



**CODE OF PRACTICE**  
**GUIDANCE DOCUMENT**

# **Rochdale Fair Trading Scheme (“FTS”)**

## **Code of Practice - Guidance Document**

### **Introduction**

This document is intended to provide guidance to those businesses who wish to apply for approval to the Rochdale Fair Trading Scheme (“FTS”) and to current Members of the Scheme to allow them to ensure compliance.

The guidance, for new and current members, sets out the objectives of the FTS, the criteria for membership together with full details of the application process, and provides information to current members with regards to customer complaints and general complaints procedures together with the conciliation and appeals processes.

### **Objective of the Scheme**

The FTS aims to establish a trading environment of a high standard which stimulates confidence in Rochdale businesses. It adopts a Code of Practice by which all Members agree to abide, setting out commitments of both Members and the Rochdale Council Trading Standards Service. This Guidance Document must be read in conjunction with the FTS Code of Practice.

Any organisations seeking Membership of the FTS will be required to satisfy the criteria for Membership. Members will also be required to demonstrate that they can maintain the standards set out in the Code of Practice by adopting adequate pre sales and after sales customer service procedures together with an approved method of dealing with disputes and complaints.

Section 2 of the Code of Practice, outlining definitions also apply to this document. This document also contains comprehensive, explanatory guidance notes in relation to the following :-

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## **1. MEMBERSHIP STATUS**

### **Provisional Membership**

Where an applicant satisfies all essential criteria but fails to satisfy all of the desirables, the Trading Standards Service may, at their discretion, grant provisional membership. The Member should meet both the essential and desirable criteria before the expiration of the initial subscription period whereupon full membership may be granted.

Provisional Membership may be extended when renewal of subscription falls due strictly at the discretion of 'the Service'.

### **Full Membership**

Where an applicant satisfies all essential criteria and all the desirable criteria, and is successful in completing the application process, the applicant will be granted full Membership.

### **Membership Directory**

On attaining provisional or full Membership, member businesses will be incorporated in the Directory of Scheme Members available to Consumers. The directory will identify whether a Member has attained provisional or full Membership and consumers will receive an explanation distinguishing between provisional and full membership.

The Membership Directory will be broken down into trade categories. Members who attain provisional or full membership will be permitted to request under which category they appear in the directory. Members may be permitted to appear in more than one category.

## **2. ASSESSMENT CRITERIA**

Applicants must provide evidence that they satisfy the criteria listed in this section. Where all criteria is not evidenced on the application form, the application will be considered where the majority of the criteria is met. This will be subject to clarification by 'the Service' and/or agreement of the Member to comply with instructions as directed by 'the Service' within a specified timescale.

Businesses applying for Membership to the Rochdale Fair Trading Scheme must demonstrate that they:-

- (essential)** have at least one permanent and fixed business premise within the boundaries of Rochdale Council.
- (essential)** have no current or previous affiliation or history with a business who would not satisfy this 'Assessment Criteria';
- (essential)** have no outstanding judgements on the County Court Register of Judgement Debtors;
- (essential)** do not have an applicant or another person having control over the operation of the business, whether directly or indirectly, who has been convicted of or formally cautioned for an offence involving : -
  - fraud or dishonesty
  - breach of trading standards legislation
- (essential)** have no ongoing criminal investigations or pending prosecutions. Where this is the case, determination of an application will be deferred until the outcome of the investigation or prosecution.
- (essential)** have no criminal convictions or formal cautions for a period of at least 2 years immediately prior to the application being made.
- (essential)** agree to provide any information reasonably requested by Trading Standards during assessment process.

