

COMMUNITY SERVICES DEPARTMENT

TRADING STANDARDS SERVICE

OUR ROLE AND PURPOSE – 2008/09

C O N T E N T S

PAGE

| | |
|---|---|
| Trading Standards in the Community | 1 |
| Purpose | 1 |
| Aim of the Service | 1 |
| Strategic Objectives | 2 |
| County Council Corporate and Community Objectives | 2 |
| Budget | 3 |
| Equalities | 3 |
| Service Priorities | 4 |
| Making It Happen | 4 |
| Performance Indicators | 5 |
| Monitoring Performance | 6 |
| Service Performance 2007/08 | 7 |

Appendix 1

Equality Impact Assessments

Appendix 2

Enforcement Programme for Underage Sales of Tobacco Products and
Aerosol Paints 2008/09

Appendix 3

Service Plan for Food Standards Enforcement 2008/9
Annex 1:1 Progress Report on Commitments 2008/9
Annex 1:2 Progress Report on Commitments 2007/08

Appendix 4

Enforcement, Prosecution and Other Sanctions Policy

Appendix 5

Service Standards

Appendix 6

Service Priorities 2007/08- Outcomes

Appendix 7

Performance Indicators 2007/08 – Outcomes

COMMUNITY SERVICES DEPARTMENT- REGULATORY SERVICES

TRADING STANDARDS SERVICE

OUR ROLE AND PURPOSE

Trading Standards in the Community

Leicestershire County Council is the largest council in Leicestershire, providing a wide range of services directly to local people, or through other organisations on its behalf.

Leicestershire is a largely rural county that surrounds the urban centre of Leicester. Ringing this centre are a number of busy market towns.

Farming, including livestock, is an important industry. As the old industries of textiles, shoe making and to a certain extent engineering decline, other industries such as tourism, food processing, retailing and distribution are expanding.

With regard to food standards, the Authority is part of a two-tier arrangement for local government in Leicestershire. Food standards is the County's responsibility and food hygiene that of the District Councils.

Purpose

The Trading Standards Service is primarily a consumer protection and fair trading enforcement service. It deals with a wide range of criminal and civil laws.

Aim of the Service

The overall aim of the Service is to ensure a fair and safe trading environment, which promotes the well-being of citizens and allows businesses to prosper.

Strategic Objectives

- To contribute to the achievement of the County Council's corporate and community objectives.
- To provide an appropriate mix of actions in all areas of trading activity so as to maintain standards of trade which protect the community against unfair trading practices and hazards.
- To provide information and advice, in partnership with Consumer Direct, so as to achieve informed confident consumers and informed successful businesses in Leicestershire.
- To work in partnership with other agencies including voluntary services and other local authorities whose work complements the functions of the Service.
- To facilitate the provision of a debt counselling service.
- To seek to influence, for the good of the community, proposals for national and international change in trading standards law.
- To work closely and in partnership with departmental and other County Council services to achieve the above objectives.
- To continually improve the quality and accessibility of service delivery by investing in staff, reviewing procedures and assessing customer needs and satisfaction.

County Council Corporate and Community Objectives

The Service contributes to the following corporate and community objectives as set out in the County Council's Medium Term Corporate Strategy to 2009, Leicestershire Community Strategy and the Local Area Agreement.

- Improving the quality of life for people - children and young people and older people;
- Improving the quality of life in communities - environment and waste management and safer communities;
- A strong, diverse economy;
- Healthy communities where people look after themselves and others.

More specifically Trading Standards will work with

- a) the Children and Young People's Service to:-
- ◇ help improve physical health and reduce obesity through our work on:
 - i) underage sales of tobacco products, solvents and alcohol
 - ii) food and nutrition labelling, particularly healthy school meals
 - ◇ support special educational needs through our 'Consumer Challenge' Quiz
 - ◇ improve personal and social development through our 'Consumer Challenge' Quiz and recruitment of volunteers for test purchasing work concerned with underage sales

- b) Adult Social Care and the corporate Community Safety team to:-
- ◇ promote safer and healthier communities through our work to:-
 - i) tackle underage sales of alcohol, solvents, fireworks and knives
 - ii) combat unwanted doorstep sales with 'No Cold Calling Zones'
 - ◇ help improve older people's well-being through our work on:
 - i) product safety to reduce accidents in the home
 - ii) 'No Cold Calling Zones' which will help reduce the fear of crime.

Budget

The net revenue funding for 2008/09 is £1,907,000. This does not include "support services" which are supplied by Commercial and Support Services of the Community Services Department.

Projected income for the Service is £138000 mainly derived from certain metrology (weights and measures) functions, the issue of various licences and animal health work for the Department for the Environment, Food and Rural Affairs (DEFRA).

There is no capital allocation for the Trading Standards Service in 2008/09.

Equalities

There is in place the means to monitor access and service usage by different groups that make up the community of Leicestershire. The range of equality impact assessments that have been undertaken is shown in Appendix 1.

Service Priorities

Our service priorities for 2008/9 are:-

- To continue with the strategy for the retention and development of enforcement personnel to ameliorate current difficulties.
- To develop further intelligence-led enforcement, by working regionally with 'Scambusters' and using new facilities including an intelligence database and accredited financial investigator.
- To complete certain actions for implementation of the 'peer review' improvement plan.
- To implement change across the Service including staff training, to take account of new statutory controls for unfair trading.
- To work positively on the implementation of the Customer First programme in Community Services.

Making It Happen

Detailed work plans have been established for the Service's operational units. These link to this plan and are the principal day-to-day method by which the objectives and priorities outlined here are implemented.

Performance is measured using "Key Performance Objectives". These objectives are shown in Table 1. Some of the indicators now form part of Leicestershire County Council's Comprehensive Performance Assessment (CPA) and the Local Area Agreement (LAA). The risk in failing to achieve the Key Performance Objectives has been assessed.

The Enforcement Programme for underage sales of tobacco products and aerosol spray paints is shown at Appendix 2. This has been approved by the Cabinet.

The statutory plan for food standards enforcement is shown at Appendix 3 which has been approved by the lead elected member for County Council's Community Services Department.

The Service's enforcement and prosecution policy is shown at Appendix 4.

