

Primary Authority

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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 trading-standards legislation. These matters are dealt with and enforced by your local authority.

Primary Authority has been developed to assist businesses. Local authority trading standards services enforce a wide range of legislation, which businesses and industry must comply with.

The scheme allows businesses and trade associations to form a legally recognised partnership with one or more local authorities - the 'Primary Authority' - in order to receive tailored support in relation to one or more specific areas of law.

A business can select any local authority it wishes to become its Primary Authority. If, for example, the work a business is involved in covers many areas of legislation and/or it has numerous outlets with a multi-million pound turnover, the business can ask more than one authority to cover different aspects of law as the workload may be deemed too great for one authority to handle.

Conversely, a relatively small business may wish one authority to cover all of its legal needs.

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 their goods and services. The Primary Authority works closely with the business to fully understand how the business operates and to understand its individual needs.

Primary Authority advice

With a dedicated team, a Primary Authority agreement 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 the resources they devote to compliance are recognised throughout the country. Advice provided by the Primary Authority carries legal weight and must be interpreted in the same way by other regulators when dealing with your business.

Single point of contact

The Primary Authority often offers a dedicated officer and team as the first point of contact for other regulators, allowing the business to devote more of their time and attention to their day to day obligations.

Promotes business

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 give tailored advice on any matter relating to the category of legislation covered by the agreement. This could include:

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

Inspection plans can also be developed and rolled out across the business to improve the effectiveness of regulatory inspections whilst minimising disruption, preventing any breaches of the law and avoiding the need for frequent checks by local 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 do not only cover areas enforced by trading standards services. Please note, however, that not all authorities will cover the full range of legislation listed below:

- age-restricted products
- agricultural produce
- animal health and welfare
- animal feed
- consumer protection
- environmental protection
- fire
- food hygiene and standards
- general licensing
- housing
- petrol storage
- pollution control
- product safety
- public health and safety
- road traffic
- weights and measures

For an idea of the costs involved the Hampshire County Council guidance includes details of an hourly rate and set-up fee, as well as other information for businesses that are considering signing up for the scheme.

Legal action

Primary Authority agreements will not prevent any legal action where advice and guidance has not been followed, or actually ignored. However, if any problems do occur other local authorities must liaise with the Primary Authority before any legal action can be taken. If a business has followed the advice of its Primary Authority it is unlikely that legal action will be 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 charity that is regulated 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 then 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

Essentially this is straightforward. 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 business details and the partnership formed will then be 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 held and maintained by OPSS. The Primary Authority Register 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

If your business has premises in, for example, both England and Scotland the Primary Authority system is not so straightforward. The reason for this is that there are certain legislative areas that a Primary Authority based in England is not permitted to deal with in Scotland (there are legislative areas that they do have authority to deal with, just not all of them).

When enquiring about setting up a Primary Authority partnership, if necessary, ask the authority for more detail on this issue.

Further information

OPSS has produced a *Primary Authority Overview*, which provides background information on the scheme.

Key legislation

Regulatory Enforcement and Sanctions Act 2008

Enterprise and Regulatory Reform Act 2013

Enterprise Act 2016

Co-ordination of Regulatory Enforcement Regulations 2017

Last reviewed / updated: April 2021

In this update

General detail added

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 may only show 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 amendments to legislation can be found on each link's 'More Resources' tab.

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