

# NATIONAL TRADING STANDARDS

## Terms of Reference

### 1. Purpose

- 1.1 National Trading Standards (NTS) delivers national and regional consumer protection enforcement. Its Board is made up of an independent Chair and senior and experienced heads of local authority Trading Standards services from around England and Wales. Its purpose is to protect consumers and safeguard legitimate businesses by tackling serious national and regional consumer protection issues and organised criminality and by providing a “safety net” to limit unsafe consumer goods entering the UK and protecting food supplies by ensuring the animal feed chain is safe.
- 1.2 NTS will work with Government to offer solutions to the delivery of Trading Standards related work, where it is agreed that this is best done via specialist Teams at local or regional or national level using direct grant funds from Government or other organisations.
- 1.3 NTS is not a policy organisation. Issues relating to policy aspects of Trading Standards will be led by the Chartered Trading Standards Institute (CTSI) and the Association of Chief Trading Standards Officers (ACTSO). Where such policy debates relate to the provision of services by local authorities then the Local Government Association (LGA) and Welsh Local Government Association (WLGA) will lead. NTS will provide advice and support on these issues where requested and where appropriate. NTS may also provide informal guidance on TS issues where appropriate.
- 1.4. Where any new Trading Standards related function is being proposed, NTS will seek to offer solutions wherever possible but would not do so if this was against the agreed position of the LGA, WLGA, CTSI and /or ACTSO.

## **2. The NTS Board**

- 2.1 The National Trading Standards Board ('the Board') will deploy national funding from the Government, in accordance with any conditions set by funding Departments or Agencies.
- 2.2 The Board will act as the key decision making body for the development and agreement of:
- National strategic priorities for consumer protection work;
  - The allocation of national funds to meet agreed priorities;
  - The necessary delivery mechanisms and appropriate means to monitor performance.

Furthermore, the Board will ensure effective performance management and reporting of the agreed activity.

## **3. Accountability**

- 3.1 The Board will be accountable to any funding body for activities carried out using those funds and via the Public Accounts processes within government for the delivery of its activities.
- 3.2 The Board will also be accountable to any oversight groups constituted by relevant Government Departments in accordance with funding agreements.

## **4. Operational structure**

- 4.1 The Board will be responsible for allocating funding, under any grants or funding agreements, for specific Trading Standards related activities.
- 4.2 The Board's priorities will be led by effective intelligence analysis and work will follow the principles of its Integrated Operating Model for the use of intelligence.
- 4.3 The Board will act as the level three (national/international) Strategic Tasking Group. It will agree overall priorities and allocate budgets to specific work areas. This will include the allocation of a budget to the National Tasking Group.

- 4.4 The Board may set up governance groups, comprising Heads of Trading Standard from England and Wales, to take a more direct and specific oversight role for any NTS workstream. Each group will have terms of reference and the membership of all groups will be agreed at the beginning of each year by the full Board.

## **5. Delivery Mechanisms**

- 5.1 The detail of any delivery mechanisms will depend entirely on what functions are to be delivered by Trading Standards services under the governance of the Board and the amount of funding associated with the functions.
- 5.2 The delivery mechanisms will focus on commissioning groups of authorities or lead authorities with support from their regional groups, to provide national or regional centres of excellence to deliver certain functions, using funding allocated to that function.
- 5.3 The Board will ensure effective operation of the functions through performance management and reports on the agreed activities.
- 5.4 Reports on operational activity will be submitted to the Programme Office quarterly, typically at the end of the calendar month following the quarter end. The reports will be collated and subsequently shared with the Board and other governance groups.
- 5.5 Each operational team will have its own agreed performance indicators and statistical returns as well as appropriate qualitative assessments of activity. Where appropriate this will also consist of calculated consumer detriment figures and a breakdown of spending.
- 5.6 Financial reports are required to be provided to CTSI by grant holders and will meet the financial requirements laid down in the grant agreements. Overall financial reporting will be provided by the Director at each Board meeting.

## **6. Board Membership**

- 6.1 The Board will have an independent Chair and one representative from each of the following English regional and Welsh trading standards groups:

- CEnTSA (Central England Trading Standards Authorities)
- EETSA (East of England Trading Standards Association)
- LTS (London Trading Standards)
- NETSA (North East Trading Standards Association)
- TSSW (Trading Standards South West)
- TSEM (Trading Standards East Midlands)
- TSNW (Trading Standards North West)
- TSSE (Trading Standards South East)
- TSW (Trading Standards Wales)
- YAHTSG (Yorkshire & the Humber Trading Standards Group)

6.2 Each of these representatives are to be nominated via their relevant Head of Service Group. Board members will articulate views from their regions and will reach a consensus view as a Board in the national interest. The Board will make decisions in the best interests of the Board in the context of the aims and principles of NTS.

