



REPORT OF THE LEADER OF THE COUNTY COUNCIL

ENFORCEMENT POLICY FOR THE TRADING STANDARDS REGIONAL INVESTIGATION TEAM

Purpose of the Report

1. To approve the Enforcement Policy for the National Trading Standards (NTS) Regional Investigation Team, East Midlands (EMRIT), which is hosted by the Council.

Information

2. EMRIT is one of eight Regional Investigation Teams covering England and Wales and hosted by NTS. The teams were setup to tackle large scale, cross border criminal offending within the remit of Trading Standards.
3. The role of the EMRIT is to tackle significant and complex cases of fraud which are perpetrated on a regional and national basis. The EMRIT works on behalf of all the Trading Standards Authorities within the East Midlands (TSEM).
4. Members will recall that the EMRIT has been successfully hosted by the Council since 2008 and is fully funded by the National Trading Standards Board
5. The Authority institutes legal proceedings in respect of criminal offending which occurs in other local authorities, outside the boundaries of Nottinghamshire
6. Until now the role of the EMRIT has successfully operated under the County Council's Enforcement Policy for the Trading Standards and Communities Service. However, it has recently come to light that the EMRIT would benefit from a separate Enforcement Policy to cover its unique role within the Council.
7. There have though been at least two legal challenges in Court in other regions, with regards to the legality of host local authorities' ability to initiate legal proceedings for offending outside the boundaries of its local authority boundaries.
8. These challenges were unsuccessful; however, the judges' comments and subsequent legal opinion have highlighted the importance of having a separate Enforcement Policy for the teams in order to prevent any future challenges. NTS subsequently issued EMRIT with guidance related to content of an Enforcement Policy for its teams.
9. An Enforcement Policy for EMRIT (Appendix A) has been developed considering the guidance that has evolved since the recent case law. In preparing this policy, internal and external legal opinion has been sought which takes into consideration the guidance issued through NTS.

10. The Enforcement Policy sets out what those regulated can expect from the Authority and the Service when they are investigated by EMRIT.

Other Options Considered

11. None

Reason/s for Recommendation/s

12. The introduction of a standalone EMRIT Enforcement Policy will offer greater clarity on the role it plays within the regional and national enforcement landscape, and the legal basis for which the Authority carries out investigations and legal proceedings.

Statutory and Policy Implications

13. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

14. There are no anticipated additional financial implications for the Council. All costs associated with compiling this policy are covered by the NTS funding arrangements. The additional legal protection that this Enforcement Policy will provide significantly reduces the risk of costly legal challenges concerning the legalities of the Council instigating legal proceedings for criminality outside the boundaries of Nottinghamshire.

Legal Implications

15. The Council will gain additional legal protections by adopting the proposed policy.

Implications for Service Users

16. It is not anticipated that service users will be affected by the proposal.

Human Rights Implications

17. The provisions of the Equality Act 2010 and the European Convention on Human Rights are recognised throughout the Policy and work of the Service.

RECOMMENDATION/S

1) That approval is given to the Enforcement Policy as set out in Appendix A

Councillor Mrs Kay Cutts MBE
Leader of the County Council

For any enquiries about this report please contact: Derek Higton, Service Director, Place & Communities, Tel: 0115 9773498

Constitutional Comments (KK 07/08/2020)

18. The proposal in this report is within the remit of the Policy Committee.

Financial Comments RWK (06/08/2020)

19. There are no specific financial implications arising directly from the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All