Table 1 Key Performance Objectives

| | | 2004/05 | 2005/06 | 2006/07 | 2007/08 | Target 2008/09 |
|---|---|---------|---------------------|----------------------|----------------------------|---------------------------------|
| The percentage compliance with the law in premises surveyed dealing with age-restricted sales of alcoholic products | Service – S1 Total S1 Random S1 Intelligence-led | 82* | 60** | 59*** | 71**** 82 \$ 68 \$\$ | 75 85 73 |
| Consumer satisfaction with the Trading Standards Service | Service – S2 | N/A | 89.4% | 83.7% | 84.1% | 85% |
| Business satisfaction with the Trading Standards Service | National – N182 | N/A | 84.5% | 82.1% | 83.2% | 85% |
| Trading Standards visits to high risk premises | Service – S3 | N/A | 100% | 100% | 100% | 100% |
| Trading Standards levels of business compliance, high, medium and low risk premises | Service – S4H High S4M Medium S4L Low | N/A | 93.8% 87% 95% | 100% 88.9% 93% | 100% 94% 94% | 100% 95% 95% |
| Impact on the Fair Trading Environment | National – N183 | N/A | N/A | N/A | N/A | New- Base line to be determined |

- * 51 attempted purchases and 9 sales
- ** 98 attempted purchases and 39 sales
- *** 191 attempted purchases and 78 sales
- **** 282 attempted purchases and 83 sales
- \$ 55 attempted purchases and 10 sales
- \$\$ 227 attempted purchases and 73 sales

Table 1 (continued) Local Area Agreement Objectives - underage sales of tobacco products

| Year | 06/07 | | 07/08 | | 08/09 | |
|---|--------|--------|--------|--|--------|--------|
| Indicator | Target | Actual | Target | Actual | Target | Actual |
| 1 % compliance with law on sale to under 16s | 80% | 77% | 88% | 98% | 95% | |
| | | 87.5% | 85% | | 85% | |
| | | 82% | 88% | | 91% | |
| 2 % compliance with law on display of statutory notice in named schools' areas | 71% | 96% | 90% | 94% | 95% | |
| 3 % of retailers in named schools' areas who promote proof of age cards | 33% | 99% | 75% | 94% | 85% | |
| 4 % uptake of offer of free proof of age cards at named schools | 80% | 0% | 80% | 58% (1166 out of 2005). Indicator to be dropped due to school resistance * | 80% | |

- 1) Three figures are given - the first relates to the target schools and their catchment areas, the second to the comparison schools and their catchment areas, and the third is the aggregate.
- 2) Compliance on first visit during the financial year to each premise.
- 3) Promotion is as a minimum the use of notices stating that proof of age cards are accepted. Businesses are encouraged to distribute application forms and refer customers to the local library.
- 4) Uptake of cards is for those schools that have agreed to participate in this part of the project.

Monitoring Performance

Progress with Service priorities, performance indicators and work programmes is monitored through review meetings of the Operational Units and the Service Management Team.

Service Performance 2007/08

The performance against Service Priorities and Performance Indicators is shown at Appendix 6 and 7 respectively.

TRADING STANDARDS – EQUALITY IMPACT ASSESSMENTS

| Equality Impact Assessments | Date | Outcomes |
|--|-----------------------|---|
| 1. Consumer Advice | October 2005 | Formally write to Consumer Direct East Midlands concerning 'hard to reach groups' especially young people and ethnic communities. |
| 2. Leicestershire Money Advice Service | October 2005 | <p>Survey documentation amended to take account of the changes for age ranges set out in the 2001 Census information, so that direct comparisons may be drawn.</p> <p>The satisfaction levels recorded show that there does not seem to be any problem areas at this stage.</p> |
| 3. Business Advice | October 2005 | 'One-off survey' to consult with organisations representing the interests of small and medium-sized ethnic minority businesses concerning access issues. Partnership approach with Leicester City Consumer Protection Services. |
| 4. Consumer Advice Intervention Work | November 2006 | Vulnerable consumers identified from Consumer Direct referrals consulted. Results reviewed by management in November 2007. A "vulnerability" category to be introduced for all referrals for future monitoring purposes. |
| 5. 'No Cold Calling' zones | Programmed for 2007/8 | March 2008 - consultation underway with residents of established zones. |

**ENFORCEMENT PROGRAMME FOR UNDERAGE SALES OF TOBACCO PRODUCTS AND
AEROSOL PAINTS 2008/09**

Respond to complaints alleging the illegal sale of tobacco products and aerosol paints to youngsters.

Allied to other enforcement activities, in particular other statutory controls for underage sales, undertake checks for compliance.

Carry out a minimum of three projects which involve “test purchase” attempts being made by volunteer children. The help of children in this way will be provided in strict compliance with best practice guidance, issued jointly by the Local Authorities Co-ordinators of Regulatory Services and the Trading Standards Institute.

Work in partnership with other enforcement agencies to tackle the problem of counterfeit and/or smuggled tobacco products.

Monitor statutory display notices, including those attached to vending machines, as part of the Service's broader inspection work at retail premises in respect of tobacco products.

Promote through the media and by other means, information about the controls and penalties.

Liaise with other agencies to help identify problem areas or businesses in order to target resources.

Be prepared to prosecute businesses in accordance with the Trading Standards Service's Enforcement Policy.

SERVICE PLAN FOR FOOD STANDARDS ENFORCEMENT 2008/09

1. Introduction

1.1 This Plan outlines how Leicestershire County Council, through its Trading Standards Service, intends to fulfil its statutory obligations to enforce standards for food and animal feed. Where appropriate, references in this plan to food should also be read as meaning animal feed.

2 Service Aims and Objectives

2.1 The Trading Standards Service's Aims and Objectives are described on pages 1 and 2 of the main section of this document.

3 Links to Corporate Objectives and Plans

3.1 Leicestershire Together, the Local Strategic Partnership for Leicestershire, has published a draft Sustainable Community Strategy (SCS) proposing priorities for improvement in Leicestershire over the next five years. The next Local Area Agreement (LAA) will be the key delivery framework for the strategy. Food standards enforcement and advice will contribute to four of the draft SCS outcomes:

- ♦ Children and young people in Leicestershire are healthy.
- ♦ The health and well-being of older people is increased.
- ♦ Improved health outcomes for people in Leicestershire, including a reduction in health inequalities.
- ♦ Obesity is reduced and there has been an increase in healthy eating in all age groups.

