

Agenda Item No.3

DERBYSHIRE COUNTY COUNCIL

MEETING OF CABINET MEMBER – HEALTH AND COMMUNITIES

19 October 2017

Report of the Strategic Director – Economy, Transport and Communities

**TRADING STANDARDS EAST MIDLANDS REGIONAL INVESTIGATION
TEAM SERVICE LEVEL AGREEMENT AND ENFORCEMENT POLICY**

(1) **Purpose of Report** To seek the Cabinet Member's approval for the Assistant Director Trading Standards to renew the current agreement with Nottinghamshire County Council to host the Trading Standards East Midlands Regional Investigation Team (RIT); to authorise officers employed by or working under the direction of the RIT to enforce relevant legislation in Derbyshire; and to agree an enforcement policy for legislative breaches investigated by the Team.

(2) **Information and Analysis** 'Rogue trading' is a term used to describe the minority of individuals who will seek to exploit consumers when offering to supply goods or services. It can range from the practices of normally legitimate traders who cut corners, to organised criminal gangs that set out to deliberately deceive and consciously target the most vulnerable consumers. They also come in all shapes and guises from the opportunist itinerant to the sophisticated and complex fraudulent enterprise. Whilst local authorities have responsibility for tackling breaches of trading standards legislation in their respective localities, rogue traders do not respect county boundaries and many will operate country-wide.

To tackle the larger, organised criminal groups, Government first provided funding in 2005 to create regional trading standards enforcement teams, originally called 'Scambusters', but now known as Trading Standards Regional Investigations Teams (RIT). In November 2008, Cabinet authorised the Head of Trading Standards to enter into an agreement with Nottinghamshire County Council to work in collaboration with an East Midlands regional team based in Nottinghamshire to tackle rogue traders operating through-out the country but (usually) based in the East Midlands. To ensure that the trading standards staff working for the RIT have the necessary powers contained within the relevant legislation, it is necessary to authorise officers employed by another local authority to enforce the legislation in Derbyshire.

Trading Standards Services work together on a regional and national basis and have adopted the 'National Intelligence Model' (NIM) to help prioritise enforcement action against those traders that breach trading standards legislation and pose a risk to consumers. Criminals operating at a national level are identified as 'Level 3'; whilst regional criminality is 'Level 2'; and local breaches identified as 'Level 1'. Activities to combat rogue trading can be classified into three groups: 'Intelligence' – whereby information about the criminal activity and those involved is collected to determine the scale of the rogue trading; 'Prevention' – activities to prevent the criminality, for example by raising awareness amongst the public to guard against scams; and 'Enforcement' – a range of actions to tackle the criminals.

As well as working with regional and national trading standards colleagues, Trading Standards Services work closely with other enforcement colleagues including Police, HMRC, District/Borough Council Environmental Health and many other local and national enforcement agencies. For many years both Derbyshire and the Trading Standards East Midlands (TSEM) group have regularly attended the Government Agency Intelligence Network (GAIN) to share information and activities to tackle rogue traders. A regional 'Tactical and Tasking' Group comprising representatives from each authority assess and determine priorities and consider 'emerging threats'. They are supported by a Regional Intelligence Analyst (hosted by Derbyshire) whose role is to analyse data and recommend action to tackle the rogue trading.

Nottinghamshire County Council agreed to host the regional team in 2008. At first the funds were received as a grant direct from the Department for Business Innovation and Skills (BIS), but since the implementation of the Consumer Landscape Review and the establishment of a National Trading Standards Board (NTSB), the funding is now allocated on an annual basis by NTSB. All trading standards services that have identified criminal activity based in their area and committing offences on a regional or national basis are able to submit a bid for support to either the regional Tactical and Tasking Group or to the National Tasking Group. The support sought can either be financial or for practical assistance to tackle the criminality. The regional and/or national tasking group assess all such bids to determine whether additional support can be provided based on the level of activity, the extent of the criminality, the clarity of the intelligence and an assessment against other priorities.

As host authority, Nottinghamshire County Council requires a Service Level Agreement (SLA) with each of the seven other East Midlands local authorities to ensure that appropriate legal arrangements are in place to conduct 'cross-border' investigations and, if necessary, carry out enforcement activities. This agreement provides the necessary legal authorisations and sets out the process for agreeing priorities and managing operations. It also determines how any risks associated with regional enforcement action, for example legal

cost, might be minimised and or shared. The current proposed agreement, which has changed slightly from the original agreement, is provided as Appendix 1 to this report.

