



# **TRADING STANDARDS CONSUMER ADVICE AND EDUCATION POLICY**

## **1 Introduction and Mission Statement**

1.1 Confident, well informed consumers who demand quality goods and services, drive up business standards and help get rid of rogue traders. They are better equipped to deal with the complexities of modern retailing, and to protect themselves against substandard goods, shoddy service and sharp practice.

1.2 **The service aims to: -**

- **Increase consumer confidence**
- **Improve consumer awareness**
- **Improve consumer protection**
- **Promote a fair and safe trading environment**

**by the following methods : -**

- **Provision of information, advice and assistance on consumer issues**
- **Investigation of complaints alleging offences against consumer legislation**
- **Monitoring of trading practices**
- **Civil action against prohibited trading practices**
- **Provision of Small Claims Assistance**

## **2 Core Values**

2.1 The following core values underpin service provision: -

2.2 The service will be free of charge.

2.3 The advice provided will be impartial. It will be based upon an assessment of the rights and obligations of the consumer and business concerned. We will treat both consumers and businesses fairly and even-handedly whilst recognising that differences in bargaining power may put one side to a dispute at a disadvantage, which may justify the service acting as an advocate for that side's interests.

2.4 The service will focus on customer needs as expressed by local people. We will analyse service usage and consult consumers, businesses and other stakeholders to help us identify those needs.

**2.5 Protecting Vulnerable Consumers and Tackling Deprivation: -**

Trading Standards will target their services towards the needs of consumers who are especially vulnerable for any reason including, age, infirmity or illness, living alone, literacy skills or other communication difficulties, poor understanding of legal rights or technical aspects of goods or services. We will also target services towards alleviating the effects of deprivation and social exclusion. The service recognises that: -

- Vulnerable consumers can be especially targeted by rogue traders
- The financial loss caused by substandard goods and services is a higher proportion of disposable income for low income consumers than for more affluent consumers
- Second-hand goods, or low cost goods, which are attractive to those on low incomes may present a higher safety risk

**2.6 Links with Enforcement: -** Trading Standards has a statutory duty to enforce a range of criminal consumer protection laws and has powers to take civil action against harmful trading practices. Provision of advice by Trading Standards on all consumer law issues, both criminal and civil, is vital because:-

- It deals with consumer problems in a holistic manner
- It encourages a flow of information from the general public on issues that are causing them concern. The service is then able to target its enforcement activity much more effectively by using the general public as its 'eyes and ears', and so provide enhanced public protection.
- Consumers who are discouraged from approaching the service for civil consumer advice may not approach the service again even when criminal laws have been breached
- Consumers may not be aware that their problem includes a criminal element which can be investigated formally

**2.7 Accessibility: -** Trading Standards will endeavour to make its advice services as easy to access as possible as far as resources permit. We will give consideration to:-

- The needs of people who live outwith easy reach of our office
- The need to provide access to the service outwith office hours
- The use of new technologies to improve access whilst bearing in mind the needs of those who are uncomfortable with using such technologies
- The needs of particular client groups who, for whatever reasons, have tended not to make use of our services
- The need to provide access which is free or at low cost to the user
- Home visits where there is a genuine need
- The need to provide an equal service regardless of age, gender, infirmity, disability, religion or ethnic origin

2.8 **Partnership Working:** Trading Standards is committed to working in partnership with other organisations to achieve a more joined-up approach to service delivery.

- We will lead the development of the Moray Consumer Support Network with the aim of co-ordinating and enhancing local consumer advice provision.
- We recognise that the service is not the best agency to deal with all issues. We will refer complaints to other agencies where this is in the best interest of the consumer.
- We will work closely with other Trading Standards services via the Local Authorities Coordinators of Regulatory Services (LACORS) and the 'Home Authority' principal to channel complaints to the most appropriate authority and to identify underlying issues and matters of general concern.
- We will maintain referral mechanisms with other consumer protection bodies, e.g. the Financial Ombudsman Service.

