

B O R O U G H
STANDARD

BUSINESS NEWS FROM L B RICHMOND TRADING STANDARDS

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Welcome to this third edition of the Borough Standard, the newsheet produced by Trading Standards in the London Borough of Richmond exclusively for businesses in the London Borough of Richmond. This edition of the Standard is intended generally for all businesses in the borough, the last one was specifically for the licensed trade and future editions may be targeted at particular trade sectors.

In this edition you will find articles on the sale of age restricted goods, no-refund notices, credit advertising, distance selling, new laws on safety of consumer goods and much else besides. Please take the time to look through it, particularly any articles which are relevant to your business. If you want further information about anything in the newsheet or indeed any aspect of consumer/trader law then feel free to contact our duty line and we will be delighted to assist you.

Your Trading Standards Service

Trading Standards is a service which is responsive to the needs of consumers and traders. We want to provide the kind of service which is helpful to you and your business. We are currently revising our enforcement policy, that is, a series of guidelines for the actions we should take when traders break trading laws. Actions we take generally involve just advising you where you have gone wrong. But there are occasions when stronger action is needed, for example when someone has deliberately conned the public or where there have been persistent breaches.

Here we could go as far as taking criminal proceedings, although these are few and far between. You can see our current policy on our website, or upon request we will send you a copy. If you disagree with the current policy in any way, let us know and your views will be considered in the revised policy.

We are also in the process of producing our Service Plan for 2006/7. This is a work plan which lists our priorities and targets for 2006/7. In broad terms we will plan a programme of inspections of trade premises, will operate a consumer complaints investigation service, operate a business advice service and carry out a series of projects. Again our current plan is on our website. If you have a view as to what our priorities should be, then please let us know.

New Contact Number

Those of you who regularly contact us may have noticed a new telephone contact number shown below. This is to accommodate our new partnership arrangements with Consumer Direct who in future will take all enquiries from consumers (see below). Please take note of this number as the previous number is automatically re-routed to Consumer Direct.



David Smith, Trading Standards Manager

Charter Mark

Finally from me, I am pleased to announce that we have been awarded with our second Charter Mark. This quality award was achieved through independent, external assessment, and recognises the quality of service we supply to our customers; and that includes you!

We try to do things right, but we don't always succeed. If you have any complaint about us or have constructive comments about how we can provide you with a better service then let us know.

*David Smith
Head of Trading Standards*

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CONTACTS

Consumer Credit changes

The Consumer Credit Act 1974 covers most types of credit and hire agreements used by consumers to purchase goods and services. It aims to promote the principle of truth in lending by ensuring that credit adverts are accurate and that consumers are given adequate information about the agreements they are entering into.

Some of you may already know that these requirements exist, however, are you aware that they have been changed? New legislation relating to adverts came into effect on 31 October 2004, and revised rules relating to credit agreements, new pre-contract requirements and changes to early settlement calculations took effect from 31 May 2005.

If you want to know more about these changes there is comprehensive guidance on the Office of Fair Trading's website at www.of.gov.uk, but the following are key points to note about the new requirements:

Advertisements

- The Financial Services Authority regulates adverts relating to mortgages
- The name of the advertiser must be specified on all credit adverts
- The inclusion of certain "key" financial information triggers the requirement for other information to be included
- Where the "typical APR" is required to be shown, this should be the rate that applies to at least 66% of the advertiser's business
- "From" APRs can be quoted as long as the "To" one is included. If "From" and "To" APRs are quoted, the typical APR must also be shown.
- The "From" rate must be the lowest rate that applies to at least 10% of the advertiser's business. The "To" rate should reflect the highest APR on offer.
- Requirements relating to legibility, size and positioning of information which effectively prevents the use of "small print"

Pre-contract information

Before an agreement is made, the creditor must disclose core information detailing:

- the nature of the agreement
- parties to the agreement
- key financial information
- other financial information
- key information
- cancellation rights, duration of the agreement and consequences
- termination rights of either party
- early settlement rights, and examples of early settlement

