

## **Trading Standards Primary Authority**

### **Introduction. Trading Standards**

**“Our vision is to protect consumers and safeguard businesses through cross-boundary intelligence-led enforcement projects in England and Wales”.**

In the United Kingdom, **Trading Standards** are the local authority departments, formerly known as *Weights and Measures*, that enforce consumer protection legislation.

Sometimes, the Trading Standards enforcement functions of a local authority are performed by part of a larger department which enforces a wide range of other legislation: environmental health, health and safety, licensing and so on. These departments investigate commercial organisations that trade outside the law or in unethical ways. They attempt to remedy breaches by advice or by formal enforcement action.

Trading Standards services also offer Primary Authority Partnerships whereby a business can form a legal partnership with a regulator in order to obtain assured advice and support with compliance.

**Primary Authority** enables businesses to form a legal **partnership** with one local **authority**, which then provides assured and tailored advice on complying with environmental health, trading standards or fire safety regulations that other local regulators must respect. All businesses can now benefit from **Primary Authority**.

WVSG is entering into a Primary Authority Partnership with Trading Standards in order to obtain definitive Assured Advice on compliance with Consumer Law to ensure its Members Wedding Contracts are legal and fair. Once granted, Assured Advice protects businesses that adhere to it from enforcement action, provides definitive guidance on fair terms, frustration, cancellation and retention of Just Costs. This will provide authoritative clarity to both Consumers and Suppliers, removing much of the current controversial uncertainty surrounding refunds arising from cancellation of wedding contracts by both Frustration and customer volition.

What follows outlines the principles involved and the roles of the Primary Authority in partnership with Trade Association like WVSG acting as a Co-ordinator for its Members

### **Primary Authority: a guide for trade associations (TAs)**

A guide for trade associations (such as WVSG) and other organisations that help groups of businesses manage their regulatory activity as a co-ordinator.

### **Benefits of TA membership when Trade Association (WVSG) is a Coordinator**

- As a co-ordinator, WVSG can form a legal partnership with a local authority (known as the Primary Authority) to provide advice on trading standards, environmental health and fire safety legislation that is tailored to the needs of your member group of businesses. Enforcing authorities should respect this advice when regulating your member businesses.
- **By participating in Primary Authority Partnership a co-ordinator can make membership of your organisation (WVSG) more beneficial because it reduces the risk of contravening legislation. Provided that WVSG Members follow the advice they are given, they can be confident that they are complying with the law**
- Primary Authority is open to any group of businesses that have a co-ordinator to manage their relationship with the primary authority. **Co-ordinators are often trade associations like WVSG**
- WVSG's role as a co-ordinator will include:

- a.) liaising with the primary authority about Primary Authority Advice and any inspection plan and **disseminating this to Member businesses that opt in**
- b.) maintaining an up-to-date list of WVSG Members who opt in to the Assured Advice and ensuring that this is available to enforcement officers who request it. Members may opt out if they do not wish to trade under the Assured Advice provided to WVSG by the Primary Authority

**As co-ordinator, WVSG will have effective two-way communication between the Primary Authority and with our Member businesses to:**

- Enable the Primary Authority to understand the regulatory challenges faced by the businesses and their need for advice and co-ordination of inspection activity
- as a co-ordinator, WVSG will help your primary authority understand the regulatory needs and working practices of our Members. This will help them create Primary Authority Advice that's right for us.
- and ensure that our Members are aware that they have a co-ordinated primary authority and what that means.

**Primary Authority Advice**

- **The Primary Authority will provide Primary Authority Advice** that's tailored to the needs of WVSG Member businesses. Enforcing authorities must respect this advice when regulating WVSG members who opt in and trade applying the Assured Advice
- **Primary Authority Advice can help WVSG Members understand:**
  - a.) how legal requirements apply to them
  - b.) how they can achieve compliance
  - c.) whether the controls they have in place are acceptable
- **Primary Authority Advice is Assured which means that provided WVSG Members who opt in follow it, they should be protected against the risk of enforcement** action from authorities that have different views on what they should be doing to achieve compliance.

**Inspection plans**

- The Primary Authority can provide WVSG with an inspection plan that can be used for some or all of the WVSG Members. An inspection plan sets out how enforcing officers from any local authority should undertake inspection activity at our Member businesses.
- Enforcing officers should check the [Primary Authority Register](#) to see whether an inspection plan exists for your member businesses before they visit.
- If the Primary Authority decides to create an inspection plan for the businesses, **it must be approved by the Secretary of State** before being made available to enforcing officers via the Primary Authority Register. The Primary Authority will also consult supporting regulators where necessary.
- WVSG will discuss with our Primary Authority whether an inspection plan might be appropriate for our Member businesses and how it could be used.

**Enforcement action**

- Provided that WVSG Members businesses who opt in follow the Primary Authority Advice WVSG has given them, they shouldn't face enforcement action from an authority that has a different view on whether compliance is being achieved.

- An enforcing authority has to notify your Primary Authority if it intends to take enforcement action against a WVSG Member's business. Our Primary Authority can block the enforcement action if it conflicts with Primary Authority Advice that has been given. There are some limited exemptions - for example where urgent action is required.

**Establishing a Primary Authority Partnership** . This is the journey WVSG has embarked upon

**Step 1 – Choose the areas of regulation** in which you would like the support of a primary authority  
Primary Authority covers the following areas of regulation:

- **environmental health**
- **trading standards**
- fire safety

**Step 2 – Find potential partners** It's up to you which primary authority you choose to partner with. You could choose a partner that's located near your headquarters, or that you already have a good working relationship with, or that specialises in regulatory areas of interest to your members

**Step 3 – Agree the scope of the relationship and how it will be managed.** Once you have identified a prospective partner, it's important to be clear about what your group of members need from the relationship. Make sure that you discuss the following:

- what kind of relationship you have with the businesses in your group
- what you expect to get out of the partnership
- what the objectives are, and how both parties will work together to achieve them
- which regulatory areas you need the partnership to cover
- how you'll communicate with your primary authority
- how you will meet your responsibilities as a co-ordinator
- how regularly you intend to meet with one another and whether these meetings need to be formal or informal
- whether you need an inspection plan to cover the businesses in your group, and what kind of Primary Authority Advice they will need
- whether any supporting regulator should be consulted, for example the Health and Safety Executive and Food Standards Agency
- who the main contacts will be for both parties
- whether you have member businesses which trade in more than one nation of the UK
- how the costs will be structured, and what the overall cost will be
- the Primary Authority [terms and conditions](#)

This discussion will inform your summary of partnership arrangements, which is an agreement covering how you and your primary authority intend to run the partnership.

**Step 4 – Agree costs and payment terms**

**Timetable.**

1. WVSG has applied to a willing Primary Authority to form a Primary Authority Partnership as a Co-ordinator for WVSG Members
2. The Partners will now embark on the relationship as set out in Step 3 ahead. The Partners anticipate this will take about 8 weeks and the aim is to formulate Assured Advice for WVSG Member businesses which opt in
3. In parallel approval for the PAP and Inspection Plan will be submitted to the Secretary of State at BEIS, as required, for approval. The timeframe for approval under normal circumstances is also about 8 weeks.

4. The target is to evolve Assured Advice and obtain SoS approval for the PAP and Inspection Plan by June 1<sup>st</sup> 2021.