The Regional Team currently consists of a Team Leader and three investigators with additional legal processing and administrative support from Nottinghamshire County Council. The agreement also includes an allocation of Officer time from each authority. This would normally be when an investigation is 'tasked' to the regional team involving a rogue trader operating in one or more of the East Midlands authorities and also provides a developmental opportunity for the seconded officer to work with specialist investigators.

The RIT investigate the most serious alleged breaches of Trading Standards legislation, however, it is essential that it does so in a clear and transparent way and that any enforcement action is proportionate and in accordance with legal requirements and established best practice. When deciding whether enforcement action is necessary and proportionate, the authority making the decision will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions, the Regulators' Code and other relevant codes including those concerned with the investigation of offences. A proposed Enforcement, or Compliance Policy, which is in line with Derbyshire Trading Standards Compliance Policy, available on the Derbyshire County Council website, is provided as Appendix 2 to this report.

A media release, following a recent successful prosecution of East Midlands based fraudsters by the RIT, is provided in Appendix 3 to this report.

(3) Financial Considerations There are no immediate financial commitments associated with this report, however, the SLA with Nottinghamshire County Council does include operational support from Derbyshire Trading Standards Service equivalent to up to 0.4 FTE of an Officer each year to support regional investigations. To date this has been met within existing resources. There is also a commitment to share legal costs on a *pro rata* basis should the need arise, but has not been required in the nine years that Nottinghamshire has hosted the RIT. Derbyshire has had the cost of seconding an enforcement officer to assist the RIT funded for the past 12 months.

Other Considerations

In preparing this report the relevance of the following factors has been considered: legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, social value and transport considerations.

- (4) **Key Decision** No.
- (5) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.
- (6) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Robert Taylour, extension 39830.
- (7) **OFFICER'S RECOMMENDATIONS** That the Cabinet Member agrees:
- 7.1 To the Assistant Director Trading Standards renewing the current agreement with Nottinghamshire County Council to host the East Midlands Regional Investigation Team (RIT).
- 7.2 To the authorisation of officers employed by or working under the direction of the RIT to enforce relevant legislation in Derbyshire.
- 7.3 To the proposed Enforcement Policy for the RIT.

Mike Ashworth
Strategic Director – Economy, Transport and Communities

Appendix 1 TSEM Regional Investigation Team Service Level Agreement with Nottinghamshire County Council



TSEM Regional Investigations Team

Collaborative Working and Cross Authority Officer Authorisation Protocol for RIT Investigations

Interpretation for the purposes of this agreement

“Accountable Body”	Nottinghamshire County Council (also referred to as NCC).
“ARIS Payment”	Payment under the Home Office’s Asset Recovery Incentivisation Scheme.
“BEIS”	Department for Business, Innovation and Skills, which is the Government body funding the Team.
“BEIS Funding”	The funding allocated on behalf of BEIS to the Regional Investigations Team project via the NTS governance structures.
“Commencement Date”	The date the Delegated Power is granted by the signatory authority.
“Delegated Power”	The discharge of the statutory powers contained in ‘Specified Legislation’ granted by the respective local authority to the ‘Accountable Body’ in pursuance of Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2000 and or Section 13 (7) of the Local Government Act 2000.
“NTG”	National Tasking Group; the body responsible under the NTS framework for tasking Regional Investigations Team projects.
“NTS”	National Trading Standards; the body responsible for allocating the BEIS funds and management of the project.
“Lead Authority”	The local authority taking primacy for the investigation either on the basis of the trader and or consumers being based in their local authority area.
“RIT”	TSEM Regional Investigations Team.