4 Background

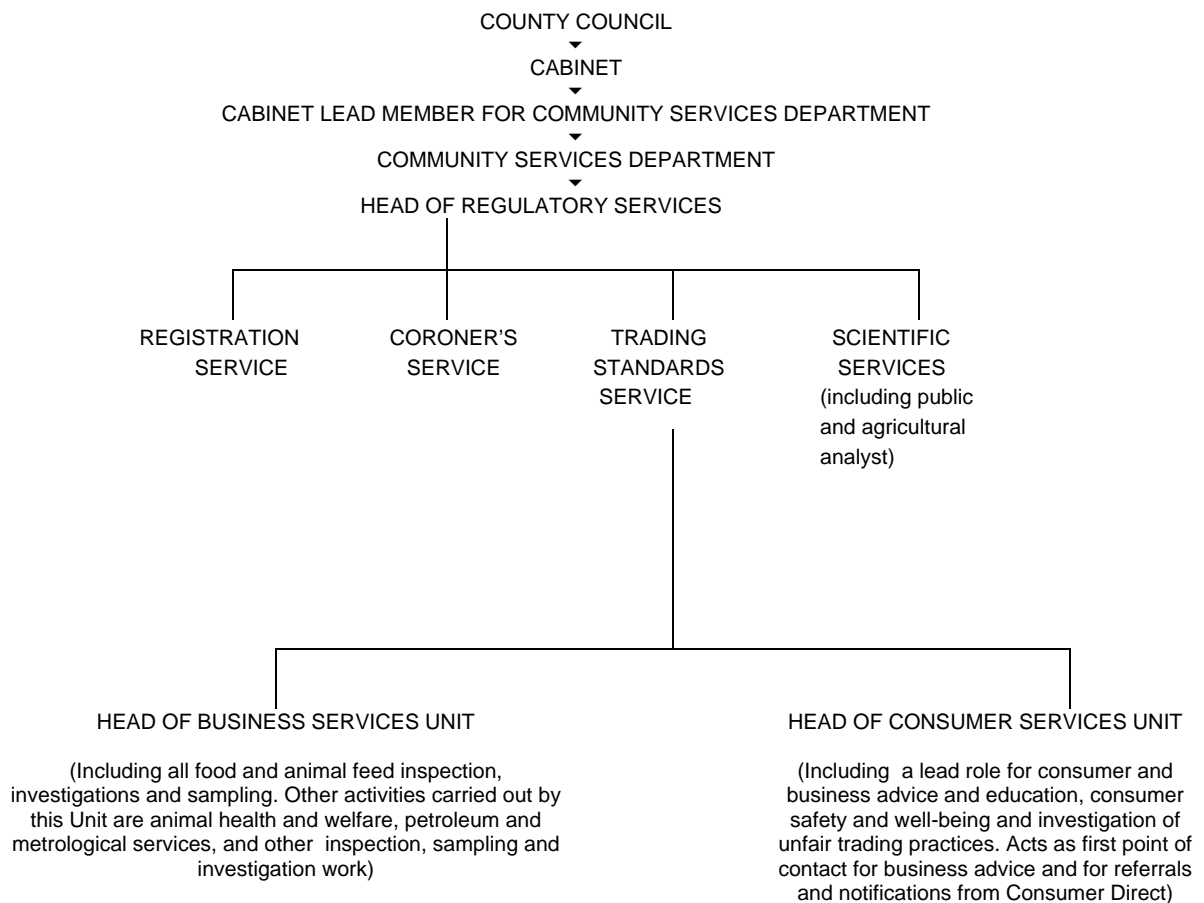
4.1 **Profile.** Leicestershire County Council is the largest council in Leicestershire, providing a wide range of services directly to local people, or through other organisations on its behalf.

Around 635,000 people receive these services which impact on almost every aspect of daily life, and include the provision of education, social care, roads, libraries, museums, and consumer protection.

The organisation includes a range of departments, responsible for ensuring that services are delivered to local people. Most departments provide front line services, but some provide the support necessary to enable these services to operate effectively. Many areas of service delivery involve several departments working together.

The Service works closely with Consumer Direct - East Midlands who act as the first point of contact for consumer complaints and enquiries. Those complaints and enquiries which involve either potential breaches of criminal law, or more complex civil law issues, are referred to the appropriate local authority Trading Standards Service.

4.2 Organisational Structure.



4.3 **Scope.** Food standards enforcement is a function carried out by the Trading Standards Service through Regulatory Services, part of the Community Services Department. Responsibility for enforcement of legislation relating to animal health and welfare, weights and measures and fair trading including misleading descriptions and pricing, is complementary to food standards enforcement in providing a "one stop" service for consumers and businesses.

Analytical services are provided by Scientific Services which has as its head the Public and Agricultural Analyst. The Service has a United Kingdom Accreditation Service (UKAS) accredited laboratory for food standards purposes and works closely with the Trading Standards Service in developing sampling programmes and assisting with the investigation of complaints and appropriate food standards inspections.

4.4 **Demand.** In Leicestershire there are 3189 premises risk-assessed for food standards inspection. Of these 63 have been risked assessed as high, 1797 as medium, 1329 as low. There are 228 non-retail premises including major manufacturers, packers and importers. The Service acts as "Home Authority" for 58 food standards businesses. Additionally many premises previously subject to animal health and welfare inspection and to animal feed inspection are now subject to food hygiene inspection under the Food Hygiene (England) Regulations 2006.

For animal feedingstuffs there are 250 premises that have been registered by the Service. Voluntary de-registrations and new registrations occur regularly as the inspection programme progresses. No premises have been approved by the Service but there is one that has been approved by the Animal Medicines Directorate (an agency which is part of the Royal

Pharmaceutical Society of Great Britain) who have also registered 47 premises. There is one large feedmill, one large pet food manufacturer and one large pet food importer.

Staff and facilities are located at County Hall, a large office complex centrally located within the County of Leicestershire. The office is open to personal callers Monday to Thursday from 8.30hrs to 17.00hrs and on Fridays 8.30hrs to 16.30hrs. The Service can also be accessed by businesses through a "Duty Officer" telephone line between 8.30hrs and 16.30hrs Monday to Thursday and between 8.30hrs and 16.00hrs on Fridays. A call back system is in operation when the "Duty Officer" is unavailable. A minicom service is available.

Consumer enquiries are received by Consumer Direct – East Midlands (see 4.1 ante), who, in turn, refer potential criminal breaches and complex civil law issues to the Service.

The Trading Standards Internet website is used to "post" information about food standards for consumers and business and an e-mail based advisory publication for traders, entitled 'Business Matters' is produced and distributed. The Service may also be accessed through the e-mail address trading-standards@leics.gov.uk.

4.5 Enforcement Policy. The Service's Enforcement, Prosecution and Other Sanctions Policy is described at Appendix 4 of the Trading Standards Service Plan.

