

**NATIONAL
TRADING
STANDARDS**

Estate Agency Team

Protecting Consumers
Safeguarding Businesses

**SAFONAU
MASNACH
CENEDLAETHOL**

Tîm Asiantaeth
Gwerthwyr Tai

Gwarchod Defnyddwyr
Diogelu Busnesau

National Trading Standards Estate Agency Team

Business Plan

2017-18

1. Introduction

The National Trading Standards Estate Agency Team (NTS Estate Agency Team) is hosted by Powys County Council (PCC) with support from the Isle of Anglesey Council (IoAC). Powys County Council is the lead enforcement authority for the purposes of the Estate Agents Act 1979.

The team is primarily responsible for the regulation of estate agency work in the UK - issuing prohibition and formal warning orders, and overseeing the UK's consumer redress schemes, Ombudsmen, and Alternative Dispute Resolution entities in the estate agency sector.

The team is part of the Trading Standards Service of PCC and the Team Leader is a member of the Trading Standards management team.

Funding for the team is provided by virtue of a grant from the Department for Business, Energy and Industrial Strategy (BEIS) which is administered by the Chartered Trading Standards Institute (CTSI) on behalf of National Trading Standards. The funding is ring-fenced by Powys County Council for the work of the NTS Estate Agency Team.

Governance and oversight of the NTS Estate Agency Team's work is carried out by National Trading Standards (NTS) and Powys County Council.

This business plan presents the work we plan to undertake in 2017-18, and will cover our commitments to the NTS and accountability to the Secretary of State for BEIS.

2. Vision and Strategic Objectives

Our Vision

The vision of the National Trading Standards Estate Agency Team is:

‘raising standards in UK estate agency work’

In working towards this, the team will:

- support and value a professional and skilled workforce – by ensuring that members of the team are knowledgeable, competent, and able to develop their full potential
- be accountable – by publishing regular reports about our work and by seeking views on our service to help shape the future work of the team,
- be visible to consumers, businesses and policy makers - by engaging with them through the team’s website, reports, presentations, seminars and social media; and by listening to suggestions and feedback
- encourage and challenge businesses to raise their standards – by providing advice and guidance and by looking for new initiatives to increase consumer confidence in the estate agency market
- ensure that our enforcement action is intelligence led and that we are able to deploy resources to maximise impact – by working with colleagues, businesses, and intelligence teams and using the information to target and prioritise our work

Strategic Objectives

The National Trading Standards Estate Agency Team will seek to achieve its vision through the following strategic objectives:

1. Consider and approve new consumer redress schemes and ADR entity applicants

Activity	Outcomes	Timescales
Provide advice for prospective scheme operators on PCC website	Potential scheme operators are aware of the requirements of the scheme	Annual review (August 2017)
Receive applications for new consumer redress scheme operators and ADR entities, and grant approval where appropriate	Applications for new schemes are processed effectively to ensure that they comply with the necessary requirements to protect consumers	As and when applications received

2. Monitor the operation of existing consumer redress schemes and ADR entities

Activity	Outcomes	Timescales
Review the effectiveness of redress scheme conditions and criteria	Schemes are fit for purpose and provide adequate levels of protection for consumers	April-June 2017
Review approved redress scheme operators, including decisions made by ombudsmen	Scheme operators are acting in the best interests of consumers and the wider estate agency industry	Begin in April; report by March 2018
Ensure approved ADR entities are complying with reporting requirements	ADR entities are providing a fit-for-purpose service in accordance with ADR regulations	July – Sept 2017 (in conjunction with CTSI)

3. Develop and publish advice for consumers and guidance for estate agency businesses in conjunction with partner agencies and organisations

Activity	Outcomes	Timescales
Provide specific advice on our website about Estate Agents Act requirements and CPR's/BPR's.	Businesses are aware of their obligations under the Act and the requirements for redress scheme membership	Annual review (August 2017)
Work with CTSI and Citizen's Advice to ensure general consumer and business advice is provided	Consumers are better informed of their rights and grounds for redress; business are aware of their rights and obligations	Annual review (August 2017)
Provide supplementary advice to business in response to specific emerging issues	EA businesses (and their staff) have a better understanding of the legislative requirements	As required, around 3-4 times in the year

4. Work with local Trading Standards Services, other key stakeholders and partner agencies to facilitate the effective enforcement of the Estate Agents Act 1979 and other related legislation

Activity	Outcomes	Timescales
Attend seminars and training events for partners and stakeholders, plus attend regional meetings where applicable	Partners and stakeholders are aware of the work of the NTS Estate Agency Team and the case referral process	As required (target 6 sessions in year)
Provide information for partners and stakeholders (via website, social media, sponsorship, attendance at conferences etc.)	Partners and stakeholders are aware of the work of the NTS Estate Agency Team and the case referral process	NTS Estate Agency Team website. CTSI conference 2017
Maintain links and partnerships with appropriate organisations (NTS teams, local TS, HMRC, CMA, Land Registry, redress scheme operators, industry bodies, trade associations etc.)	NTS Estate Agency Team is better placed to carry out enforcement and advisory activities	Ongoing
Review and update the toolkit for local TS to assist with their enforcement of EA Act	Better consistency of EA enforcement across UK	September 2017
Conduct a market study or other national project into specific areas of estate agency work, in reaction to ongoing intelligence analysis	A fairer market place for consumers and reputable businesses	Start in April – review 6 monthly
Expand the work of the team by means of income generating projects	Greater compliance support for reputable businesses, and raised standards of consumer protection	1 st quarter (April-June 2017) and onwards