“RITGG”	RIT Governance Group; the national body responsible under the NTS framework for governance of the RIT project work-stream.
“Specified Legislation”	All legislation for which members of the RIT are authorised in order to carry out their duties. A schedule of this legislation will be maintained in line with any updates, amendments, or the introduction of new legislation. A list of the current authorisation as of 20 July 2017 is attached as an Annex to this agreement.
“Term”	Starts from the date of delegation onwards, which will continue whilst the RIT Project and TSEM team exists.
“TSEM”	Trading Standards East Midlands comprising the local Trading Standards Services of Derbyshire County Council, NCC, Leicestershire County Council, Lincolnshire County Council, Northamptonshire County Council, Derby City Council, Leicester City Council and Nottingham City Council.
“CTSI”	Chartered Trading Standards Institute; the body responsible for receiving BEIS funding provided to NTS. This includes issuing contracts to regions, financial oversight of the teams, and the making of financial arrangements in line with the decisions of the NTS Board or other empowered NTS groups.
“TTG”	TSEM Tactical Tasking Group, as identified by TSEM Heads of Service.

1. Purpose

- 1.1 To enable the Regional Investigations Team to function effectively and efficiently across the region, officers in the team will require authorisation to exercise statutory powers. This is to enable them to enter premises, vehicles, stalls and other places to inspect goods, records and documents and to make purchases and where necessary to seize goods, records and documents under a specified set of legislation to enable them to conduct investigations into scams and rogue trading practices.
- 1.2 This document seeks to explain the process under which officers within the RIT will obtain those statutory powers. NCC will maintain a list of the Officers to be authorised. This list is subject to change as officers employed change over time.
- 1.3 To explain the governance and management arrangements for the RIT.
- 1.4 To explain the process that will be adopted when considering the institution of legal proceedings.

- 1.5 To outline the support and resources that each TSEM local authority agrees to provide to NCC in exchange for it hosting the Regional Investigations team.
- 1.6 To outline the objectives of the TSEM Regional Investigations team.

2 Application

- 2.1 Each local authority within TSEM where possible will need to put in place arrangements to authorise officers from the Regional Investigations Team to enable them to exercise statutory powers as necessary under the 'Specified Legislation', where such powers exist, thereby enabling the RIT to conduct effective and lawful investigations.
- 2.2 Not all of the legislation referenced in 'Specified Legislation' affords officers any statutory powers, but they are contained in the list for completeness as they may be used for alleged offences in prosecutions.
- 2.3 The authorisations will extend only to officers employed by the 'Accountable Body' engaged on activities within the Regional Investigations team conducting investigations that are within the remit of the Team's work.
- 2.4 The delegated powers exist to enable the Regional Investigations Team officers to conduct effective and lawful investigations across the TSEM local authorities.
- 2.5 The delegated powers do not inhibit the individual local authorities and their authorised officers from exercising their existing powers or any other legislation under which they are authorised.
- 2.6 The delegated powers extend only to the conduct of investigations and associated working practices. They do not extend to the institution of legal proceedings for breaches of the 'specified legislation'.
- 2.7 The institution of legal proceedings in respect of investigations led or conducted by the Regional Investigations Team will be considered on a case by case basis. The 'Accountable Body' will consult with the local authorities in whose area alleged offences have been detected.
- 2.8 Should it be expedient for the 'Accountable Body' to institute proceedings on a collective basis, the 'Accountable Body' will consult the individual local authorities impacted before instituting proceedings.

3 Regional Investigations Team – Governance and Management

- 3.1 The 'Accountable Body' will establish the Regional Investigations Team and will be responsible for the day-to-day operation and supervision of the Regional Investigations Team.
- 3.2 The Regional Investigations Team is a shared resource of the TSEM local authorities who are committed to working in partnership to deliver the outcomes set out in the project plan submitted and agreed by NTS.
- 3.3 The Regional Investigations Team will be an integral part of the TSEM regional Tactical Tasking & Enforcement activities and will play a key role in delivering the agreed Control Strategies.
- 3.4 Tasking and oversight of the Regional Investigations team will be via the TTG.
- 3.5 The Regional Investigations Team will be subject to the scrutiny by the TSEM Heads of Service Group. This Group may also operate as the TTG.
- 3.6 NCC will provide reports on the operation of the Regional Investigations team to every TSEM Heads of Service meeting. The Team Manager will attend and contribute to these meeting as required.
- 3.7 TSEM will provide a nominated Head of Service from an Authority other than the Accountable Body to represent the region on the NTS RIT Governance Group. This Head of Service will provide scrutiny and oversight of the SBT and its operations on behalf of NTSB and all TSEM Authorities.
- 3.8 The Regional Investigations Team Manager will be responsible for reporting back to NTSB every quarter, or as and when required.
- 3.9 To build relationships across the region and awareness of potential referrals, the RIT Manager or Senior Investigating officers will attend occasional local authority tasking meetings.