5 Service Delivery

5.1 Inspection Programmes. The premise profile for food and animal feed is described in 4.4 ante. The programme is based on the objective of carrying out an inspection at, as a minimum, high-risk premises once a year, and some form of intervention, which may include an inspection, at medium risk premises once every six years. Low risk premises will be the subject of some form of intervention only when intelligence received demonstrates a need. A number will be subject to Other Enforcement Activities which do not count as interventions or 'official controls' but provide a useful assessment of compliance. Risk assessment (or inspection rating) has been carried out using the scheme developed by the Local Authority Co-ordinators of Regulatory Services (LACORS). Risk assessments are regularly updated particularly when an intervention is carried out.

The Food Law Code of Practice ("the Code"), issued by the Food Standards Agency, is currently under review and will receive final approval in the course of the coming year. This year's food standards enforcement work will be carried out substantially in accordance with the draft code. The code requires medium risk premises to be subject to some form of intervention once every two years. In Leicestershire the six-yearly intervention programme for medium-risk premises will be supplemented by intelligence-led or project-based interventions. These will be one or more of the following, as defined in the Code:

- ◆ Monitoring
- ◆ Surveillance
- ◆ Verification
- ◆ Audit
- ◆ Sampling

In this manner it is anticipated that many medium risk premises will undergo some form of intervention every two years as required by the code, but not all these interventions will be programmed in advance.

The Food Standards Agency have also issued a Code of Practice on Feed Law Enforcement under the Official Feed and Food Control Regulations 2006. The feed enforcement work undertaken by the Service will be done with regard to the relevant provisions within this

code and also in accordance with the Agency's Guidance on Enforcement Priorities for Feed Authorities in Great Britain 2008/9.

The level of inspection and intervention has been set to make best use of available resources and in the light of the Government report "*Reducing Administrative Burdens: Effective Inspection and Enforcement*". This concluded that (amongst other findings):

- comprehensive risk assessment should be the foundation of all regulators' enforcement programmes
- there should be no inspections without a reason, and data requirements for less risky businesses should be lower than for riskier businesses
- resources released from unnecessary inspections should be redirected towards advice to improve compliance;

5.2 2008/2009 intervention programme

The food standards intervention programme for 2008/2009 will involve the inspection of 63 high risk premises, all of which are non-retail, and interventions, including inspection where appropriate, at 320 medium risk premises, being 140 catering premises, 150 other retailers and 30 primary producers for the purposes of food standards and food hygiene. In addition 350 low risk premises will be subject to some form of other enforcement strategy, in most cases a request to complete a self-assessment questionnaire or an informal sample. There will also be an on-line assessment of locally based websites supplying foodstuffs. For animal feed the intention is to inspect 100 farm premises, most of which will be in the second half of the year when the livestock are inside, and 10 manufacturers and wholesalers. Previous experience shows that more than fifteen per cent of food and animal feed inspections will show a breach of statutory requirements.

There will be 200 comprehensive inspections of primary producers for food hygiene purposes in addition to those described above. It is anticipated that most of these will be carried out alongside and at the same premises as routine animal health and welfare inspections.

The matrix at Annex 1:1 will be used to monitor performance of the programme set out in this plan. Performance in 2007/2008 is shown at Annex 1:2.

Four specialists in food and agricultural standards support officers carrying out food and agricultural standards enforcement. Officers also have access to the expertise in food technology of the Public Analyst Service in Scientific Services. The Public Analyst and his staff will participate in appropriate food standards inspections, assist with the investigation of complaints and the development of sampling programmes.

The Service will, in particular, monitor the requirements for foods labelled and packaged so as to be appealing to children, and for the validity of 'healthy eating' claims. It will also continue the inspection of premises relating to animal feed establishments and intermediaries. During food standards inspections particular regard will be had to the labelling of meat products to ensure compliance with regulations requiring the separate declaration of fat and connective tissue. In addition special emphasis will be given to ensuring that requirements relating to the traceability of foodstuffs and their ingredients are complied with. This will complement the food hygiene work of Leicestershire's District Councils. Regular liaison will take place between the Service and the District Councils' Environmental Health practitioners.

5.3 Food Complaints. Complaints about food will be dealt with in accordance with documented procedures for the handling of complaints and enquiries to the Service. In addition account will be taken of the requirements of the Code in respect of complaints which may be more

appropriately dealt with by District Councils and where complaints involve the passing to the Service of complaint samples. The Service has agreed a protocol with District Councils to complement the Code.

It is likely that, in total, there will be in the region of 15000 complaints and enquiries dealt with by the Service in 2008/2009. There will be approximately 100 complaints received about defective food and less than 10 relating to animal feed.

5.4 Home Authority Principle. The Service adheres to the Home Authority Principle and has in place documented procedures to ensure that officers comply with it when enforcing food standards. In 2008/09 it is anticipated that 58 visits will be made and approximately 60 complaints and enquiries dealt with relating to Home Authority food premises.

5.5 Advice to Business and the Public. The Service is proactive in providing advice to business and monitors the success of this using satisfaction surveys. In 2008/2009 it is likely that there will be approximately 95 food standards and 15 animal feed business enquiries.

Additionally the Service will engage with partners such as the school meals service, the local primary care trust, the Leicestershire Nutrition and Dietetic Service, the Health Improvement Liaison Group and others to improve healthy eating and reduce obesity in Leicestershire. This will be not only by means of advice and publicity but also by using the Service's expertise in food sampling and knowledge of food labelling to add value to work done by partners.

5.6 Food Sampling and Inspection. The Service has in place documented procedures for the establishment of a sampling programme. Food sampling will underpin much of the work done with individual businesses, since not only does a visit for the specific purpose of taking samples amount to an intervention, but samples may also be taken in the course of monitoring and surveillance interventions. Sampling is both pre-planned, to include products or categories of trade where there are perceived problems, and spontaneous, with samples chosen on the day to complement visits to traders. Other factors that influence the samples that are taken include the effective use of analytical resources and regional and national sampling programmes. The Service is a member of Trading Standards - East Midlands (TS-EM), a regional co-ordinating group, and its Food and Agricultural sub-group, which organises quarterly sampling projects. In 2008/2009 it is anticipated that the Service will take 1150 food samples of which approximately 150 will be taken at high risk premises. Also included in the overall total are 100 samples from schools or workplace canteens.

Furthermore 120 animal feed samples and 10 fertiliser samples will be taken for analysis. The majority of feed samples taken will be done on a random basis. When taking samples the authority will endeavour to take samples for previously reported contaminants and unauthorised samples. Furthermore where resources permit samples will be taken for the presence of mycotoxins, dioxins and dioxin like PCBs, any non-compliant samples of this nature would be reported to the Agency's Animal Feed Unit.