2.9 **Empowerment:** - Recent research (Paths to Justice Scotland, The Nuffield Foundation, 2001) shows that many people do not want to be empowered; they just want someone to help resolve their problem. While clearly some people will be able to sort things out themselves with a bit of help, many will not. When possible, the service will empower consumers to resolve problems themselves, with minimal intervention by the adviser. However it is recognised that an interventionist approach will be necessary in many cases. This will be especially relevant for vulnerable consumers or where the consumer is unable to progress their complaint without assistance.

### 3 **Partnership with Consumer Direct Scotland**

3.1 Trading Standards will work in partnership with Consumer Direct Scotland. They will provide first line advice on behalf of Trading Standards and refer appropriate complaints to Trading Standards using the referral protocol developed by The Society of Chief Officers of Trading Standards in Scotland.

### 4 **Description of Services Provided**

4.1 The service consists of: -

4.2 **Pre-shopping advice via Consumer Direct Scotland:** The service provides preventative advice to consumers before they purchase goods or services to enable them to make more informed choices. Advisers will provide information on traders in accordance with the Freedom of Information Act, Data Protection Act and other legislative restrictions. The service can give practical advice on steps consumers can take to protect themselves from exploitation and will divulge relevant public domain information such as details of relevant trading licenses or membership of appropriate trade associations.

4.3 **General Consumer Advice via Consumer Direct Scotland:** - We will answer general queries on all consumer rights, and provide advice to consumers who have purchased substandard goods or services to allow the consumer to complain more effectively to the business concerned. Advisers will explain consumers' legal rights, and the remedies that are available in law, as well as the practical steps that they can take to resolve their complaint.

**4.4 Active Assistance:** - Where a consumer is unable to resolve a problem by themselves, an adviser can act as a conciliator. This involves discussing the complaint with both sides to seek a solution that avoids the need for formal legal action by the consumer. The amount of assistance provided will depend on the seriousness and complexity of the complaint. Advisers are experts in the field of consumer law but are not experts in technical details, which can give rise to contractual disputes. Where appropriate, expert technical advice may be required. The decision to employ a technical expert will be entirely at the consumers' discretion. Any fees involved will be payable by the consumer and will be clearly explained beforehand. Where both parties to a dispute agree, Trading Standards may arrange for expert technical advice to be provided on a 'loser pays' basis.

**4.5 Small Claims Support:** - Where a negotiated settlement is not achievable, the service can advise on how to take legal action in the Sheriff Court under the small claims rules.

In appropriate cases, Trading Standards will provide small claims representation to assist consumers with consumer disputes. Each request for assistance will be treated on its merits. The service will not be obliged to provide assistance and will use the following criteria in deciding on whether to offer representation: -

- Strength of the legal case
- Quality of evidence to support case
- Seriousness of complaint
- Effect on complainant
- Value of complaint
- Complainant's personal circumstances, e.g. communication skills
- Wider public interest issues
- Trading record of company involved

**4.6 Campaigning:** - Where Trading Standards perceives there to be a deficiency in the legal protection available to consumers we may use the most appropriate means to champion the consumer interest and campaign for a change in the law. Where appropriate, the service will respond to consultations affecting consumer advice and education.

**4.7 Education and Promotional Activity:** - Trading Standards will publicise consumer rights and the services provided by Trading Standards emphasising that Trading Standards provides consumer advice, as well as the enforcement function. Feedback from users highlights their belief that the service requires better promotion. Trading Standards does this by: -

- Production and distribution of the 'Consumer Action Pack'
- Regular provision of topical information to the media.
- Talks to, and involvement with community groups.
- Publication and distribution of in-house and nationally produced leaflets.
- Displays and promotional events in public places.

- Poster campaigns.
- Local support for the national Young Consumers competition.