4 Conduct and Control of Investigations

- 4.1 The TTG will make decisions on prioritising the work of the RIT to meet the agreed Control Strategies.

- 4.2 The RIT will not, as a matter of routine, investigate individual complaints received concerning alleged scams and rogue trading activities. The RIT's activities will be intelligence led tackling level 2 and level 3 targets identified under the control strategies and providing specialist support to level 1 Trading Standards teams.
- 4.3 It is envisaged that there will be three possible scenarios under which officers from the RIT will be engaged in carrying out investigations on behalf of the 8 Authorities within TSEM.
- 4.4 The first of these is where it is appropriate for the investigation to be led by the RIT. The most likely reason for this scenario is because the investigation goes across authority borders. Although such investigations will be led by the SBT, assistance is likely to be required from local authority colleagues. This will be agreed through the Tactical Tasking process.
- 4.5 Under the circumstances described in 4.4 above, paragraphs 4.6 to 4.10 will have effect.
- 4.6 The conduct and control of investigations led by the RIT will be the responsibility of NCC. Investigations will be undertaken in accordance with the Enforcement Policy of NCC.
- 4.7 Any Authorisations required under Regulation of Investigatory Powers Act 2000 will be obtained by the Authority that has jurisdiction for the area in which the proposed activities are to be actioned. NCC will also ensure compliance with the requirements of the Criminal Procedures & Investigations Act, Police and Criminal Evidence Act 1984, and any other legislation associated with the conduct of investigations. However, NCC expects all TSEM authorities to provide any necessary and reasonable assistance to ensure compliance with this.
- 4.8 NCC will also be responsible for responding to requests for information made under the Data Protection Act 1998, Freedom of Information Act 2000 and the Enterprise Act 2002. However, NCC expects all TSEM authorities to provide any necessary and reasonable assistance to ensure compliance with this.
- 4.9 Feedback on the progress of the investigations carried out by the RIT will be provided to the TTG. The TTG as oversight body for the RIT will scrutinise and authorise the progression on investigations tasked to the RIT.
- 4.10 The Accountable Body will authorise the action to be taken following the submission of an investigation report, which may include the

commencement of legal proceedings. The decision will be recorded and the Accountable Body will make TSEM Heads of Service and TTG aware of the decision.

- 4.11 The second is where the National Tasking Team (NTG) task the team to investigate cases of national significance (Level 3). Paragraphs 4.4 to 4.10 shall apply to this situation, in addition to any requirements imposed by the NTG.
- 4.12 The third scenario under which it is anticipated that the RIT will be engaged in investigations is one where it is appropriate for the RIT to assist a local authority to bring an investigation, but where the RIT does not lead the investigation itself.
- 4.13 Under the circumstance described in paragraph 4.12 above, paragraphs 4.14 to 4.19 shall apply.
- 4.14 Officers from the RIT will act under the guidance of the lead local authority as required.
- 4.15 Any investigation conducted under these circumstances with the assistance of the RIT members will be the responsibility of the lead authority, which shall have responsibility to ensure compliance with Regulation of Investigatory Powers Act 2000 (RIPA), Criminal Procedure and Investigations Act 1996 (CPIA), Police and Criminal Evidence Act 1984 (PACE), and any other legislation associated with the conduct of the investigation. NCC will provide any necessary and reasonable assistance to the authority to ensure compliance with these requirements.
- 4.16 The conduct and control of investigations undertaken will be the responsibility of the lead authority. Investigations will be undertaken in accordance with the Enforcement Policy of the lead authority.
- 4.17 The lead authority will authorise the action to be taken following the submission of an investigation report in accordance with its local Enforcement Policy.
- 4.18 The lead authority will be responsible for responding to requests for information made under the Data Protection Act 1998, Freedom of Information Act 2000 and the Enterprise Act 2002. NCC will provide any necessary and reasonable assistance to ensure compliance with this.
- 4.19 The lead authority will be expected to feed-back progress on such investigations to the Regional Investigations Team Manager.