Previous experience shows that almost a quarter of food and animal feed samples taken will be found to be unsatisfactory.

When devising sampling programmes particular attention will be paid to foods commonly known to be healthy choices, or foods labelled and advertised as such. It is hoped that the results, as well as confirming legal compliance, will contribute to the development of healthy choices by caterers in the public and private sectors, and generate publicity to help spread the healthy-eating message.

Samples are submitted to Scientific Services, a division of Regulatory Services, for analysis in accordance with a service level agreement. Scientific Services, through the Public Analyst's Laboratory, is accredited by the United Kingdom Accreditation Service (UKAS) for the analysis

of food in accordance with European and national standards. More effective use of analytical services will be achieved through a partnership arrangement with the Staffordshire County Council Public Analyst's Service. This started in November 2001 when reciprocal arrangements were introduced for each Authority's Public Analyst to act for both local authorities and was further developed in 2007 with a shared budget and service plan. The partnership can draw on the resources of four public analysts, more than 30 highly qualified and trained staff and 2 well equipped laboratories.

5.7 Food Standards Investigations. When appropriate, breaches of food standards legislation are investigated for enforcement action. The Service will pursue enforcement action in appropriate circumstances and in accordance with its enforcement policy. This may mean an adjustment to inspection and sampling programmes should there be a need to devote increased resources to this area of work.

5.8 Food Alerts are dealt with in accordance with the Code. They are referred via e-mail direct from the Food Standards Agency for the urgent attention of the Team Leader, Food and Service Performance, who has specialist responsibility for food standards and in his absence other food standards specialists. This mechanism also caters for incidents that arise outside the hours that are normally operated by the Service.

When a potential food safety problem occurs the Service will, as appropriate, use voluntary means or statutory powers concerning inspection and seizure of food, so that unsafe food is promptly withdrawn from the distribution system. It will liaise, as appropriate, with the Leicestershire Public Analyst and District Council food hygiene services (through the food liaison group described in 5.9 below), the Food Standards Agency (FSA) and DEFRA Animal Health for feed incidents. These occasions occur increasingly often but only occasionally require significant resources, and then only for short periods of time.

Feed Incidents and hazards are dealt with in accordance with the Code. They are referred directly from the Food Standards Agency to the Team Leader, Agricultural and Technical Safety, who has specialist responsibility for feed enforcement, and in her absence other feed standards specialist.

5.9 Liaison. The Service is a member of Trading Standards – East Midlands, the regional co-ordinating body. This body has a sub-group that deals with food and agricultural standards, on which the Service has a representative. The Service also has representation on one national panel of expert practitioners operated by LACORS and also on a FSA group concerned with service monitoring. Three times a year meetings are also held by the food liaison group (consisting of the District Councils, the Trading Standards Service, Public Analyst Laboratory, Health Protection Agency and Animal Health (formerly State Veterinary Service) to co-ordinate enforcement of food hygiene and food standards. There is collaboration with health authorities concerning food standards issues that affect them and, at a local level, with Animal Health and the Department for Environment, Food and Rural Affairs (DEFRA) as regards animal health and welfare and animal feed.

The service has also registered with the Assured Food Scheme portal for Local Authorities. Details of the premises registered with Assured Food schemes are kept updated on the APP trader records.

5.10 Food Standards Promotion. The Service maintains advisory leaflets and will develop new ones, when appropriate, for businesses and consumers. A consumer magazine, which among other things includes food standards issues, will be produced widely distributed. An e-mail based advisory publication for traders, entitled 'Business Matters', will also be produced. Press releases will also be used to promote food standards issues. The Service also has an internet website that is part of the County Council's website. This will be used to promote, among other things, food standards enforcement.

6 Resources

6.1 Financial Allocation. Resources allocated to the Trading Standards Service are detailed on page 3 of the main section of this document. Food standards enforcement is an integral part of this service and therefore it is not possible to accurately detail financial expenditure for it. The net revenue funding in 2008/2009 for the Scientific Services division is £329,390, and includes food analytical services. The Trading Standards Service total budget for purchasing samples will be £7,300 during 2008/2009.

Operational staff have lease and essential car user status. They are supported with appropriate equipment particularly for sampling and health and safety.

The Trading Standards Service uses the Civica APP computerised system for planning and recording its food standards activities. This was purchased and commissioned in July 1999 and the version is updated regularly.

6.2 Staff Allocation. Seven officers with appropriate qualifications and experience that meet the requirements of the Code will be involved to a varying degree with food standards enforcement. Some of these officers will also undertake activities related to standards for animal feed. This does not take account of support officers nor managers.

6.3 Staff Development Plan. The Service is an Investor in People and has in place a training and development plan. 'Refresher' training will be delivered for staff returning to food standards enforcement work and programmed 'update' training will be undertaken by existing food officers to take account of any new legislation. The time allowed for officers to undertake this training will at least meet the minimum levels set down in the Code. The training will be delivered either "in-house" or externally through recognised professional bodies or training centres.

6.4 Quality Assessment. The Service is externally accredited to BS EN ISO 9001: 2000. Auditing arrangements using appropriately qualified internal auditors and external assessment bodies are in place to determine whether procedures for food standards enforcement work and the training and development of staff are complied with.

7 Review

7.1 Review against the Service Plan. Procedures are in place to review this Service Plan. Annex 1:1 shows the matrix that will be used. This is carried out as part of a regular review of the Service's overall performance. It includes the identification of any variance from the plan and opportunities for improvement. Work programmes are produced for both of the operational units. This includes targets for teams and individuals. General service standards are also set as shown in Appendix 5 of the Trading Standards Service Plan.

7.2 These programmes and targets are monitored through quarterly meetings of each Unit's managers with the Head of Regulatory Services. The Service Management Team will also review the performance of the Trading Standards Service as a whole, including the fulfilment of its service plan and national and local performance indicators.

