual information about charges which have been laid before the courts, but great care will be taken to avoid any publicity which could prejudice a fair trial.

#### **5.0 Responsibilities and competency**

- 5.1 The Head of Regulatory Services is responsible for reviewing and monitoring this policy.
- 5.2 Only officers authorised by the Head of Regulatory Services may undertake enforcement duties in accordance with the council's scheme of delegation. The Head of Regulatory Services will only authorise officers when satisfied with their level of qualification, training and experience. Newly appointed or transferred officers will also be assessed by the line manager for competency and referred for training where necessary and in line with Camden's competency matrix.

#### **6.0 Complaints**

Complaints about our service will be addressed through our corporate complaints procedure, which can be found on our website.

Date of issue:

17/4/15

Signed by:



Head of Regulatory Services