5 Responsibilities and Actions of the Authorities

- 5.1 NCC shall be responsible for the actions and competence of the persons employed within the RIT and shall ensure that the RIT shall comply with legislative requirements with regard to investigations under its control. In addition, NCC shall take all reasonable steps to ensure that any actions taken are lawful and within the spirit of the protocol.
- 5.2 All TSEM authorities shall be liable for the actions and competence of persons within its employ, and shall take all reasonable steps to ensure the competence of those persons in carrying out their functions, and that they comply with legislative requirements and the spirit of this protocol.
- 5.3 The disclosure of information and intelligence between NCC and the other TSEM authorities will be conducted within the legal framework of the Data Protection Act 1998, Human Rights Act 1998 and the Enterprise Act 2002. It is provided only to assist in the performance of regulatory functions and shall not be divulged to third parties unless to do so would be lawful.
- 5.4 NCC and the TSEM authorities endorse a joined up approach to the enforcement of the 'Specified Legislation'. The partners will attempt to promote consistency in enforcement. However, this protocol does not attempt to restrict the powers of authorised officers of the RIT or any of the TSEM authorities from discharging their duties as appropriate.
- 5.5 All TSEM authorities agreed at the outset of the TSEM RIT project to share any redundancy costs incurred should the project be terminated that are not covered by Proceeds of Crime Act 2002 (POCA) assets recovered, apportioned on a population basis. NCC reserves the right to wind up the TSEM RIT project early if necessary to offset and redundancy costs.
- 5.6 Acknowledgement of Joint and Several Liability: Where any Party enters into an agreement or arrangement for the proper and reasonable delivery of the Regional Investigations Team scheme or in furtherance of the aims and objectives of the Parties pursuant to the provisions of this Agreement, the parties shall be jointly and severally liable in respect of all rights, duties, obligations, actions, liabilities, claims, proceedings, costs, expenses and damages arising out of or in respect of any such agreement or arrangement and each Party shall keep the others fully indemnified in respect of all such rights, duties, obligations, actions, liabilities, claims, proceedings, costs and expenses and damages

- 5.7 Where any party enters into an agreement or arrangement for the proper and reasonable delivery of the Regional Investigations Team scheme, that party shall be liable in respect of all rights, duties, obligations, actions, liabilities, claims, proceedings, costs, expenses and damages arising out of or in respect of any RIT case involving investigations or legal action undertaken in its own area.

6. Staffing & Accommodation

- 6.1 The core of the RIT will consist of a Team Leader, 2-3 Investigators and an Intelligence Assistant employed by NCC. Office accommodation for the team will be located in Nottinghamshire. The set up costs and annual staffing, accommodation and running costs will be met from the NTS funding.
- 6.2 Should NTS reduce funding to the project, NCC reserves the right to change the number of staff employed by the team to balance the budget available.
- 6.3 NCC as host authority will seek to recover the costs of human resource services, financial management, audit, payroll, health and safety advice, basic legal services and project management from the NTS funding.
- 6.4 All TSEM authorities (including the Accountable Body) commit to providing a “virtual” element to the RIT, by providing a minimum of:
- 0.4 FTE (approximately 88 officer days) for county authorities per year, or
 - 0.2 FTE (approximately 44 officer days) for unitary authorities, per year
- 6.5 This support in 6.4 would be a flexible allocation, and could range from a named officer being seconded to the RIT for a number of weeks or a number of officers assisting with an operation on a particular day. The extra support would be agreed through the regional tactical tasking process. Support would be requested wherever possible where the work had a direct link to the employing authority, eg based in order of detriment/highest number of victims.
- 6.6 All TSEM authorities agree to provide support to the RIT to disseminate early alert warnings to consumers/businesses and promote the work of the team as and when required.

- 6.7 TSEM agrees to provide support from its Regional Co-ordinator to support the management and delivery of the RIT and to assist in promoting the RIT's work.
- 6.8 All TSEM authorities agree to provide the RIT use of their specialist surveillance equipment and meeting and interview room facilities as necessary and with the appropriate prior notice.
- 6.9 Where the cost of the storage of goods seized by the RIT or any other test purchasing or operational support costs needed as part of a regional operation cannot be met from NTS funding all TSEM authorities agree to contribute to the costs. Any such costs will be agreed in advance by TTG as part of the operational briefing.

