

CABINET MEMBER FOR SAFER AND STRONGER COMMUNITIES

TRADING STANDARDS COMPLAINTS PRIORITISATION POLICY

Report by Director of Social and Community Services.

Introduction

1. The Trading Standards Service receives approximately 8000 new complaints and enquiries each year. Around 3000 of these complaints and enquiries are subsequently referred to one of the enforcement teams since the initial assessment suggests that an infringement of consumer protection legislation may have occurred. These vary from minor infringements to serious offences causing significant detriment to Oxfordshire consumers and businesses.
2. In addition, the service receives approximately 2000 requests for business support each year. These requests include local businesses seeking legal advice to assist in meeting the requirements of consumer protection legislation, requests for legal metrology services and requests for information about our Buy with Confidence scheme.
3. The number of complaints and enquiries requiring a response from our enforcement and business support teams has been increasing steadily over the last few years. In 2008/9 the total number of complaints and enquiries requiring a response from these teams was 3593. In 2009/10 this had risen to 4051 and in 2010/11 the total was 5385; a 50% increase on the number from 2008/9. There are many factors contributing to this increasing demand on the Service. One of the main factors is a change in legislation that brought within the enforcement arena some issues that previously could only be dealt with through individual civil action to seek redress.
4. In addition, the service has seen an increase in the complexity of some of the issues highlighted through consumer complaints. The number of doorstep crime related incidents reported to the service has increased from 264 during 2008/9 to 524 in 2010/11. These incidents are often complex to investigate, requiring expert and forensic evidence to identify the scale of the offending and the offenders themselves. Other complex cases investigated recently include a letting agency that failed to pass on rent and failed to protect and return tenant deposits and a building business that generated a large number of complaints and is currently scheduled for a five week Crown Court trial in November and December.
5. Trading Standards do not have the capacity to investigate all these complaints. Therefore, it is necessary to introduce a process that ensures the services resources are directed at dealing with the most serious and urgent complaints and in a way that ensures that vulnerable consumers are best protected.

6. The Service has an 'intelligence-led' approach to enforcement. As such, not all individual complaints are investigated upon receipt. Trends and patterns are identified through monthly analysis of intelligence and action is agreed against any emerging problem businesses or trade sectors. Through this process the Service can identify issues that seem to be relatively minor in isolation but which build into a more significant issue when looked at in totality.
7. In providing consumer advice the Service primarily provides self-help advice, i.e. information and materials so that the complainant can attempt to resolve their problem themselves. However, the Service will offer additional assistance to consumers that may require that help in order to exercise their rights. This would apply when the complainant may have difficulty accessing or understanding guidance and information, where they may need assistance to read contract documents, where they may not be able to communicate effectively, etc.
8. The service has trialled a structured approach to prioritising our enforcement response to complaints. This approach involves an assessment of each complaint against some defined criteria as documented in the draft Complaints Prioritisation Policy included in Annex 1 to this report.
9. This report seeks approval to formally adopt the Complaints Prioritisation Policy.

Exempt Information

10. None

Complaints Prioritisation Policy

11. The Policy applies to complaints made by both consumers and businesses.
12. The Policy aims to set out a clear, transparent and consistent process for determining priorities to ensure that complaints receive attention commensurate with the risk apparent in the practice or issue concerned.
13. The prioritisation process starts with an initial appraisal of the likelihood of achieving a successful outcome, such as prevention or reduction in a safety threat or prevention or reduction in a threat to consumer(s) economic welfare. Other intelligence will be taken into account in completing this assessment, but if it is not realistic to expect the allocation of resources to an issue to result in some benefit then the matter is unlikely to be progressed. For example, the service commonly receives information on postal scams. In all circumstances the service will seek to provide support to vulnerable victims to prevent repeat victimisation. However, if it is apparent that the perpetrators are overseas and no enforcement cooperation mechanism is in place, the Service will not investigate the matter further.

14. The grading applied to a complaint will remain under review whilst the matter is investigated and can be changed as information emerges. In some cases it is necessary to carry out preliminary enquiries to determine the most appropriate grading of a complaint. In this instance the preliminary enquiries will be completed before a grading is applied. This may result in lower priority activities receiving some initial investigation capacity but the complaint will be regraded as soon as possible.