Agreements

- Blocks of information have to be presented in a specified order, which encourages the consumer to read it
 - 1 nature of the agreement
 - 2 parties to the agreement
 - 3 key financial information
 - 4 other financial information
 - 5 key information - including protection & remedies
 - 6 signature box
- A signature for each product is required. For example if any Payment Protection Insurance is also financed by credit, then a separate signature should be provided.
- In certain circumstances where several products are being financed by credit it is necessary to have separate agreements for each one. It is not sufficient to document them all under one agreement (nb there are situations where this is allowed - seek clarification from Trading Standards)

Early Settlement

If an agreement was entered into after 31 May 2005 then a new formula applies when calculating the early settlement figure

Distance **SELLING**

More and more goods and services are being sold by “distance selling” methods such as sales by means of the world wide web. If you sell goods or services to consumers by any of the following means then you need to know about the Consumer Protection (Distance Selling) Regulations 2000.

- the internet
- digital television
- mail order, including catalogue shopping
- phone
- fax

The regulations say that you must:

- give consumers clear information including details of the goods or services offered, delivery arrangements and payment, your trading name and address and the consumer's cancellation rights before they buy
- you must also provide this information in writing
- refund the consumer in full if they choose to cancel the contract within seven working days following receipt of the goods or commencement of the service

There are exceptions to the regulations, so if you do sell by distance means, please contact us on **020 8487 5487** for further advice.



Is your **refund policy** legal?

Under the Sale of Goods Act 1979 (as amended) a customer may be entitled to a refund where goods sold are faulty, not as described, not of satisfactory quality or where the seller had no legal right to sell the goods. This right cannot be taken away and any attempt by a trader to exclude their liability, for example, by reference to an exclusion clause or similar notice will be void and therefore unenforceable.

Under the Consumer Transactions Restrictions on Statements Order 1976 it is also a criminal offence to display a notice which restricts a consumer's rights. For example:

- ◆ "No Refunds Given"
- ◆ "Goods can only be Exchanged"
- ◆ "Only credit notes will be given against faulty goods"

Notices describing customer transactions must not restrict the rights consumers have under the Sale of Goods Act 1979 and the Sale and Supply of Goods Act 1974. It is a common misconception that restrictive notices, such as those described in the example above, can be displayed if they are accompanied by a statement such as "Your statutory rights remain unaffected". This is incorrect as such notices remain illegal. We would therefore recommend that the best notice is no notice.

AGE RESTRICTED products



One of the most difficult areas of trading laws is that of age restricted products. The number of products that cannot be sold to children, the different age restrictions that apply and the difficulty in checking a persons age all add to the sellers' problems. Couple that with the prospect of committing criminal offences when it goes wrong and it begins to be a daunting problem. However help is at hand. Your problems will be eased by following the guide below.

1 Know what cannot be sold

The following is a table which shows you what products are age restricted and the relevant age restrictions

Restricted goods	Minimum Permitted Age
Alcohol	18
Cigarettes	16
Other tobacco products	16
Spray paint	16
Knives	16
Air weapons & crossbows	17
Solvents	18
Lottery tickets	16
Videos / DVDs / Computer Games	As stated on product (commonly 18, 15 or 12)
Fireworks	18
Liqueur chocolates	16

2 What does the law say?

There is no consistency in the actual legal requirements. Suffice to say that if you or any of your staff sell to anyone under the ages specified above then you, your manager and the member of staff who actually sold will have committed a criminal offence.

Generally there are legal defences but these require the person accused to show he/she has taken all reasonable precautions to avoid committing the offence and that he/she didn't know the purchaser was underage nor could reasonably have been expected to know.

3 What should I do to avoid breaking the law?

- Make sure everyone who serves customers is trained to know what the legal requirements are.