7. Legal Costs and Proceeds of Crime

- 7.1 NCC will provide a proportion of Legal Services Manager's time to be recovered from the NTS funding. This will be to undertake routine legal work such as processing Regional Investigations Team files, taking relevant cases in Magistrates' Courts and liaising with solicitors/barristers. Any additional legal costs will be in the first instance met from the RIT budget awarded by NTS.
- 7.2 The Regional Investigations Team Manager will identify as a risk to NTS, through the quarterly reporting mechanism, any litigation or legal costs for level 2 and level 3 cases over and above the NTS provided funding, thereby minimising any potential liability to TSEM authorities of the pursuance of RIT cases.
- 7.3 In the event that legal costs were incurred on a RIT led case that were not met from any NTS monies granted or any POCA assets recovered, all TSEM authorities agree to share such costs incurred apportioned on a per head of population basis.
- 7.4 Where grant funding has been used to pay all or some of the legal costs of a case TSEM/NCC is required, following successful prosecution, to reimburse the NTSB in the event of full costs recovery. Where less than full costs are recovered, TSEM/NCC is required to reimburse NTSB on a pro rata basis to the costs recovered against costs claimed.
- 7.5 All TSEM authorities agree to contribute existing POCA capability within the region to support the RIT when needed. When an offence is committed within an authority that has an Accredited Financial Investigator (AFI) that authority would be asked in the first instance to lend its AFI to support the investigation.

- 7.6 For cases led by the Regional Investigations Team, any ARIS payment will be split on a 50/50 basis between TSEM/NCC and NTS, irrespective of whether NTG funding support has been provided.
- 7.7 All remaining assets recovered as a consequence of a RIT led investigation will be used as follows:
- 1) To pay the employing authority of an AFI for their involvement in the case (repaid to the employing authority at an hourly rate based on salary and on-costs).
 - 2) To cover any legal costs incurred in respect of RIT cases not met by NTS funding.
- 7.8 The future use of any remaining assets will be agreed under the TSEM governance arrangements and POCA policy.
- 7.9 Where the RIT provides support to a local authority, and NTG also provides funding for this to happen, ARIS payments are split with 50% to NTS, after the local authority has satisfied its costs, and the remaining amount split on a percentage basis as agreed between both parties, reflecting the level of support provided.
- 7.10 When NTG provide support to a local authority and the RIT are not involved ARIS payments are split between NTS and the local authority on a 50/50 basis, after the local authority's costs have been met.

8. TSEM Regional Investigations Team Objectives:

- 8.1 The RIT will work across borders, to focus on fraudulent and malicious trading practices that cause serious detriment to consumers and legitimate business and would benefit from a regional approach.
- 8.2 The RIT will act as the enforcement arm of the TTG, working to the benefit of all TSEM authorities, taking a proactive intelligence led approach to tackle Level 2 and 3 targets identified under the control strategies.
- 8.3 The RIT will work in partnership with local authorities and other agencies to ensure action is taken by the most appropriate agency.
- 8.4 The RIT will implement preventive measures, by working with the TSEM Trading Standards Services to proactively give early warnings to consumers and businesses about specific dishonest trading practices as they arise.

- 8.5 The RIT will offer specialist enforcement expertise to TSEM authorities to support investigations led by those authorities (i.e. to parachute in to assist in relevant investigations)
- 8.6 TTG will have regard to the NTS Integrated Operating Model and will task the RIT following requests from the NTG to tackle national level 3 cases. RTG will have scrutiny and oversight of those cases.

9. Dates of commencement and termination of this protocol

- 9.1 This Protocol will come into force on the Commencement Date and will continue until such time that it is reviewed again.
- 9.2 This protocol does not prejudice the right of a TSEM authority to withdraw the Delegated Power at any time during the Term. However, all TSEM authorities agree not to withdraw the Delegated Power unreasonably.

