

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Bryan Sweetland, Cabinet Member for Commercial and Traded Services

DECISION NO:

14/00046

For publication

URGENT

Key Decision

Affects more than 2 Electoral Divisions

Subject:

Trading Standards Officers – enforcement powers

Decision:

As Cabinet Member for Commercial and Traded Services I agree that in relation to the Acts and any orders, rules, regulations or other subordinate legislation made under, or by virtue of those Acts, including any amendment to such legislation, under which Trading Standards is authorised to act by the Kent County Council, the Director of Environment, Planning and Enforcement may:

- a) Exercise all the powers of the council, including powers of enforcement, licensing, registration and prosecution – see Enforcement Policy at appendix 2
- b) Appoint Trading Standards Officers which will include such inspectors, enforcement and sampling officers as may be designated in the aforesaid legislation, and other officers
- c) Institute, take part in, respond to, or defend legal proceedings
- d) Represent the County Council in any proceedings before any court (subject to having a legal 'right of audience' before that court)
- e) Represent the County Council at any hearing under Sections 24 and 44 of the Health and Safety at Work Act 1974
- f) Where a premise licence has effect, apply to the relevant licensing authority for a review of the licence under Section 51 of the Licensing Act 2003
- g) Represent the County Council at any hearing held by a relevant licensing authority in relation to the review of a premise licence under the Licensing Act 2003
- h) Authorise officers under his direction to carry out any of the above.

Reason(s) for decision:

Trading Standards Officers fulfil the County Council's statutory responsibilities to protect commerce and the consumer. This is set out within a framework of protective legislation which needs to be delegated to officers.

Previously delegation has been granted and annually renewed under the business planning process but, due to changes in this year's process, this route is no longer available.

Cabinet Committee recommendations and other consultation:

This decision is taken under procedures for urgency set out in the 'Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) 2012' regulations. As such the Chairman of the Scrutiny Committee and relevant Senior Manager have agreed that the decision cannot be reasonably deferred in order to follow normal statutory procedure owing to the potential risk to the council of legal challenge to enforcement action taken without relevant authority to officers being in place.

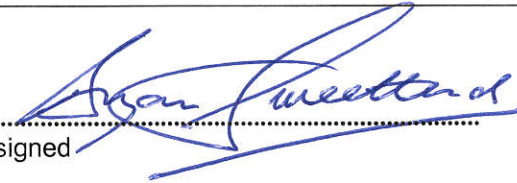
In addition local procedures for urgency have been followed and the Group Spokes people and the Chairman and Group spokespeople of the relevant Cabinet Committee have been informed of the intention to take an urgent decision and asked for comments. No comments were received.

Any alternatives considered:

All powers are set out in legislation and are necessary to the councils work and as such there are no alternatives.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

None


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signed

3/4/14
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date