Annex 1:1 Progress on Commitments in the 2008-09 Plan

FSP = Food & Service Performance Team

ATS = Agricultural & Technical Safety Team

| | PLAN para | Commitment | Time-Scale (Where Stated) | Responsible Team/Officer/Unit | Status |
|---|------------------|---|----------------------------------|--------------------------------------|---------------|
| 1 | 5.2 | The food standards intervention programme for 2008-2009 will involve the inspection of 63 high risk premises, all non-retail, and interventions at 320 medium risk premises. 230 primary producers will be visited for food hygiene purposes. In addition 350 low risk premises will be subject to some form of alternative enforcement strategy. | 31-03-09 | FSP ATS | |
| 2 | 5.2 | For the feeding stuffs inspection programme, the intention is to inspect 110 premises. | 31-03-09 | ATS | |
| 3 | 5.3 | There will be about 100 complaints relating to defective food and less than 10 relating to animal feed. | 31-03-09 | FSP ATS | |

| | PLAN para | Commitment | Time-Scale (Where Stated) | Responsible Team/Officer/Unit | Status |
|---|------------------|---|----------------------------------|--------------------------------------|---------------|
| 4 | 5.5 | It is likely that there will be approximately 95 food standards and 15 animal feed business enquiries. | 31-03-09 | FSP ATS | |
| 5 | 5.6 | The Service will take 1150 food samples of which approximately 150 will be taken at high risk premises. Included in the overall total are 100 samples from schools or workplace canteens. Furthermore 120 animal feed samples and 10 fertiliser samples will be taken for analysis. | 31-03-09 | FSP ATS | |
| 6 | 5.7 | When appropriate breaches of food legislation are investigated for enforcement action. [Prosecutions, formal cautions or written warnings]. | 31-03-09 | FSP ATS | |
| 7 | 5.8 | Food Alerts are dealt with in accordance with the Food Law Code of Practice. | 31-03-09 | FSP | |

Annex 1:2 Final Progress Report on Commitments in the 2007-08 Plan

FSP = Food & Service Performance Team

ATS = Agricultural & Technical Safety Team

| | PLAN para | Commitment | Time-Scale (Where Stated) | Responsible Team/Officer/Unit | Status |
|---|-----------|--|---------------------------|-------------------------------|--|
| 1 | 5.2 | The food standards inspection programme for 2007-2008 will involve the inspection of 67 high risk premises, all non-retail, and 547 medium risk premises. 230 primary producers will be visited for food hygiene purposes. In addition 350 low risk premises will be subject to some form of alternative enforcement strategy. | 31-03-08 | FSP ATS | 67 High Risk 574 Medium Risk 134 Primary Producers AEAs: 135 returned questionnaires 179 food samples from low risk premises. |
| 2 | 5.2 | For the feeding stuffs inspection programme, the intention is to inspect 110 premises. | 31-03-08 | ATS | 69 premises |
| 3 | 5.2 | The number of revisits is likely to be approximately 200. | 31-03-08 | FSP | 62 revisits |
| 4 | 5.3 | There will be about 100 complaints relating to defective food and less than 10 relating to animal feed. | 31-03-08 | FSP ATS | 58 food 4 feed |

| | PLAN para | Commitment | Time-Scale (Where Stated) | Responsible Team/Officer/Unit | Status |
|---|------------------|--|----------------------------------|--------------------------------------|---|
| 5 | 5.5 | It is likely that there will be approximately 95 food standards and 15 animal feed business enquiries. | 31-03-08 | FSP ATS | 127 food 7 feed |
| 6 | 5.6 | It is anticipated that the Service will take 1100 food samples of which 600 will be as a result of the food standards inspection programme. It is also intended that 120 animal feed samples will be taken for analysis [in the final half of the year]. | 31-03-08 | FSP ATS | 1152 food samples 656 of which were from inspection programme. 78 feed. |
| 7 | 5.7 | When appropriate breaches of food legislation are investigated for enforcement action. [Prosecutions, formal cautions or written warnings]. | 31-03-08 | FSP ATS | 8 prosecution & cautions 9 Unit Head written warnings |
| 8 | 5.8 | Food Alerts are dealt with in accordance with the Food Law Code of Practice. | 31-03-08 | FSP | 68 food alerts |

LEICESTERSHIRE COUNTY COUNCIL TRADING STANDARDS SERVICE ENFORCEMENT, PROSECUTION AND OTHER SANCTIONS POLICIES

Enforcement Policy - Introduction

1. This document explains the enforcement policy of Leicestershire County Council Trading Standards Service. This policy should be read with our Prosecution and Other Sanctions Policy document (see later).

It provides information on:

- Our principles of enforcement activities
 - Our enforcement actions
 - What you can expect from us and
 - How we can help consumers and businesses.
2. Our enforcement policy takes account of the statutory duties, obligations and principles set out in the Regulators' Compliance Code (made under the Legislative and Regulatory Reform Act 2006), the Enforcement Concordat (published by the Cabinet Office) and the Human Rights Act 1998. We endeavour to conduct our enforcement activities in a consistent, fair, transparent, accountable, proportionate and targeted manner.

The purpose of our Enforcement Policy

3. We enforce a wide range of business and consumer protection legislation relating to quality, quantity, safety, description, commercial animal welfare and price of goods and services.
4. We carry out our duties in various ways including inspection, sampling, test purchasing, testing, investigation and legal proceedings, but also by informing, advising and educating businesses and consumers.
5. This policy has been developed by TSEM¹ to provide a framework that ensures we work in an equitable, practical and consistent manner. We believe that by following our enforcement policy, we can provide protection without imposing unnecessary burdens on legitimate businesses and thus help to promote a thriving national and local economy.
6. The effectiveness of legislation in protecting consumers and businesses depends on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will endeavour to help these businesses and others to meet their legal obligations without unnecessary expense.
7. If there is a shared enforcement role with other agencies e.g. Office of Fair Trading, Department for Environment and Rural Affairs, Food Standards Agency, Environmental Health and Police, we will consider co-ordinating with these agencies to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness.

¹ TSEM is a partnership of the local authority Trading Standards Services covering the East Midlands Region

Our Enforcement Principles

Targeting

8. We aim to prioritise and direct our regulatory effort effectively. To achieve this, we will use comprehensive, intelligence led, risk assessments to focus our resources of most need. The vast amount of our formal enforcement activities will be focused on those who are criminally intent, flout the law or act irresponsibly.

Proportionality

9. We will ensure that enforcement action is proportionate, to all the circumstances surrounding a particular breach of legislation, and the sanctions applied are meaningful. We can take a variety of actions, which include:

Indirect Action

- including referral to another authority or agency for information and/or action by them.

Verbal or Written Warning

- where a relatively minor offence has been committed but is not thought appropriate to take any further action- the suggested corrective action and time scale will be given

Statutory Notice

- These are notices which are prescribed by legislation and may only be issued in accordance with specific statutory provisions.