- (essential)** agree to participate in any relevant initiatives and/or best practice schemes i.e. Validate (under age sales), Good Guy Scheme (fireworks) etc.
- (essential)** have no history of justified civil complaints, which in the opinion of the Trading Standards Service, by the frequency and/or seriousness, would indicate that the applicant is not fit to participate in this scheme.
- (desirable) have an appropriate scheme for training to ensure that all staff have a suitable working knowledge of both criminal and civil law relevant to their role in the business.
- (desirable) have an appropriate customer complaints procedure.
- (desirable) are able to satisfy that they have been trading continuously for a period of not less than 2 years under current ownership;
- (desirable) satisfy any other reasonable term imposed by 'the Service'

### **3. APPLICATION PROCESS**

1. Application Packs containing details of the Code of Practice and the Code of Practice Guidance Document are available from 'the Service'.
2. Applicants will be required to complete an Application Form, which will be supplied with the application pack, by Rochdale Council Trading Standards Service.
3. Where applications are relating to applicants with more than one business premise, the procedures are common to each, and it is not necessary to complete separate applications for each business premise. However, each separate trading outlet must be identified in the application by name and full postal address.
4. Application forms should be completed detailing in full the applicants 'Nominated Member Representative's' name, job title, contact address and telephone number.
5. Applicants must provide sufficient information so to allow verification of eligibility for membership and must sign the declaration. Sufficient information MUST include the full name and address of all personnel with a controlling influence within the business.
6. Application Forms that fail to provide sufficient information or where the declaration is not signed will be returned to the Applicant.
7. Applicants should indicate in full details of membership with any recognised body that independently audit against a quality standard.
8. All applications for Membership will be acknowledged promptly.
9. On receipt of an Application for Membership Rochdale Trading Standards Service will conduct a desk top assessment which will consist of a systematic comparison of the information on the application form against the 'Assessment Criteria'.
10. If the 'Assessment Criteria' is satisfied then the Trading Standards Service consider the information provided on the application form and will conduct a number of investigations which may include, but is not exclusive : -
  - request a search with the County Court Register of Judgements Debtors;
  - consider the complaints history of the applicant. This will include, but is not exclusive, contact with neighbouring local authority Trading Standards Departments, Environmental Health Departments and any other relevant departments.
  - verify membership and check the complaints history with any trade association with whom applicants have membership or have had membership.
  - arrange a preliminary audit visit to the applicant where appropriate.

11. The purpose of the preliminary visit is to review the information provided on the application forms and seek objective evidence of implementation of necessary procedures/documents. The Officers attending may also wish to seek evidence of effective systems by inspecting documents, observation or discussion with members of staff and may request to see other relevant information.
12. Applicants will be notified within a reasonable period whether provisional approval is granted or has been rejected. This period will not exceed 28 days.
13. Where an Application for Membership is rejected 'the Service' will provide the reasons for rejection with the notification.
14. Where an Application for Membership is rejected, the applicant may make representations to 'the Service' for the application to be re-considered.
15. Where rejection of an Application for Membership is maintained the decision of 'the Service' is final.

#### **4. SCHEME LITERATURE, STATIONARY AND LOGOS**

Where an application for Membership is successful, the Member will be issued with : -

- a Certificate of Membership;
- 50 Rochdale Fair Trading Scheme information leaflets
- Complaint Forms
- Scheme Logo - (electronically, CD or floppy disc)

Additional stationary & literature is available on request from Rochdale Trading Standards for a small charge.

#### **5. DISPUTE RESOLUTION**

##### **5(i) COMPLAINTS PROCESS**

A complaint under this section is a complaint made by a consumer or member which directly arises from a contract made between the Member of the Scheme and the consumer, and is a request for service seeking guidance or advice on consumer rights or Member obligations, or on legal issues generally relating to the contract.

'The Service' recognises that where such a request for service is made at a very early stage, guidance or advice is given **solely** on the basis of the information provided by the party requesting 'the Service'. The guidance and advice provided by 'the Service' may be modified if further information or evidence is made available.

'The Service' will, at all times, remain impartial and independent when dealing with a request for service whether dealing with the Member or the Consumer.

