



## Horticultural Marketing Inspectorate Enforcement Policy

This document sets out how the Horticultural Marketing Inspectorate (HMI) supports the fresh produce industry to meet the requirements of the EU marketing standards for fresh fruit and vegetables.

HMI works with the fresh produce industry to:

- make sure they understand their legal responsibility to meet the EU marketing standards for fresh fruit and vegetables (marketing rules)
- encourage them to market accurately labelled and acceptable quality produce
- help develop and support business growth across the fresh produce industry.

Where HMI finds that a business does not meet the marketing rules, they work with the business to help them make the necessary improvements. This can range from giving advice and guidance through to taking legal action to prosecute the business. This document sets out how HMI does this.

### Risk and support

HMI inspectors are based at all main points in the marketing chain to inspect regulated fresh produce. How often a business receives a visit and the level of advice and guidance given to them can vary for several reasons (known as 'risk'). For example, the size of the business, how well the business is meeting the marketing rules, and the date of the previous visit.

HMI uses this to work out which of 3 levels of support (green, amber or red) a business needs - explained in the following table.

This means that if a business generally meets the marketing rules, they will receive fewer visits and be considered by HMI to be in green status. Or, where a business does not meet the marketing rules, they will receive more visits and be considered by HMI to be in either amber status or red status. In both amber or red status, HMI continues to work with and encourage the business to make the necessary improvements.

A business can be moved between green, amber and red status, depending on how well they are meeting the marketing rules or the level of improvement they make.

The green, amber and red ('traffic light') levels of support indicate the level of risk of the business not meeting the marketing rules.

Status	Activity
Green	<ul style="list-style-type: none"> <li>• Business is generally meeting the marketing rules</li> <li>• HMI gives advice and guidance</li> <li>• Business works with HMI to implement the advice and guidance.</li> </ul>
Amber	<ul style="list-style-type: none"> <li>• Business is not meeting the marketing rules</li> <li>• Business receives an increased number of visits</li> <li>• HMI gives guidance on quality and labelling to help encourage a change in the business's behaviour and works with the business to meet the marketing rules</li> <li>• Business must officially agree to take action to meet the marketing rules. This can be done either verbally with HMI or by filling in 'an undertaking' (on the relevant HCG forms) – it is an offence if a business does not carry out an undertaking.</li> </ul>
Red	<ul style="list-style-type: none"> <li>• Business does not take the agreed action to meet the marketing rules in the amber status</li> <li>• Business seriously fails to meet the marketing rules and enters into the red status direct</li> <li>• HMI can consider taking legal action against a business – and visits may involve collecting evidence to support possible legal action. In this status, in most cases a business will have previously received written warnings and will have been given every opportunity to improve</li> <li>• Legal action can be avoided at this status if a business takes immediate action to meet the marketing rules.</li> </ul>

Red status has the highest level of risk of the business not meeting the marketing rules. At this point, HMI can consider taking legal action against a business.

HMI will work with a business to explain the areas they must improve by giving advice, guidance, instruction and both verbal and written warnings. If the business does not make the necessary improvements then HMI will consider taking legal action against them.

Legal action is only considered as a last resort.

### **Why HMI takes legal action**

A business that does not meet the rules can gain an unfair commercial advantage over other similar businesses. Taking legal action to ensure the rules are met correctly, protects businesses that commit the time, effort, resource and expense to provide the consumer with accurately labelled and acceptable quality fresh fruit and vegetables.

Any legal action led by HMI is submitted and scrutinised by the Crown Prosecution Service (CPS), and has to meet their 'public interest' evidence tests explained in [The Code for Crown Prosecutors](#).

HMI's enforcement policy is guided by the [Defra Enforcement Policy Statement](#) and the [Regulators' Code](#).

### **Publication of court's decision**

To help support the fresh produce industry and improve standards within it, Defra Communications/RPA Media Team publishes on GOV.UK the decisions of court cases. These details may also be published by local, national or trade press.