

Primary Authority determination summary

Date of determination: 23 March 2020

Applicant (enforcing authority): Wiltshire Council (Wiltshire)

Primary Authority: Cambridgeshire and Peterborough Trading Standards (Cambridgeshire)

Business: Westland Horticulture Limited (Westland)

Summary

Wiltshire proposed enforcement action against Westland in relation to misleading volume labelling on its multipurpose compost contrary to the Consumer Protection from Unfair Trading Regulations 2008 (“CPUTR”).

Cambridgeshire blocked the enforcement action on the basis that it considered it to be inconsistent with Primary Authority Advice provided to Westland.

Wiltshire disagreed with the direction from Cambridgeshire not to take the proposed enforcement action and subsequently made an application to the Secretary of State (SoS) for consent to reference for a determination by the SoS.

The SoS granted the reference and determined on 23 March 2020 that the proposed enforcement action was not inconsistent with the Primary Authority Advice. The SoS revoked Cambridgeshire’s direction for Wiltshire not to take the enforcement action.

Background

Cambridgeshire issued Primary Authority Advice to Westland which concerned Westland’s compliance with the Weights and Measures Act 1985 (“WMA”) and was directed to the declared volume at the point of packing. The Primary Authority Advice does not address compliance with volume statements on packaging in relation to volume at outturn, which is the subject of Wiltshire’s proposed enforcement action.

Decision

The SoS found that the proposed enforcement action was not inconsistent with the Primary Authority Advice, as:

- (i) The proposed enforcement action concerns non-compliance with the CPUTR in relation to misleading statements as to volume at outturn. There is no Primary Authority Advice relating to such statements as the Primary Authority Advice was directed to the accuracy of the volume declaration at the point of packing. The proposed enforcement action concerns non-compliance with the CPUTR in relation to misleading statements as to the volume at outturn and not at the point of packing.

Wiltshire’s application was therefore allowed and the direction of the Primary Authority not to enforce was revoked in accordance with RESA section 25C(4).