Fixed Penalty Notice

- These will be issued to deal with minor offences

Undertaking/Assurance

- These may be sought to correct or prevent breaches of the law, they may be on a statutory or voluntary basis

Civil Injunctions

- These will be sought to prevent breaches of the law

Cautions

- These will be used to deal with those criminal breaches where court action is deemed to be inappropriate. Home Office Guidance is available at <http://www.homeoffice.gov.uk/police/powers/cautioning/>

Enforcement Orders

- These are used to deal with breaches of criminal and/or civil breaches of law, in accordance with the Enterprise Act 2002, and are sought through the civil courts

Prosecution

- Criminal breaches may be dealt with by prosecution, after having regard to the Service's prosecution policy and the Crown Prosecution Service Code of Practice <http://www.cps.gov.uk/publications/docs/code2004english.pdf>

10. In appropriate circumstances the Service, sometimes working in partnership with other agencies, will seek other penalties/sanctions such as:
- recovery of assets from convicted offenders under the Proceeds of Crime Act 2002
 - disqualification of directors under the Company Directors Disqualification Act 1986
 - victim compensation
 - revocation/review of licences
 - forfeiture of infringing goods

Accountability

11. We will be accountable for the efficiency and effectiveness of our activities, whilst remaining independent in the decisions we take.

Fairness and Consistency

12. We will treat all consumers and businesses fairly. No decision, response or action by the Service will be affected by the race, politics, gender, sexual orientation, or religious beliefs of any suspected offender, complainant, witness or officer of this Service.
13. We will ensure that our enforcement practices are consistent - this means that we will adopt a similar approach in similar circumstances to achieve similar ends.
14. We support the Home Authority Principle, which has been developed to promote good enforcement practice and reduce unnecessary burdens on businesses.
<http://www.lacors.gov.uk/lacors/upload/5812.pdf>

Openness and Transparency

15. We are committed to the open provision of information and advice in a format that is accessible, easily understood and implemented. We will ensure that there is always a clear distinction between those actions necessary to comply with the law and those which we recommend as best practice and are not compulsory. Our decision in terms of any potential legal proceedings is explained in the Service's prosecution policy.

PROSECUTION AND OTHER SANCTIONS POLICY

Prosecution and Other Sanctions Policy - Introduction

1. This policy is intended to provide guidance for officers, businesses and consumers. We recognise that most businesses and/or individuals wish to comply with the law. However, there are occasions when action, including prosecution, will be taken when businesses and/or individuals fail to comply with the law. We have the discretion whether or not to put to put alleged offences before the criminal or civil courts. We may do so when we believe that the alleged offence(s) and/or one or more of the public interest factors outweigh one or more of the mitigating factors. This policy explains what factors we take in to consideration before we institute any legal proceedings.

This policy should be read in conjunction with our Enforcement Policy.

Human Rights Act 1998

3. We recognise and support the obligations placed upon us by the Human Rights Act 1998.

Prosecution and Other Sanctions: Policy

4. There are a range of enforcement actions available, as set out in our Enforcement Policy. Each case is unique and will be considered on its own facts and merits. However, there are general principles that apply to the way in which each case is dealt with, namely that the Service will be fair, independent and objective.
5. Any decision regarding enforcement action will be impartial and will not be influenced by any view with regard to the race, gender, sexual orientation or religious beliefs of any offender, victim or witness. The use of improper or undue pressure from any source will not affect our decision.
6. The decision to prosecute or commence enforcement order proceedings is a serious step. Fair and effective legal proceedings are essential to the maintenance of law and order. Even in a small case legal proceedings can have serious implications for all involved - victims, witnesses and defendants. Where applicable we apply the appropriate parts of the Code for the Crown Prosecution Service so that we can make fair and consistent decisions.

<http://www.cps.gov.uk/publications/docs/code2004english.pdf>

Some common public interest factors in favour of putting matters before the courts

7. Paragraphs 8-11 inclusive list some of the factors (they are not exhaustive lists of factors) that we consider, both for and against prosecutions and enforcement order proceedings.
8. Prosecutions and enforcement order proceedings will normally only be considered where one or more of the following public interest criteria are satisfied:
 - There is a significant risk to public health or safety or to the environment.
 - The offender, by action or inaction, risks causing suffering to animals or has increased the risk of the spread of animal disease.
 - The offence involves the threat of violence against any person.
 - The offender deliberately obstructs an officer of the Authority carrying out his or her duties.
 - Fraudulent or reckless practice or economic disadvantage to consumers or businesses is involved or an act or omission harming the collective interests of consumers.
 - The victim is part of a vulnerable group e.g. children, elderly persons.
 - The offender has relevant previous conviction(s) or enforcement order(s) or cautions or has given an undertaking not to conduct specified practices.
 - The offender has repeatedly ignored advice.

. There are grounds for believing the offence is likely to be continued or repeated, for example, by a history of recurring conduct.

- There is a widespread disregard for the law and appropriate notice has been given to the business community that legal proceedings will be considered for future breaches.
- The probable public benefit of a prosecution or enforcement order proceedings or the importance of the case or the need for a suitable deterrent.

Some common public interest factors against putting matters before the courts

9. In deciding whether or not to institute proceedings we will consider the following factors, which may mitigate against the need for prosecution or enforcement order proceedings, and they will always be balanced against the offence(s) and/or the course of conduct: -

- A conviction is likely to result in a very small or nominal penalty.
- The offence resulted from a genuine mistake and the offender is prepared to rectify the problem or compensate for any loss (but defendants will not avoid proceedings solely because they pay compensation).
- The loss or harm caused was minor and was not part of a wider course of action.
- There has been a long delay between the offence taking place and the date of the matter being placed before the Courts unless the: -
 - offence is a serious one;
 - delay has been caused at least in part, by the defendant;
 - offence has only recently come to light;
 - complexity of the offence has meant that there has been a long investigation.
- A prosecution is likely to have a detrimental effect on the victim's physical or mental health.
- The offender is elderly or a minor, or was, at the time of the offence, suffering from significant mental or physical ill health.
- The views of a relevant 'home authority', i.e. a Trading Standards Service in the offender's home area.
- The explanation offered by the potential defendant.
- The willingness and/or actions of the offender to prevent a recurrence of the problem.

Evidential considerations

10. If a case falls under one or more of the criteria above, the following evidential factors will then be considered as to whether there is a realistic prospect of conviction or obtaining an enforcement order:-

- Whether there is enough evidence to prove the offence beyond reasonable doubt or the balance of probabilities, as appropriate.
- Whether the evidence is admissible.

- Whether the evidence is reliable.
- Whether the offender can make out a statutory defence, such as any 'due diligence' precautions that may have been taken to prevent an incident occurring.
- Ability of any witnesses and their willingness to co-operate.