Where such advice and information does not resolve the complaint, and a dispute arises, then such disputes should be dealt with in accordance with the Members approved complaints procedure, and in any event, should incorporate the following: -

1. Wherever possible, the 'Nominated Member Representative' within the Member organisation should deal with all consumer complaints;
2. When a complaint is received by 'the Service', details will be recorded and the Consumer referred to the Member for the complaint to be resolved directly with the Consumer, if this has not already been undertaken.
3. The Member, when dealing with complaints, will ensure that they : -

- deal with the complaint politely and courteously.
  - deal with the complaint promptly and efficiently.
  - obtain full details of the complaint on the FTS Complaint Form and ensure a copy is provided to 'the Service' and a copy retained and filed by the Member.
  - ensure that a copy of the FTS Information Leaflet is provided to the Consumer;
  - seek the advice of 'the Service' when they are unclear as to their statutory obligations or the rights of a Consumer
4. Where no resolution can be reached the Member will refer the Consumer to the Service for further advice.
  5. With the agreement of all parties 'the Service' will take details of the complaint and provide advice to the Member and the Customer to assist in resolving the complaint through negotiation and mediation.
  6. Where a Complaint is not resolved after advice and negotiation, the Member or the Customer may refer the complaint to 'the Service' for Conciliation as detailed in s. 5(iii) of this Document.
  7. It should be noted however that 'the Service' will instruct that in the first instance the parties should seek in good faith to resolve any dispute by negotiation without recourse to the 'Conciliation Process'. Where no attempts to resolve a dispute by negotiation have taken place, or where no guidance or advice has been sought from 'the Service', the dispute will not be eligible for conciliation under the 'Conciliation Process'.

#### **5(ii) MISCELLANEOUS COMPLAINTS**

1. Miscellaneous complaints are complaints other than those which fall under section 5 (i) regarding a FTS Member. Complaints, for example, may relate to conduct and/or compliance with the spirit and letter of the Schemes Code of Practice and Guidance Document, or any other matter relating to the Member of Scheme or the Scheme generally.
2. Such miscellaneous complaints may be submitted to 'the Service' by a consumer, a Member or any other organisation using a Complaint Form.
3. 'The Service' will consider the complaint and may seek further information from the parties sufficient to investigate the complaint fully.
4. In the first instance details of the complaint may be considered and where appropriate submitted to the relevant party for comments.
5. Where a Miscellaneous Complaint relates to a Members conduct, compliance or any other matter relating to the Scheme's Code or Guidance then 'the Service' may reconsider the status of Membership and may issue one of the following : -
  - A 'Conditions Notice' containing specific instructions to the Member required for Membership to continue. The decision of 'the Service' is final.
  - A 'Written Warning' breach of which may result in further consideration of the status of Membership including consideration of revocation of Membership. The decision of 'the Service' is final.
  - A Notice of Revocation of Membership.
6. Where a Notice of Revocation of Membership is issued by 'the Service', a Member may submit an application for appeal to the 'Appeals Panel'. There is a charge for Appeals.
7. Where a Miscellaneous Complaint relates to 'the Service', whether conduct or any other matter relating to Scheme or service provided, such complaints will be referred to Rochdale Council Corporate Complaints procedure.

### 5(iii) CONCILIATION PROCESS

The conciliation service is only available where a dispute arises with a business that is a Member of FTS.

A dispute can be defined as any complaint arising out of or in connection with the Member(s) and those parties contracting with them in the course of their business which cannot be resolved in accordance with the Complaints Procedure as detailed in section 5(i) of this Guidance Document.

The conciliation process is based on the fact that rights and obligations exist between the parties. The Conciliator will be active to ensure that the issues are addressed, be active in suggesting ways which the parties might meet their obligations and be clear whether the proposed solution would uphold the rights of all parties.

Full instructions with regards to this Conciliation Process will be provided to all parties on receipt of a request for conciliation.