- Get the staff members to sign a form acknowledging they have received this training and understand what he cannot sell
- If possible arrange for a till prompt every time age restricted goods are scanned
- Use "refuse sale" books. This is a log to be completed each time a sale is refused on the grounds of age. This will enable you to identify individual staff members who are not refusing sales
- Introduce a policy of requiring proof of age whenever there is any doubt about a purchaser's age. In these cases, no proof – no sale! The only acceptable proof is a PASS proof of age card, a photo drivers license or a passport
- Put notices around displays of age restricted goods saying proof of age may be requested and underage sales will be refused
- If there's any doubt DO NOT SELL

Because this is a difficult area of law and because it is important you get this right we are offering free of charge a CD-rom called Age-check. This interactive CD has the following features:

- A guide to saying no
- Steps to avoid breaking the law
- Refusals record forms
- A synopsis of the law
- A summary of age limits
- Test your knowledge interactive quiz – ideal for training staff

The first 300 to request the CD will be sent free of charge Just phone **020 8487 5487**

Publishing and Marketing Scams

'Rogue' publishers can make huge sums of money by inducing businesses to pay for adverts in publications that do not exist or are not what they are led to believe. Although financial losses to individual businesses are not usually large, some of the tactics, particularly when chasing payments, often cause nuisance and on occasion, alarm or distress.

Typically a telesales team armed with telephone directories and other publications containing advertisements will target businesses and use deliberately misleading patter to sell advertising space in various types of publications – diaries, wall planners, yearbooks, crime prevention or drug awareness booklets etc. In reality some produce nothing at all and some may produce a few token copies of the supposed publication, these are not circulated in sufficient numbers, or in the right places to be of any practical benefit to the advertisers.

The following are methods often used that you and your employees should watch out for:

- Bogus invoices sent without any prior contact
- Falsely claiming to be from a publisher that you have used before
- Initial call asking for details of two people who could authorise an advert – then a second call to one of these leading them to believe that the other has provisionally authorised an advert which they then authorise without checking
- Contacting by phone or letter asking to place an advert in the next edition of a publication falsely claimed to have been used before.
- Falsely claiming a connection with a worthy cause or charity to give the supposed publication respectability or using a name similar to a legitimate charity

Similarly, the following are known marketing scams that you may or may not be aware of:

- Requests for payment for registration under the Data Protection Act (not from the Information Commissioner who is the responsible Authority)
- Bogus health and safety organisations requesting registration to run checks on your health and safety provisions
- Business listings in directories, electronic directories or on websites which appear to be free but have large charges hidden in the small print

- Business rate-reduction firms whose fees outweigh any benefits achieved through a successful appeal
- “unfulfilled” orders for business stationery, where the trader claims some items weren't supplied as part of a legitimate order. These are supplied (without an invoice), used by the business and then invoiced for at a later date

What you can do to avoid being duped

- Only agree to place an advert over the phone if you are certain you know who you are dealing with
- Ask for written details/copies of terms and conditions before placing an order
- Keep a note of details of telephone calls - time, date, name of caller, company details, contact number etc
- Be wary if the initial caller transfers you to someone else
- If it is claimed a definite order has been made during a phone call request a copy of any recording made
- If a demand for payment is made for something you believe you haven't ordered, refute in writing and keep a copy of your letter
- Remember that a Trader can't seize goods or belongings to pay any alleged debt without a County Court order, for which there has to be a hearing, where you are entitled to attend and defend yourself
- Similarly, if you are a limited company and are threatened with insolvency proceedings. It would have to be proven that you owe the money before a court can make a decision against you and you would be given the opportunity to defend yourselves

If you are unsure whether you are being or have been conned, call our duty line on **020 8487 5487**. We may be able to help and could prevent someone else becoming a victim.

COWBOYS **NEED NOT** APPLY

If you are a builder, electrician, roofer, heating engineer or other tradesperson providing home improvements or repairs then you must be concerned about cowboys operating and competing against you. These individuals, who want to make a fast buck, give the whole industry a bad name.

Now there's a new scheme "TrustMark" supported by government, the building industry and consumer groups which will help distinguish the honest reputable trader from the cowboy. Through a hotline or website consumers will be able to easily find TrustMark-registered firms whose



businesses meet a range of minimum standards, including technical skills, quality of work, financial strength and customer care practices.

So How do I Join?