Availability of these policies

The Enforcement Policy and the Prosecution and Other Sanctions Policy is freely available on request and will additionally be published on the Leicestershire County Council's website. www.leics.gov.uk.

Commenting on these policies

Anyone wishing to make any comment about the content of these policies or the manner of their application is invited to address them to us by any of the methods outlined below.

These comments will assist us in monitoring and reviewing the effectiveness of the policies. This is important to help ensure that they remain up to date and reflect the views of our community and changes in legislation. Please contact us should you require any further information on how we can carry out our work or can be of any further assistance to you.

Contacting us

By post: Leicestershire County Council, Trading Standards Service, County Hall, Glenfield, Leicester, LE3 8RN.

By telephone: 0116 305 8000

By fax: 0116 305 7353

By e-mail: trading-standards@leics.gov.uk

Via our website: www.leics.gov.uk Search for Trading Standards

Complain or Comment

If you feel that you have not received the standard of service you expect, you may contact us to make your complaint or discuss your concerns. If you would like more information on how to complain or comment on our services you can ask us to send you further details or you can complete an on-line form via our website: www.leics.gov.uk

We want everyone to understand us.

On request, we will arrange:

Language interpreters, including for sign language
 Translation of written materials into other languages
 Materials in large print, on tape or in Braille.

June 2008

SERVICE STANDARDS

| | | Target | Measure of Performance |
|----------|--|--|--|
| A | General | | |
| (i) | Personal callers | Maximum waiting time 15 minutes or appointment offered | 100% within specification |
| (ii) | Letters, e-mails and faxes which require a response | Respond within four working days of receipt. If the response does not finalise the enquiry it will indicate the name of the officer who will be dealing with it. | 100% within specification |
| B | Consumer Complaints/Enquiries | | |
| (i) | Consumer Enquiries | Telephone callers - will be directed through Consumer Direct Personal callers - on the spot advice where possible. Letters - within three working days. | 95% within specification 95% within specification |
| (ii) | Consumer Complaints taken in for possible further action | Assess complaint - contact consumer within three working days of receipt. Consumer to receive a regular up-date on progress. | 95% within specification |

APPENDIX 5 (CONTINUED)

| | | Target | Measure of Performance |
|----------|---|--|---|
| C | Business | | |
| (i) | Business advice | Telephone and personal callers on the spot advice, where possible. Remainder within three working days. Letters within three working days. | 95% within specification 95% within specification |
| (ii) | Registration/ Licensing of Premises | Register premises for the storage of Explosives (including fireworks) within 5 working days of receipt of applications - Register premises for the sale of Poisons within 5 working days of receipt of application - Acknowledge applications to license premises for the storage of Petroleum or Explosives within 5 working days of receipt - Consider issue of Petroleum or Explosives Licence and make initial contact with applicant within 10 working days of receipt of applications - Applicant to receive regular update on progress towards issue of licence - | 100% 100% 100% 100% 100% |
| (iii) | Public Weighbridge Operator's competence test | Acknowledge request within 3 working days. Carry out test within 10 working days. Certificate of competence to be issued within 21 working days of the test. | 95% within specification 80% within specification 100% within specification |
| (iv) | Verification of Metrological Equipment | Arrange for test to be carried out within 3 working days (Unless client requests a longer period) | 100% |
| D | Referrals from other Enforcement Agencies | | |
| (i) | Home Authority Referrals | Make initial contact with agency within 3 working days. Deal with enquiry during next programmed inspection visit unless the circumstances dictate otherwise. | 95% 100% |

TRADING STANDARDS SERVICE- PRIORITIES 2007-08

| Priority | Responsibility | Progress to 31.03.08 |
|---|---|--|
| To continue with the strategy for the retention and development of enforcement personnel to ameliorate current difficulties. | Service Management Team | 3 staff successfully completed FCATS (knowledge) studies. 5 other staff successfully awarded FCATS 2 other staff successfully completed Fair Trading (criminal) SDM Progress made with portfolios and enforcement competencies. Career grade scheme reviewed and amended to accommodate Metrology Service Delivery Module. |
| To consolidate the move to intelligence-led enforcement, particularly with regard to the priorities identified with regional Trading Standards Service partners | Consumer and Business Services work programme | Full engagement with regional priorities and intelligence gathering and analysis. Led on successful regional enforcement project concerned with intellectual property. Other projects put forward for regional tasking. Intelligence gathering database (Memex) being piloted. Important cases brought before the courts using new methodology. |
| Over the next three years to implement the improvement plan produced as a result of the Department of Trade and Industry's Peer Review process. | As per the improvement plan | Progress in most areas. |
| Over the next two years to implement change across the Service including staff training, to take account of new statutory controls on unfair trading. | SMT | Training provided by OFT completed January 08. First part of new legislation not coming into effect until 26 th May 2008 |
| To increase the emphasis on advice and guidance to businesses, particularly small enterprises, and develop a measure of effectiveness. | Both units particularly CSU and the Advice and Education team | Advice and education team fully engaged. Promotional DVD produced. Publicity events organised. 18% increase in business enquiries year on year. |

KEY PERFORMANCE OBJECTIVES - 2007/8 OUTCOMES

| | | 2003/04 | 2004/05 | 2005/06 | 2006/7 | 2007/8 | Target 2007/8 |
|-------------------|---|---------|---------|----------------------------------|-----------------------------------|---------------------------------|--------------------------------|
| Community Safety | The percentage compliance with the law in premises surveyed dealing with age-restricted sales of alcoholic products | 93% | 82%* | 60%** | 59%*** | 71%**** | 65% |
| Corporate - E30 | Consumer satisfaction with Trading Standards Service | N/A | N/A | 89.4% | 83.7% | 84.1% | 85% |
| Corporate - E31 | Business satisfaction with Trading Standards Service | N/A | N/A | 84.5% | 82.1% | 83.2% | 85% |
| Corporate - E32 | Trading Standards visits to high risk premises | N/A | N/A | 100% | 100% | 100% | 100% |
| Corporate- E33 | Trading Standards levels of business compliance, high, medium and low risk premises | N/A | N/A | High 93.8% Med 87% Low 95% | High 100% Med 88.9% Low 93% | High 100% Med 94% Low 94% | High 97% Med 92% Low 92% |
| Corporate - BV166 | Score (Maximum 10) against a checklist of enforcement best practice for environmental health/trading standards. | 9.6 | 9.6 | 10 | 10 | 10 | 10 |

- * 51 attempted purchases and 9 sales
 ** 98 attempted purchases and 39 sales
 *** 191 attempted purchases and 78 sales
 **** 282 attempted purchases and 83 sales