- 4.8 **Advice to Business:** - In addition to advising consumers, it is important to ensure businesses receive advice on their rights and obligations when supplying goods and services to their customers. The service recognises that the consumer is not always in the right. Due to the imbalance in bargaining power between the parties, Trading Standards exists primarily to protect private individuals from unfair or unsafe trading practices. Small unincorporated businesses that act as 'consumers' by purchasing goods or services for use in the business, are in a similar bargaining position to private individuals. The service will provide legal advice and assistance to those businesses. Trading Standards would however expect other businesses to seek private legal advice on civil law issues.
- 4.9 **Investigation of Criminal Complaints:** Advice on criminal consumer protection law is an integral part of the service's overall consumer advice provision. The investigation of criminal complaints is also subject to our Enforcement Policy. While the main thrust of most Trading Standards legislation is to protect consumers, businesses can also suffer from breaches of Trading Standards legislation, either directly, or indirectly by being disadvantaged by competitors who cut corners. It is also a statutory duty to investigate criminal complaints. Accordingly, the service will investigate all allegations of a criminal nature, where the alleged offence was committed in Moray, regardless of who makes the complaint.

## 5 Service Planning

- 5.1 The Trading Standards section produces an annual Service Delivery Plan under the National Performance Framework for Trading Standards, which is submitted for Committee approval. Practical actions required to implement this policy will be contained within the Service Delivery Plan.

## 6 Service Standards

- 6.1 Trading Standards has adopted the Council's Customer Care policy. We also promise to meet the following standards of customer service, which are specific to our consumer advice work.
- 6.2 We will provide a high quality consumer advice service. Quality includes:-
- Accuracy of advice.
  - Freedom from bias.
  - Clear response times.
  - Keeping consumers informed.
  - Politeness and helpfulness.
- 6.3 Every complaint which is to be investigated will be allocated to a named officer who will, whenever possible, handle that complaint from start to finish.
- 6.4 On the rare occasions where there are conflicts of interest between the consumer's interests and Trading Standards service aims, the consumer will be informed

immediately and given the option of seeking advice and assistance elsewhere. Officers will not deal with a complaint if they have a personal involvement or interest.

- 6.5 When requested, we will make arrangements to meet with a consumer in a private interview space.
- 6.6 We will always provide legal advice in writing on request.
- 6.7 We will advise each consumer what action we are able to take to help resolve their complaint as well as any limitations on the assistance that the service can offer, e.g. the service may only offer advice to each side of a dispute in certain circumstances.
- 6.8 We will keep consumers informed of the progress of our investigation of their complaint on a regular basis. This will be every 21 days at the most, but usually more frequently.
- 6.9 We will inform consumers of the outcome of their complaint when it is known.

## **7 People Management**

- 7.1 Staff will possess the skills and knowledge required to meet clients' needs.
- 7.2 We will ensure clients get advice from the most appropriate source taking account of staff skills and knowledge.
- 7.3 Staff will receive support and supervision appropriate to their level of skill and knowledge.

## **8 Commitment to Quality and Continuous Improvement**

- 8.1 The service will be provided under a quality assurance system complying with the 'Quality Mark Scotland – General Help with Casework' quality assurance standard. This will be subject to independent accreditation by 'Quality Mark Scotland'.
- 8.2 We will continue to look for ways of improving the service and will regularly assess our performance, seek feedback from service users and review procedures.
- 8.3 Complaints and expressions of dissatisfaction will be viewed as opportunities to identify possible weaknesses in service delivery. The service does not have a 'blame culture'. When things go wrong, it is rarely the fault of one officer and is much more likely to be a combination of factors, many of which are determined by the systems operated by the section. Where a consumer or trader makes a complaint or expresses dissatisfaction with the service, the Trading Standards Manager will be notified as soon as possible. This information will be used to examine possible action to improve service provision.
- 8.4 The Council's complaints procedure will be followed.

## **9 Public Performance Reporting**

- 9.1 The Department of Trade and Industry performance measure of customer satisfaction and the Scottish statutory performance indicator on completion times will be used to measure and report on service performance.

- 9.2 The service aims to present performance information in an easily understood format, e.g. graphically, using the most effective methods of getting the information to stakeholders. The service will feed performance information into the Council's corporate reporting systems.