5. Encourage, develop and support information and intelligence sharing amongst our partners

Activity	Outcomes	Timescales
Establish information and intelligence sharing protocols amongst partner agencies and organisations	Partners are aware of communication channels and the means for providing intelligence and information	1 st quarter (April-June 2017)
Exchange information and intelligence where appropriate	Enforcement activity is better targeted	Ongoing

6. Investigate cases and issue sanctions where appropriate

Activity	Outcomes	Timescales
Carry out investigations and issue prohibition or warning orders to unfit individuals or companies	Consumers and reputable businesses are protected by preventing unfit individuals and businesses from carrying out estate agency work	Ongoing, as required (forecast of 24 cases in year)
Investigate cases and take enforcement action, e.g. issue fixed penalty notices, undertakings, prosecutions etc.	Consumers and reputable businesses are protected	No target set; depends on need

7. Maintain a public register of warning and prohibition orders

Activity	Outcomes	Timescales
Publish details of banned and warned individuals and businesses	Public record of orders issued plus deterrent effect to others	Ongoing, when required
Review the content of the public register, including where and how the information is published	The information held is clearer and the content easier to search	July 2017
Maintain and improve an improved case handling system	Reports are improved and greater analysis of cases can be made	Review July 2017

8. Keep under review and from time to time advise the Secretary of State about—
(a) social and commercial developments in the United Kingdom and elsewhere relating to the carrying on of estate agency work and related activities; and
(b) the working and enforcement of the Estate Agents Act

Activity	Outcomes	Timescales
Consult with partners to seek their opinions about the working and enforcement of the EA Act	Sanctions and controls under the EA Act are working effectively and are fit for purpose	Annually
Monitor related developments in the UK estate agency market, including emerging trends, in partnership with the Competition and Markets Authority. Report findings and recommendations (where appropriate) to NTS and BEIS	Secretary of State (via BEIS) is aware of issues (and potential issues) with estate agency industry and enforcement of Estate Agents Act	Every 3 years, or sooner if required

3. Operating Framework

Budget

The team will receive will receive a baseline budget of £220,500 to fund its work in 2017/18. It may apply to NTS for additional funding to cover unexpected costs such as legal fees or for investigating large or complex cases, or to fund particular areas of research, or where additional funds could be used to invest in a project which would provide returns for PCC and/or NTS.

Staffing

The team employs the following members of staff:

- Team Leader - to lead the work of the National Trading Standards Estate Agency Team across the UK in accordance with this business plan. To develop and maintain links with enforcement colleagues, industry, advice providers and other stakeholders to maintain the delivery of the team's functions. To issue warning or banning orders against those persons or businesses deemed to be unfit. To monitor existing consumer redress schemes and approve new schemes as appropriate. To provide guidance and advice for the estate agency industry and enforcement colleagues
- Investigators (3.4 FTE) - to assist the team leader to deliver the NTS Estate Agency Team business plan. To investigate referrals from enforcement colleagues, industry, and other stakeholders with a view to assessing the conduct of individuals or businesses under the Estate Agents Act 1979 and where appropriate prepare reports proposing warning or banning orders against those persons or businesses deemed to be unfit. To monitor and review the performance of existing redress schemes/ADR entities, and assist with the production and provision of guidance and advice for the estate agency industry and enforcement colleagues.
- Adjudicator(s) (contracted) – to consider and make decisions on cases concerning the fitness of individuals and businesses subject to a Notice of Proposal under sections 3 and 4 of the Estate Agents Act 1979 (and appeals under section 6), including the hearing of live representations where required. To also review the effectiveness of the case handling procedure. The adjudicator is separated from the investigation process.

The team is supported by:

- a panel of additional adjudicators - to consider and make decisions concerning the fitness of individuals and businesses subject to a Notice of Proposal under sections 3 and 4 of the Estate Agents Act 1979 (and appeals under section 6), in cases where the hearing of live representations are not required. Adjudicators are senior officers within Powys and Anglesey Councils, and are not employed directly by the team. The adjudicators are separated from the investigation process.
- a solicitor, who provides legal advice to the team and represents the team in legal proceedings. This solicitor is employed by Powys County Council Legal Services and acts on a cost-recovery basis to the team.
- admin officers, who provide administrative support to the team – employed by Powys County Council and funded by way of a levy on individual staff costs

- a financial investigator, who carries out financial investigation work for the team on an ad hoc basis – employed by Powys County Council and funded by way of cost recovery in legal proceedings and Proceeds of Crime cases.