1. All parties are encouraged by 'the Service' to seek advice on their consumer rights or statutory obligations from the Consumer Advice Service at Rochdale Trading Standards. Where no attempts to resolve a dispute by negotiation have taken place, or where no guidance or advice has been sought from 'the Service', the dispute will not be eligible for conciliation under this 'Conciliation Process'.
2. All parties must sign an Agreement for the dispute to be referred to the Conciliation Process.
3. The representatives of the parties must have the necessary authority to settle the dispute by way of Conciliation.
4. 'The Service' will appoint a Conciliator by agreement with the parties. If the parties are unable to agree, 'the Service' will appoint a conciliator on behalf of the parties.
5. The parties will be required to file a statement detailing the circumstances of the complaint, the issues in dispute and full details of their desired outcome.
6. After all parties have filed a statement with the Conciliator, he/she will determine the procedure for the conciliation and notify the parties accordingly. The conciliator may deal with the procedure for conciliation purely on the basis of the statements and/or evidence provided by the parties or by a Conciliation Meeting of the parties.
7. Where any party expressly desire a Conciliation Meeting, the party must write to the Conciliator providing full reasons for the request. The conciliator will consider the request and confirm the procedure for conciliation to all parties.
8. Where the conciliation is dealt with purely on the basis of statements provided by the parties, the Conciliator will consider the evidence and will make a decision. The conciliator may request further information from the parties where he/she deems it necessary.
9. The decision of the Conciliator will be notified to the parties within 28 days.
10. Where the Conciliation is dealt with at a Conciliation Meeting, the Conciliator will conduct the meeting. Each party must accord with the instructions of the Conciliator who will ensure that they have an opportunity to present their case.
11. The Conciliator will endeavour in every instance to make a decision at the hearing, but may defer his/her decision if deemed necessary.
12. Where a decision is made at meeting the parties will be notified verbally at the meeting and confirmed in writing within 28 days. Where a decision is deferred the decision of the Conciliator will be notified within 28 days.
13. Where a complaint is decided by means of the 'Conciliation Process' and/or the 'Appeals Panel' if a decision is not to the satisfaction of the Consumer, 'the Service' cannot support any other means of formal action against the Member and will merely provide information of other methods of pursuing redress.

## **5(iv) APPEALS PROCESS**

The Appeals Process is available:

- a) where a dispute arises between a business that is a Member of FTS and a Consumer which cannot be resolved by negotiation or mediation by 'the service' as detailed in s. 5(i) or by the 'Conciliation Process' as set out in s.5(iii)
- b) to Members who wish to appeal a decision made by 'the Service'.

The Appeals Panel will consist of three independent members selected from a panel of independent personnel. Full instructions with regards to this Appeals Process will be provided to all parties on the lodging of an application for appeal.

1. Application to lodge an Appeal should be submitted to the service in writing on the 'Application to Appeal Form' setting out, in full, details of the reasons for lodging an appeal.
2. Written applications to lodge an Appeal should be submitted to 'the Service' with the appropriate fee. Applications received without the fee will be returned to the applicant.
3. All applications will be submitted to a panel of adjudicators for consideration.
4. After consideration of the Appeal documentation, the panel will schedule an 'Appeals Conference'.
5. A Senior Officer of the service will attend the Appeals Conference to act solely as a Clerk to advise the 'Appeals Panel' on matters of law where necessary or requested..
6. After hearing all representations of the parties concerned the 'Appeals Panel' will adjudicate on the appeal and advise all parties of the decision.
5. The decision of the Appeals Panel will be final.

## **6. CONTACT LIST AND TELEPHONE NUMBERS**

**Civil Advice, Consumer Advice Enquiries, Business, Enforcement Advice**

Tel: 01706 864186

### **Scheme Enquiries**

For any queries relating to the Rochdale Fair Trading Scheme, or Membership enquiries, contact : -

**Trading standards, PO Box 32, Telegraph House, Baillie Street, Rochdale, OL16 1JH**