To become TrustMark registered you need to be accepted by one of the approved scheme operators. If you are a member of a trade association this could be the association, if not, there are other scheme operators available to help. The scheme operator will carry out checks to ensure you reach the standards required.

For more information visit the TrustMark website at www.trustmark.org.uk or call 0870 163 7373

New Law to Improve Consumer Safety

The law which requires that only safe products are supplied, has been revised to improve public safety.

Trading Standards Officers now have the power to recall dangerous goods.

Although the majority of British producers act quickly to recall products when necessary, such action used to only be voluntary and a small number of rogue companies still put consumers at risk by not acting responsibly.

The new General Product Safety Regulations build upon this voluntary action by giving the new powers to order product recalls as a last resort.

A safe product is defined as one that under foreseeable use presents no, or minimal risk to the user. This is achieved by, for example:

- manufacturing the product to published safety standards;
- providing adequate instructions for assembly, maintenance, use and disposal;
- labelling and other information;
- assessing the categories of consumers at risk when using the products, particularly children and the elderly.

Of course where a product is already subject to specific safety regulations such as toys and electrical goods then those Regulations will still apply. However; the new powers contained in the General Product Safety Regulations are extended to those products as well.

Other important changes introduced by the regulations include extending coverage for:

- products used by consumers in the course of a service such as gym equipment;
- products intended for professionals but which find their way to the consumer market;
- banning the export of dangerous goods.

Some Useful websites...

www.askcedric.org.uk a one-stop web site for Trading Standards business related information

www.lawsociety.org.uk runs a network of solicitor firms called Lawyers for your business which offer specialist advice to small and medium sized businesses

www.businesslink.gov.uk which provides advice and information about a range of issues relevant to running your business

www.offt.gov.uk provides access to business information provided by the Office of Fair Trading

www.dti.gov.uk provides access to regulatory guidance devised by the Department of Trade and Industry

www.opsi.gov.uk which provides online access to UK legislation

New **Fireworks** Rules

Changes to the way in which fireworks can be sold and possessed have been in force now for over a year.

The sale of 'air bombs' is now prohibited along with category 3 fireworks with a sound level exceeding 120 decibels.

Sellers of fireworks must display a notice no less than 400 mm by 300 mm with letters no less than 16 mm high stating:

"It is illegal to sell adult fireworks to anyone under the age of eighteen and it is illegal for anyone under eighteen to possess adult fireworks in a public place".

Restrictions have also been brought in concerning when fireworks can be let off; it is now illegal to use fireworks between 11pm and 7am except as follows:

November 5th - Fireworks can be let off up to midnight

Diwali, New Years Eve and **Chinese New Year** - Fireworks can be let off up to 1am the following morning

People under the age of 18 are banned from possession of fireworks in a public place and the general public are banned from possession of category 4 (professional) fireworks.

Further changes were introduced in 2005 limiting the sale of fireworks to certain periods. Without a special licence fireworks can only be sold:

- three days before Chinese New Year and Diwali and the days themselves;
- from the 26th December to the 31st December;
- from the 15th October until the 10th November.



Trading Standards Officers are responsible for enforcing the provisions relating to the sale of fireworks whereas the Police are responsible for the enforcement of the provisions aimed at combating anti-social behaviour.

New laws are also in force updating how fireworks can be stored. For further information and advice please call the Trading Standards Duty Officer on **020 8487 5487**.

Consumer Direct

We know that all Richmond Borough traders want to do the right thing by their customers, but with the best will in the world disputes sometimes arise. A new London-wide contact centre has now been: Industry, Trading Standards Services and the Office of Fair Trading. Consumer Direct aims to offer clear unbiased advice to consumers on their rights and obligations when buying goods and services. To speak to a Consumer Direct Adviser, your customers can call **08454 04 05 06**. Remember this service is provided for consumers. If you as a trader want advice you can call our duty officer on **020 8487 5487**.

If you would like a copy of this newsletter in Braille, large print, on audio tape, or in a community language, please contact Trading Standards on 020 8487 5487