6.3 All of these members will be 'executive members'. They will have full voting rights and will be able to take formal decisions on matters before the Board.

6.4 In addition, representatives from CTSI, ACTSO and BEIS will each be invited to attend the meetings. All of these members will be 'non-executive members'. They will not have voting rights and will not be able to take any formal decisions on matters before the Board.

6.5 Secretariat staff will also attend meetings, as appropriate, to provide support to the Board.

6.6 TS Scotland, CMA, LGA and WLGA will have an open invitation to attend all Board meetings.

6.7 If any full executive member of the Board cannot attend a meeting that Board member may nominate a substitute member to attend meetings or to act on their behalf. Any substitute Board member would have the same voting rights as the full executive Board member.

6.8 All Board members must comply with the declaration of interests as set out in Annex 1.

6.9 It will be a matter for the Board to collectively decide whether regional

representatives will be entitled to vote if their region stands to benefit either financially or in any other way from any decisions taken. It shall be incumbent upon regional representatives to make a declaration of interest (which may be either prejudicial or non-prejudicial) in such circumstances.

- 6.10 The Chair reserves the right, in agreement with the Board, to limit invitees to all or part of any meeting should that be deemed necessary to facilitate effective debate and decision making. For example this might include the discussion of information:
- where the disclosure is prohibited or restricted by a provision of any enactment;
  - that is otherwise subject to a duty of confidentiality;
  - market-sensitive information;
  - the publication of which could hinder the performance of the functions of any executive members of the Board or the Trading Standards Service's they represent; and
  - about individuals such as members of any Trading Standards Service.

## **7. Chair's role**

- 7.1 The Board shall appoint a Chair, who will serve a minimum term of two years from election. The Chair may either be elected from the executive members of the Board or alternatively the Board may decide that they want to appoint an independent Chair.
- 7.2 If an independent Chair (i.e. not one the Board who already has voting rights as outlined in Section 4 above) is engaged by the Board then he/she will not have normal voting rights but if there was a tied vote on any issue, the Chair would have the casting vote.

## **8. Vice Chair**

- 8.1 The Board shall appoint a Vice-Chair from within its membership. The term of appointment will be for two years but can be renewed by the Board.
- 8.2 The Vice-Chair will take on the powers of the Chair in his/her absence. They will retain their own voting right on behalf of their region but in addition if there is a tied vote by Board members, he/she will have the casting vote.

## **9. Conduct of Board Members**

- 9.1 All Board members must comply with the declaration of interests as set out in Annex 1.
- 9.2 Members of the Board shall be subject to a general duty of confidentiality in relation to the conduct and affairs of the Board, save where the disclosure of information is authorised or required to be made by the Board or its Secretariat in carrying out, or facilitating the performance of, the functions of the Board.
- 9.3 If any Board member has any concerns about the propriety of the Board or any Board member there is a two stage process. Initially any concerns should be raised confidentially with the Chair, who will be under a duty to investigate and will guarantee anonymity. If any concerns are unable to be resolved then this matter can be formally raised with the relevant Government Department who will ensure the matter is investigated in order to ensure the integrity of any decisions taken. If the complaint relates to the conduct of the Chair then it can be directed to the steering group immediately.

## **10. Board Meetings**

- 10.1 The Board will meet four times per year, providing there is sufficient business to justify a meeting and sufficient members to form a quorum of at least six executive members. Extra meetings will be arranged should they be required. Additional meetings may be called by the Chair, or by any four executive members of the Board.
- 10.2 Should a regional representative require support for the costs of any travel or accommodation, they should arrange this via their region.
- 10.3 Secretarial support for the Board will be provided via the Programme Office.
- 10.4 When convening a meeting of the Board, at least twenty one clear working days' notice of the meeting must be given to each executive and non-executive member unless it is deemed by the Chair to be urgent.