10. Signatories

Date of Commencement:

On behalf of TSEM partner

On behalf of NCC

Name of Authority:

Signed by (Print):

Signed by (Print):

Position:

Position:

Signature:

Signature:

Date:

Date:

Annex - Relevant Legislation

Administration of Justice Act 1970
Agricultural Produce (Grading and Marking) Acts 1928 and 1931
Anti-Social Behaviour Act 2003
Beef and Veal Labelling Regulations 2010
Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013
Business Names Act 1985
Business Protection from Misleading Marketing Regulations 2008
Cancer Act 1939
Celluloid and Cinematographic Film Act 1922
Children and Young Persons Act 1933
Children and Families Act 2014
Children and Young Persons (Protection from Tobacco) Act 1991
Clean Air Act 1993
Consumer Protection from Unfair Trading Regulations 2008
Companies Acts 1985 and 2006
Consumer Credit Acts 1974 and 2006
Consumer Protection Act 1987
Consumer Rights Act 2015
Control of Pollution Act 1974
Copyright, Designs and Patents Act 1988
Courts and Legal Services Act 1990
Criminal Attempts Act 1981
Criminal Justice Act 1988
Customs and Excise Management Act 1979
Development of Tourism Act 1969
Education Reform Act 1988
Energy Act 1976
Enterprise Act 2002
Estate Agents Act 1979
European Communities Act 1972
Environmental Protection Act 1990
Explosives Act 1875
Explosives (Age of Purchase) etc. Act 1976
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Fireworks Act 2003
Food and Environment Protection Act 1985
Forgery and Counterfeiting Act 1981 & 1988
Fraud Act 2006
Hallmarking Act 1973
Health and Safety at Work etc. Act 1974
Highways Act 1980
Housing Act 2004

Insolvency Act 1986
Licensing Act 2003
Medicines Act 1968
Motor Cycle Noise Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
Olympic Symbol etc. (Protection) Act 1995
Organic Products Regulations 2009
Pesticides Act 1998
Petroleum (Consolidation) Regulations 2014
Poisons Act 1972
Prices Act 1974
Proceeds of Crime Act 2002
Protection from Harassment Act 1997
Protection of Freedoms Act 2012
Public Health Acts 1936 and 1961
Pyrotechnic Articles (Safety) Regulations 2015
Road Traffic Acts 1988 and 1991
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Regulation Act 1984
Scotch Whisky Act 1988
Solicitors Act 1974
Telecommunications Act 1984
Theft Act 1968
Timeshare Act 1992
Tobacco Advertising and Promotion Act 2002
Trade Descriptions Act 1968
Trade Marks Act 1994
Trading Stamps Act 1964
Unsolicited Goods and Services Acts 1971 and 1975
Video Recordings Act 1984, 1993 and 2010
Animal Health related legislation
Animals Act 1971
Animal By-Products (Enforcement) (England) Regulations 2013
Animal Health Acts 1981 and 2002
Animal Welfare Act 2006
Cattle Identification Regulations 2007
Horse Passport Regulations 2009
Performing Animals (Regulation) Act 1925
Welfare of Animals at Slaughter Act 1991

Appendix 2 – Trading Standards East Midlands Regional Investigations Team Enforcement Policy



National Trading Standards Regional Investigation Team East Midlands Enforcement Policy

Introduction

This document is the Enforcement Policy for the National Trading Standards, Regional Investigation Team, East Midlands (RIT) hosted by Nottinghamshire County Council on behalf of the National Trading Standards Board (NTSB). The Enforcement Policy of the RIT is separate from the policy belonging to the host authority, and/or the prosecuting authority if different from the host.

The purpose of the RIT is to target criminals involved with doorstep crime, counterfeiting, consumer and business fraud and other related crime in an effective way that is not readily achievable by individual local authorities. The RIT provides a dedicated trading standards resource which allows for the investigation of more serious and organised criminality involving consumer and business detriment on regional and national scales.

All activities of the RIT are co-ordinated through the NTSB recommended tasking process to ensure the prioritisation of case selection so that resource is deployed in order to provide greatest protection for consumers and businesses.

Enforcement Policy

The RIT is charged with taking on major investigations, and in appropriate cases, bringing them to a just conclusion through the courts using appropriate criminal and civil sanctions. The purpose of the RIT is not to provide advice, information or carry out inspections of regulated businesses, these activities are carried out at local authority level.

When deciding whether enforcement action is necessary and proportionate, the authority making the decision will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions, the Regulators' Code and other relevant codes including those concerned with the investigation of offences.

