

# businesscompanion

## trading standards law explained

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### **This guidance is for England, Scotland and Wales**

All businesses operating in the UK need to comply with a wide range of legislation that is enforced by local authority Trading Standards services.

Primary Authority has been developed to assist businesses. The scheme allows businesses, trade associations and similar organisations to form a legally recognised partnership with one or more local authorities in order to receive tailored support in relation to one or more specific areas of law.

Once a partnership is formed, the local authority is referred to as the Primary Authority. The scheme is voluntary so each business may select, zero, one, or more, local authorities to form a partnership with; they are free to partner with any local authority. The local authority is not obliged to enter into a partnership, and some do not participate in the scheme.

All businesses are eligible for Primary Authority but it will be particularly beneficial to those businesses that have to comply with a wide range of legislation and/or trade across multiple local authority boundaries.

Primary Authority is typically provided at a cost to the business.

# Benefits of Primary Authority

## Bridging the divide between regulators and businesses

The Primary Authority plays the role of a 'critical friend' rather than the traditional role of regulator; it identifies, develops and delivers services that help the business to successfully grow and improve. The Primary Authority works closely with the business to fully understand how the business operates and to understand its individual needs.

## Primary Authority advice

Primary Authority makes it easier for businesses to comply with the law, reducing the costs of compliance without reducing regulatory protections. Businesses can invest in products, practices and procedures, knowing that their compliance will be recognised by other local authorities, and ensuring resources are not wasted. Advice provided by the Primary Authority carries legal weight and should be accepted by other regulators when dealing with the business, although other regulators may challenge the advice if they believe it to be incorrect.

## Single point of contact

The Primary Authority typically provides a dedicated officer for each partnership, who acts as a single point of contact between the business and the Primary Authority, and between the business and other regulators. The Primary Authority acts as a liaison for other regulators, allowing the client to devote more of their time and attention to the day-to-day operation of the business.

## Business promotion

Businesses gain recognition for being in a Primary Authority agreement and from having robust compliance arrangements.

## Enforcement action

Other regulators must contact the Primary Authority before taking any enforcement action, providing an opportunity for the business to negotiate a better outcome that ensures compliance without the need for enforcement action.

## Legislative areas covered

The Primary Authority can advise on any area of legislation within the local authority's remit; depending on the nature of the local authority this can include some or all of the following areas:

- Trading Standards

- Environmental Health
- Fire Service
- Planning

Services will typically include advice on the following:

- legal obligations incumbent upon the business
- interpretation of legislation
- assessments of procedures to ensure legal compliance

Inspection plans can also be developed to improve the effectiveness of regulatory inspections whilst minimising disruption, preventing any breaches of the law and avoiding the need for frequent checks by regulators. Local authorities must follow these plans unless the Primary Authority has been notified and an alternative course of action has been agreed.

Primary Authority partnerships with Trading Standards services typically cover the following legislation:

- age-restricted products
- agricultural produce
- animal health and welfare
- animal feed
- consumer protection
- food standards
- petrol storage
- product safety (toys, electrical products, cosmetics, etc)
- weights and measures

Local authorities will typically charge a set-up fee and an hourly rate for Primary Authority services.

## Legal action

Primary Authority agreements will not prevent any legal action where advice and guidance has not been followed. Other local authorities must liaise with the Primary Authority before any legal action can be taken, and if the business has followed the advice of the Primary Authority, it is unlikely that any legal action would be successful. Where another local authority wishes to take action against the business in contradiction of formal advice that has been issued by the Primary Authority, and followed by the business, the Primary Authority can prevent the action being taken.

A Primary Authority agreement will not prevent the Primary Authority taking action against the business where appropriate - for example, if advice has not been followed resulting in injury, death, fraud, etc.

## Joining the Primary Authority scheme

Any business (including those trading solely on the internet) or regulated charity can apply to form a Primary Authority partnership.

Small businesses are eligible, as are start-up businesses, franchisees and those in trade associations. If you operate a franchise, the franchiser can apply, and all members of that franchise will receive information on compliance. Similarly, a trade association can apply for a Primary Authority agreement and all association members will receive the benefits, as will the companies in a company group, and businesses subscribing to a compliance or assurance scheme.

## Setting up membership of the scheme

Contact your local authority or an authority you believe will offer the best assistance for your business; they may already highlight how to set up a Primary Authority partnership on their website, although not every authority participates in the scheme. Alternatively, contact the [Office for Product Safety and Standards \(OPSS\)](#) and they can refer your business to an appropriate local authority.

The local authority does not have to be the nearest in terms of geographical location; the choice may be dependent on an authority having the relevant skilled officers necessary to facilitate the arrangement. The business initially contacts their chosen local authority directly.

A local authority can accept or reject a request to form a partnership, which often depends on the support required, resources needed and costs involved. All Primary Authorities must also be approved by OPSS before commencing.

If accepted, an agreement is then reached based on the services requested by the business at the outset of the partnership and an estimate of the time required to complete those tasks.

The details of the partnership are entered into the Primary Authority Register.

## Office for Product Safety and Standards

Primary Authority is administered by OPSS, which is part of the Department for Business, Energy and Industrial Strategy.

OPSS is responsible for many functions that link with the work of local authority-based Trading Standards services such as:

- ensuring the UK's system of weights and measures, hallmarking and utility metering is fair for businesses and consumers
- providing policy support to ministers about measurement issues
- providing technical, legal and commercial certification services to support manufacturers and local authorities
- overseeing enforcement of technical legislation in the UK carried out by local authorities

OPSS works to ensure that regulation is enforced in a proportionate and risk-based manner.

## Primary Authority Register

The [Primary Authority Register](#) is managed by OPSS. It allows for effective communication between the business, the Primary Authority and other local authorities on matters including Primary Authority advice, inspection plans and feedback from inspections.

It has a number of resources to help businesses get the most from Primary Authority, including presentations, guides, information sheets and template documents.

## Businesses operating across UK borders

Certain areas of legislation (food standards, for example) cannot be enforced in Scotland and/or Wales by English local authorities. If you trade in multiple UK countries, you may require a partnership with local

authorities in each country.

## Further information

OPSS has produced a [\*Primary Authority Overview\*](#), which provides background information on the scheme.

## Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see [\*'Trading Standards: powers, enforcement and penalties'\*](#).

## In this update

The guide has been extensively re-written to provide more up-to-date information.

Last reviewed / updated: March 2023

## Key legislation

[Regulatory Enforcement and Sanctions Act 2008](#)

[Enterprise and Regulatory Reform Act 2013](#)

[Enterprise Act 2016](#)

[Co-ordination of Regulatory Enforcement Regulations 2017](#)

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links often only shows the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on changes to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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