- 10.5 Notice of a meeting will be communicated in writing (letter, fax or email) and will contain details of the meeting and of business to be conducted at that meeting.
- 10.6 Failure of an executive or non-executive member to receive notice of a meeting shall not invalidate that meeting or any business conducted at it.
- 10.7 If neither the Chair nor Vice-Chair are present at a meeting, those executive members present shall appoint one of their number to chair that meeting and that person will have the same voting rights as if they were Vice Chair.
- 10.8 Decisions made by the executive members of the Board shall be made by ordinary resolution. In the case of a tied vote, the Chair, or, in his/her absence, the Chair of the meeting appointed pursuant to paragraph 10.7 shall have a second or casting vote.
- 10.9 In principle the Board will take collective responsibility for any decision made by it and will seek to achieve unanimity in decisions. Where members have concerns that cannot be resolved in relation to a particular matter or a proposed action, they should ensure that these concerns are recorded in the minutes of Board meetings.
- 10.10 Only executive members present at a meeting may vote. Participation will usually be in person, but in exceptional circumstances, or as agreed by the Chair, members of the Board may participate by telephone or video-conferencing facility and be deemed to be present and constitute part of the Board for that meeting. Any executive member of the Board who leaves a meeting prior to the conclusion of a meeting shall be taken to be a non-participating executive member of the Board for the purpose of any decision taken by the Board during that person's absence.

## **11. Record of meetings**

- 11.1 Minutes of Board meetings shall be retained by the Programme Office. A record of the meeting (either full minutes or a summary of the meeting) will be sent to all local authorities in England and Wales. Full minutes will be made available on request and published on appropriate websites (e.g. ACTSO), subject to the redaction of confidential material. Examples of confidential material include information:

- where the disclosure is prohibited or restricted by a provision of any enactment;
- that is otherwise subject to a duty of confidentiality;
- market-sensitive information;
- the publication of which could hinder the performance of the functions of any executive members of the Board or the Trading Standards Service's they represent; and
- about individuals such as members of any Trading Standards Service.

## **12. Financial arrangements**

- 12.1 The Board must be able to demonstrate good financial management and ensure that the strategic and operational work it oversees secures the desired outcomes and value for money. The Board must also comply with HM Treasury Guidance on Managing Public Money and/or any other guidance provided by the Government to ensure probity in the expenditure of public funds.
- 12.2 The Board will nominate an organisation to hold the funds for which it is responsible and will ensure that all necessary financial arrangements are in place to comply with accounting, investment and audit requirements (including the appointment of external auditors) in accordance with the requirements of any Government Department, Agency or other body who is providing funds to NTS.

## **13. Review**

- 13.1 The Board will reassess these terms of reference at appropriate intervals to ensure that they remain relevant over time.

Annex 1

# **NATIONAL TRADING STANDARDS**

## **Scheme for the Declaration of Interests**

### **1. Purpose**

- 1.1 The purpose of this scheme is to support members of the National Trading Standards Board in making decisions about any interests which should be declared to ensure there is transparency and that there is no real or perceived conflict of interest when these decisions are made.

### **2. Standards in Public Life**

- 2.1 Membership of the Board is deemed, for the purposes of this scheme, to be an appointment to 'public office' and this brings with it a commitment to comply with the Seven Principles of Public Life. These principles are as follows:
- (a) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
  - (b) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
  - (c) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
  - (d) You are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office.
  - (e) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
  - (f) You must declare any private interests, both pecuniary and nonpecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest,

including registering and declaring interests in a manner conforming with the procedures set out below.

- (g) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

2.2 The scheme, therefore, obliges members to declare pecuniary and non-pecuniary interests and these must be registered with the Director of National Trading Standards on appointment to the Board or as soon as possible thereafter but before attendance at the first meeting of the Board or its sub-committees.<sup>1</sup>

2.3 What interests need to be declared and how any potential conflicts are to be avoided are set out in the following sections. It does not address specific situations in detail (other than that outlined in appendix three) but provides an overview of the type of conflicts of interest that could arise in the role as a Board member of National Trading Standards.

2.4 However, it must be recognised that National Trading Standards is unique in that its board is quite deliberately constituted to include experts in Trading Standards who are employed by local authorities who, themselves are responsible for implementing (nationwide) programmes that are funded by National Trading Standards. The allocation of funds to implement specialist programmes is, therefore, challenging from the perspective of potential conflicts that are, pecuniary, in nature, but not for personal gain.