The prosecuting authority, for any RIT investigation, will take formal enforcement action, where appropriate, in cases and any other matter the team manager considers necessary within the scope of the purpose of the RIT. For the purpose of this policy formal enforcement action includes prosecution, civil action, the issue of a simple cautions and post-conviction orders.

All enforcement activity will comply with, the general principles of criminal law and gathering evidence, in particular the Human Rights Act 1998 and Equalities Act 2010.

Review of Policy

The RIT enforcement policy will be reviewed at no more than yearly intervals and amendments will be made, as appropriate. Amendments to the policy may also be made at other times as a result of identified improvements which contribute to the main aims of the RIT and NTSB.

Availability of this Policy

This Enforcement Policy is made available to anyone and is published on the Nottinghamshire County Council website at www.nottinghamshire.gov.uk.

This information can be made available in other languages and formats. For further information please contact 0115 8041147.

Appendix 3 – Recent Media Release about the East Midlands Regional Investigation Team

Operation Spinnaker results

After a long and complex TSEM RIT investigation, Derby-based company criminals sentenced to a total of 15 years following national multi-million pound advertising fraud. In October, the Managing Director and four co-directors of Wyvern Media were sentenced to a total of 15 and half years at Nottingham Crown Court for their part in a multi-million pound fraud involving the mis-selling of advertising space to companies across the UK and Europe.

The company was based at Derby's Wyvern Business Park and had another 11 offices across the Midlands and the south-west. Employing around 250 people, it is estimated that the company had around 18,000 customers per year with an estimated annual turnover of £7m. Under the direction of Jonathan Rivers, the company cold-called small companies to pressurise them into purchasing advertising space in its publications. This saw the defendants lie to businesses by using false distribution figures and misleading them into thinking their publications would be promoted at high profile events relevant to their business.

They also used aggressive selling techniques to secure sales, tended to be unclear about what publication they were representing and made unauthorised withdrawals from customers' credit and debit card accounts. One scam involved contacting businesses to announce they had won an award from a Wyvern Media publication but would only receive it and the associated advertising for a fee. The investigation was the largest ever led by the NTS Scambuster Team (East Midlands), which is based at Nottinghamshire County Council. More than five hundred complaints from 74 witnesses formed the basis of the prosecution and the highest amount lost by one business was £31,305. The team is hoping to recover up to £155,000 in proceeds of crime for 67 of the victims who have been unable to reclaim their losses.

Victims included:

A Shropshire-based dog rescue centre lost £5,184 from this particular operation. The experience greatly affected the Victims health and they died aged 64 of lung cancer in 2015. The charity nearly closed in 2015 due to lack of funds.

A Foster carer in North Somerset lost £6,610 in rent from their caravan by placing an advert in a Wyvern publication instead of the nationally recognised Dalton's Weekly, which they used successfully previously. The loss meant they could no longer afford the caravan, which was used for holidays with the foster children and was subsidised by leasing it outside of school holidays.

Former fish and chip shop owner from Norfolk, lost £17,224. The stress of the experience led to them selling their business as they were unable to continue to run it, and it also led to the break-up of a long-term relationship.

The Chair of Nottinghamshire County Council's Community Safety Committee, said: *"We've been preparing this mammoth and complicated case for over five years and I'd like to pay tribute to the hard work and persistence of our experienced investigators which has led to Jonathan Rivers and key directors receiving significant prison sentences for their part in this sickening operation."*

Many of the victims lost their businesses over this scam and included small charities that work hard for good causes. For some victims the sheer harassment in hourly cold calls made them ill.

A common technique was claiming they were from 'The Telegraph' when they were really talking about their poor quality South East Telegraph publication.

We are yet to meet a business that made one single sale from an advertisement in a Wyvern Media publication, which demonstrates their poor distribution methods.

We will now be seeking to hit those involved where it hurts by seizing assets to help compensate some of the victims for their financial losses.

“We urge businesses to place adverts in reputable publications and not to be put under pressure from any advertising salesperson, no matter how good the deal sounds.”

Lord Toby Harris, Chair, NTS, said: *“This scheme was created with the sole purpose of cheating small businesses out of large sums of money and forced a number of honest businesses – including small charities – to go under. I would like to congratulate all involved in bringing these criminals to justice – these sentences send a strong signal that we will not tolerate dishonest practices and are committed to safeguarding honest businesses”.*