Grading of Complaints

15. Complaints are graded from Grade 1 (highest risk) to Grade 4 (Intelligence only).
16. Grade 1 complaints are urgent or serious matters, e.g. a product safety matter which poses an immediate and serious risk to consumers or a matter affecting vulnerable consumers whom need immediate support, such as to assist in a doorstep crime incident. We will aim to contact complainants as soon as possible and within the same day wherever possible and at least within 8 working hours. Any further response required will be determined from this initial contact and will follow immediately. Typically around 5% of complaints fall into this category.
17. Grade 2 complaints are those that are not deemed to be grade 1, but fall within one of the current service priorities, or are of sufficient impact on the community or business to warrant further investigation. Our normal service standards will apply for grade 2 complaints (an initial response on the same day or by the end of the next working day and a full response within 7 working days). Typically 35% of complaints fall into this category.
18. Examples of recent category 2 complaints received and investigated by the Trading Standards Service include a business that was selling misdescribed and 'clocked' cars. In this instance an immediate response was not required to secure evidence or prevent loss, but significant loss could have resulted if the practice was allowed to continue. A further example was a complaint about the safety of a ladder, when a ladder had buckled in use and the user had fallen off, luckily without injury. The consumer had complained to the ladder company in the first instance, and only complained to the Trading Standards Service some time after the event, when the ladder company had not offered the redress he wanted. Had the manufacturer/ importer not already been made aware of this incident the matter would probably have been graded as a category 1 complaint.
19. Grade 3 complaints are where there is a clear infringement of legislation alleged by the complainant, and the most likely and effective outcome is a referral to another agency or Trading Standards Department. For example, where the complaint is regarding an Environmental Health enforced matter, or the most appropriate mechanism to achieve an outcome is a referral to the Home Authority (i.e. the Trading Standards Service local to the business's decision making base and which has an established mechanism with the business for resolving enforcement concerns). An example of the latter type of

complaint may be food labelling legislation breach which requires rectification through redesigning the product packaging.

20. Examples of recent category 3 complaints include a shop selling illegally relabelled jams and preserves. It transpired that the stock was stolen and had been relabelled to hide its origins. Officers referred the matter to the local Environmental Health Department who have investigated the matter and are prosecuting the business concerned. Since the stock was stolen in a lorry theft the local Police force also involved.
21. A second example of a category 3 complaint is an Oxfordshire resident that complained that they had fallen for a property investment scam. The company is based in another local authority area, and all the meetings and transactions had occurred in that area. We passed the information to the local Trading Standards Service and they are investigating the matter, alongside similar complaints made by complainants across the Country.
22. Grade 4 complaints will apply to issues which have a low impact or where effective enforcement action is unlikely. The information will be used to identify trends in local business activity, which may subsequently require an intervention by the Service.
23. Examples of recent category 4 complaints include a telephone computer virus scam where the caller claimed to be from Microsoft and tried to get access to the consumer's computer. The consumer did not fall for the scam, but wanted to let us know. We had previously put out press releases and information through the media and our website to warn consumers to avoid falling for this scam. We could not investigate the scam due to the scam originating overseas. By tracking the number of these reports over time further prevention work can be initiated if the number increases.
24. Any complaints graded as 1 or 2 above will be investigated in-line with the County's Enforcement Policy.

Customer Expectations

25. This policy formalises the approach the service will take to the allocation of resources. Adopting this policy will provide clarity to customers on the decision making process to be employed. It is clear that some matters reported to the Service will not result in a direct response and this could be challenged by some customers who expect the issue they report to be addressed directly. However, it is impossible to allocate enforcement resources to respond to every complaint made to the Service. Therefore, adopting a formal policy should assist by ensuring there is a transparent decision making process.
26. If the draft policy is not adopted there is a risk that complaints are not dealt with in a consistent manner and lower priority complaints will be investigated before those that present a higher risk to consumers and which should therefore have a higher priority. The decision making process used to

determine which issue is a priority will be less clear and transparent, as it will be for Team Leaders and individual officers to decide what are the priorities are.

27. The draft complaints prioritisation policy has been trialled in the Service for the last 9 months. There have been no complaints made to the Service since the introduction of the draft policy about the process adopted and the resulting response to a complaint.

Legal Implications

28. The County Council has a statutory duty to enforce certain consumer protection legislation within Oxfordshire. The majority of the enforcement work of the Trading Standards Service is based around this legal duty and fulfils the Council's legal obligations under the legislation concerned. The legislation concerned is not prescriptive as to how the authority must discharge its enforcement responsibilities. Adopting this policy will result in some breaches of legislation remaining unaddressed. However, the policy will ensure that these are the lower impact issues and that the service is effective in tackling the higher priority, higher risk and more serious issues. Following an intelligence-led approach to service planning will ensure that all issues are considered and that lower priority issues will still be addressed should the intelligence suggest the risk has escalated.
29. A Legal Assessment of this draft Policy has been completed by legal Services and they foresee no legal issues arising from the introduction of this Complaints Prioritisation Policy.

Financial and Staff Implications

30. There will be no financial or staffing implications arising as a result of adopting this Policy.

Equality and Inclusion

31. The introduction of this Policy is not considered to raise any equality or inclusion issues. The Policy itself ensures that consideration is given to factors such as whether practice exploits vulnerable consumers, whether the consumer could identify the risks for themselves and the social impact of the issue on any relevant community. In addition, through linking this policy to the Service's approach to providing additional assistance to consumers who require help to exercise their rights, the Service is positively seeking to identify and assist disadvantaged or socially isolated groups.

RECOMMENDATION

32. **The Cabinet Member for Safer & Stronger Communities is RECOMMENDED to approve the Complaints Prioritisation Policy in Annex 1 for use by the Trading Standards Service.**

CMDSSC5

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Background papers: Nil

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