Monitoring and Governance

NTS has oversight of the NTS Estate Agency Team, and the team's work is covered in the NTS Control Strategy and NTS Annual Business Plan for 2017/18. The team leader reports on a regular basis via the NTS governance mechanism to demonstrate that the Lead Enforcement Authority is acting effectively. The team's accounts are audited by Powys County Council auditors at the end of each financial year and submitted to the Chartered Trading Standards Institute in accordance with the terms of its grant funding.

4. Our Partners and Stakeholders

Delivery Partners

Isle of Anglesey Council - IoAC provides support for the project by seconding one full time officer and contracting one other officer as part of the Team's investigators. Selected senior managers within the Authority provide adjudication functions for the Team, as and when required.

Convention of Scottish Local Authorities (COSLA) - COSLA is the representative voice of Scottish local government and also acts as the employers' association on behalf of Scottish Councils. COSLA has a representative on the NTSB board and provides funding and support for projects such as the NTS Estate Agency Team where that project extends to Scotland.

Department for the Economy - Northern Ireland (DfE) - The DfE is a devolved Northern Ireland government department in the Northern Ireland Executive. It can provide funding and support for projects such as the NTS Estate Agency Team where that project extends to Northern Ireland.

Local Trading Standards Services – designated as 'enforcement authorities' and responsible for enforcing the provisions of the Estate Agents Act as well as other related legislation.

National Trading Standards Teams – including the Regional Investigations Teams, , Illegal Money Lending, E-Crime, Scams, Intelligence, and Safety at Borders & Ports teams.

Citizen's Advice Consumer Service - The Citizens Advice Consumer Service provides confidential and impartial advice on consumer issues. It works in partnership with local Trading Standards Services and refers complaints of a serious nature which need further investigation.

Ombudsmen/redress schemes – there are three redress schemes approved by the NTS Estate Agency Team under the Estate Agents Act and Alternative Dispute Regulations (Ombudsman Services: Property, Property Redress Scheme, The Property Ombudsman)

We also work with other key agencies, including:

- Department for Business, Energy and Industrial Strategy - Consumer & Competition Policy team
- Chartered Trading Standards Institute (CTSI)
- HMRC's anti-money laundering supervision team
- Competition and Markets Authority (CMA)
- Land Registry - Registration Fraud Intelligence Unit
- Regulatory Delivery (RD)
- local and regional Police
- National Anti-Fraud Network

and other trade associations, organisations and professional bodies.

5. Enforcement Action

We will work as far as practicable in accordance with the principles set out in the Regulator's Code¹ and the Primary Authority scheme².

Enforcement action is defined for these purposes as:

- simple cautions
- conditional cautions
- penalty charge notices
- informal undertakings
- formal undertakings (including court orders)
- prosecution
- warning orders
- prohibition orders

Before taking enforcement action we will consider a number of factors before making our decision:

- The seriousness of any alleged infringement
- The monetary value, and actual or potential economic detriment involved
- The vulnerability of any consumers affected
- The previous history of the business or individual
- The age and health of any offender
- Any action taken to prevent recurrence
- Any explanation offered or representations made, and, as far as the law allows, the circumstances and attitude of the business or individual
- What course of action will best suit the public interest
- Whether there has been a breach of an undertaking
- If the individual or business has established a Primary Authority or Home Authority relationship with a Trading Standards Service in the UK, the views and actions of that authority and Regulatory Delivery where relevant

The following factors that will tend to weigh in favour of enforcement action:

- Evidence of deception, or fraud or intent
- An unwillingness to put things right
- Significant level of negligence or carelessness
- Ignored advice or warnings
- Likelihood of future perceived non-compliance
- Adverse impact on vulnerable person or persons
- Behaviour likely to give unfair commercial advantage or damage commercial interest of others
- Prevalence of offending practice
- Obstruction of officers

The following factors that will tend to weigh against enforcement action:

- A minor systems failure, and we are satisfied that real steps have been taken to remedy that failure
- Exceptional, unusual or one-off circumstances that are very unlikely to be repeated and, if possible, steps have been taken to prevent reoccurrence
- Whether the person(s) or business(es) affected have been fairly and promptly compensated
- A willingness to put things right, and a commitment to future compliance

¹ <https://www.gov.uk/government/publications/regulators-code>

² <https://www.gov.uk/government/organisations/regulatory-delivery>

All relevant factors are taken into account and given appropriate weight depending on the facts of the case. This means that even if one or more factors favour enforcement action this is not necessarily the outcome. The contrary also applies.

We will prioritise our work so that enforcement action is always considered where there is evidence of (or potential for):

- direct harm to an individual consumer
- unlawful gain to an individual or business
- collective harm to consumers or businesses in general
- reputational harm to the NTS Estate Agency Team, NTS, or Powys County Council

NTS Estate Agency Team will also pursue Proceeds of Crime action where necessary, including confiscation and compensation orders against convicted individuals and civil recovery of proceeds of crime from unconvicted individuals.

6. Contact Us

The National Trading Standards Estate Agency Team, Powys County Council, The Gwalia, Llandrindod Wells, Powys, LD1 6AA.

Website: www.powys.gov.uk/estateagency

Email: estate.agency@powys.gov.uk

Admin tel: 01597 826031 (note: a message can be left for team members on this number)

James Munro
Team Leader
NTS Estate Agency Team