### **3. What is a Conflict of Interest?**

3.1 A conflict of interest is any situation in which your personal interests, or interests that you owe to another body (such as your employer) or person, may, or may appear to influence or affect your decision making.

3.2 Conflicts of interest often occur. The issue, however, concerns the management of any situation where there is potential for criticism that your position or your decision has been influenced by conflicting loyalties or could be perceived as such. It is the potential, as well as the actual benefit from which a conflict of interest arises that requires attention. In order to ensure selflessness and transparency, a declaration is required where there is a possibility of people

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<sup>1</sup> For the purposes of the scheme being adopted for the first time, once agreed by the Board, members must declare their interests before the following meeting commences.

outside the Board assuming that you (or a friend or relative) may have some benefit from the Board’s business or decision making. This will avoid accusations of impropriety, which could in turn have a damaging effect on the Board’s reputation.

3.3 Issues may also arise where you have a conflict of interest or loyalties on a matter, but there is no potential for profit or advantage by any person. This may still be important to declare so that it is clear that a decision has been made correctly. For instance, you are a member of an outside body and the affairs of that body are raised at a meeting. It is helpful for all concerned to know about the link to that other body even if nothing in the debate or the decision particularly turns on the declaration.

3.4 Conflicts of interest can come in a number of different forms:

- direct financial (pecuniary) gain or benefit
- the award of a contract to another organisation in which you (or a friend or relative) has an interest and from which you (or they) will receive a financial benefit
- indirect financial gain, such as employment by the Board or employment by a ‘contractor’ to the Board of your partner, family member or close friend.
- non-financial gain, such as when a decision or the policies of the Board affect another organisation of which you are a member.

3.5 To help determine whether there is or there could be a perceived pecuniary interest, the Government specified, through The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the types of issues about which local councillors should be aware as shown below.

**Specified Pecuniary Interests**

<b>Subject</b>	<b>Prescribed Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

3.6 The Board expects you to be able to identify possible conflicts of interest when they arise (or in advance if this is known – such when an agenda is issued for a meeting) and to ensure, that you take advice and to make the appropriate declarations. This advice would invariably come from the Director or her/his nominated agent.

#### 4. Managing Conflicts of Interest

4.1 Board members need to be alert to possible conflicts of interest and act to minimise their effects, an important element of which is to be open and transparent about such situations before and when they arise.

4.2 This starts by completing the register of interests (Form 1 below) that is held by the Board's Director within 28 days of appointment to the Board and, if for any reason this is not possible, before the subsequent meeting of the Board, at which attendance will not be permitted unless this has been completed.

- 4.3 It is good practice at the beginning of a meeting for a member to declare any interest which he/she has in an item to be discussed (even if that member has notified the Director in advance of the meeting, and certainly before any discussion of the item itself). Sometimes this is not possible because an issue arises in an unplanned way at a meeting and this interest must be declared immediately or the member should leave if this is an issue that requires a member not to be present – such as the potential or perception of potential pecuniary gain from any decision made.
- 4.4 Where an interest is declared by a member then that interest will be noted by the Chair. In the event of a “Disclosable Pecuniary Interest” being declared, subject to Section 5 below, the member is to absent himself or herself before discussion on that matter. However, if any external persons are making representations or there is information on the subject that requires to be answered you can remain to provide the information but once this is complete you must leave the room and not be present for the vote.<sup>2</sup>
- 4.5 Where other conflicts of interest are declared it is for the member to declare and the member will stay in the room, speak and vote on such matters. However, if the member (or the Chair or Director) feels that this would lead to criticism in the specific circumstances then they should absent themselves from the room whilst the debate and vote proceeds without them

## 5. Making Declarations about Setting Budgets

- 5.1 Given para 2.4. It is only possible for the Board to function effectively, as part of the Trading Standards system if there is collegiate decision making, with all regions involved, wherever possible.
- 5.2 It is important that NTS Board members commit to the ethical standards expected of *public* office holders as established by the Committee on Standards in Public Life (The ‘Nolan Principles’). At the same time, the National Trading Standards Board needs to operate efficiently and effectively to protect the interests of consumers. This can generate conflicting circumstances between members declarations and the completion of Board business given the NTS is formally constituted to have ‘expert’ trading standards professionals on its Board who are, inevitably, responsible for delivering Projects commissioned by the Board through their local or regional organisations.

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<sup>2</sup> For example, where there is an item to discuss concerning the provision of a particular service and the region where you are employed is being considered, you must follow the procedure set out in appendix three.

5.3 For the Board to operate effectively and to enable the Board members to comply with their duties in declaring interests and to avoid any conflicts, this section provides examples about key NTS Board decisions and the procedures to be followed. It is at the discretion of the Chair to vary this if circumstances require it. In any such case this decision must be minuted.

5.4 In all cases, no member should be present to vote on a matter where they, their family or any close associate will personally gain advantage – financially or otherwise.

### 5.5 **New Work Areas/ Special Projects**

NTS are approached to deliver a new programme of work that might involve a number of local trading standards departments or regional organisation as the delivery agents. The Chair can give a general dispensation to enable all Board members to be present to discuss whether or not National Trading Standards agrees to take on such work and the allocation of the budgets for any such work. If the recommendation was that only one authority/region were to be selected for the delivery of this project and a Board member is from that local authority/region, he or she may take part in the discussion but is not able to vote. If the Chair or any Board member feels this would constrain open debate and discussion, the Chair may ask the relevant Board to absent themselves from the discussion.

### 5.6 **Annual Priority and Budget Setting**

Annually, the Board determines budget allocations to local authorities and regions to deliver its work. Since each board member is also a member of one of these local authorities/regions, all members to be present and be involved in the discussion.

Where an allocation is going to all/most local trading standards departments or all/most regions, then all members can also vote on this matter unless the Chair deems it inappropriate for them to do so.

On decisions that allocate budgets to a small number of local authorities/regions (for example for national teams) members must remove themselves from the vote when a decision is to be made on the allocation to their specific local authority/region.

## 5.7 Variations to Allocations mid-year

Where variations are being made to budgets within a specific year, a similar process should apply as for annual budgeting. IE if the changes effect all/most local authorities/regions then all Board members may be involved and vote. However if it applies to only a small number of local authorities/regions or one area will gain far more than others, then the member whose local authority/region may take part in the discussion but is not able to vote. If the Chair or any Board member feels this would constrain open debate and discussion, the Chair may ask the relevant Board to absent themselves from the discussion.

## 6. Consequences of Breaching the Policy

6.1 There are likely to be two kinds of breach to the policy.

- i. An error where a member forgets to declare an interest or
- ii. A deliberate and wilful breach to hide an interest when a specific decision is being made.

6.2 In the event of a forgetful error, the member needs to inform the Director at the earliest possible moment. If this happens whilst the meeting is still in progress, the Chair and Director need to confer and determine whether the breach is, in fact, material and/or significant and whether the decision could have been different if the interest had been declared. If the interest declared is a disclosable pecuniary interest, the earlier decision needs to be deemed void and the item re-opened and the correct procedure followed.

6.3 In the event of a wilful breach, the Chair and Director need to initiate a formal investigation and where necessary a decision on suspension should be considered immediately.

## 7. Review of the Policy

7.1 This policy and its application will be reviewed at the end of the first year and any amendments made as appropriate. Thereafter, it will be subject to review every three years.

Form 1



**Register of Interests**  
**Members of the Board of National Trading Standards**

Every member of the Board is required to notify the Director, within 28 days of being appointed, of all current "disclosable pecuniary interests" and "non-pecuniary interests" of which they are aware.

**Name:**

**Disclosable Pecuniary Interests**

As a Member of the Board of National Trading Standards, I give notice that I have the following disclosable pecuniary interests to declare. These interests apply to myself or my partner (which means spouse or civil partner, a person with whom I am living as husband or wife, or a person with whom I am living as though we are civil partners), in so far as I am aware of his/her interests.

Employment, office, trade, profession or vocation carried out for profit or gain. You should show every employment, office, including company directorships, trade, profession or vocation that you and your partner have to declare.

Provide the name of the employer and give a short description of the interest or activity concerned; for example, "Computer Operator" or "Accountant".

Where you hold an office (other than National Trading Standards), give the name of the person or body which appointed you. In the case of a public office, this will be the authority which pays you.

Name of Organisation	Type of Interest/Activity	Start Date	End Date

### Non-pecuniary Interests

Any professional body, trade union or similar of which you are a member

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTE:** A member must, within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Director of that change.

### Sensitive Information

Where you consider that disclosure of the details of an interest could lead you, or a person connected to you, being subject to violence or intimidation, and the Director agrees, any published version of the register will exclude details of the interest but may state that you have an interest, the details of which are withheld.