

LONDON BOROUGHS OF BRENT AND HARROW

TRADING STANDARDS ADVISORY BOARD – 1st December 2008

REPORT NO. 03/08 FROM THE DIRECTOR OF TRADING STANDARDS

FOR INFORMATION

TITLE OF REPORT: TRADING STANDARDS BUDGET FOR 2009/2010

1.0 SUMMARY

1.1 This report provides Members with information concerning the Trading Standards budget required for 2009/2010 which will enable Members to make recommendations to the main Committee in each borough.

2.0 RECOMMENDATIONS

2.1 That Members consider the implications of this report and agree recommendations for the budget making process of each Council.

3.0 FINANCIAL CONSIDERATIONS

3.1 This report concerns the finance of the Trading Standards Service for 2009/2010 and the proposals are for consideration by both Councils.

4.0 STAFFING IMPLICATIONS

4.1 Significant reductions from the estimated 2009/2010 required budget detailed at paragraph 5.6 could result in staffing reductions.

5.0 DETAIL

5.1 Background

5.1.1 The Trading Standards Service is a front line service and carries out the statutory obligation placed on the two Authorities to enforce criminal consumer protection legislation. The Service enforces over 40 Acts of Parliament, numerous EC Directives, sub-ordinate legislation, Codes of Practice and guidelines.

5.1.2 Clause 23 of the Consortium Agreement outlines the procedure for setting the budget each year. The Director of Trading Standards is required to report to the November Consortium meeting, detailing the implications of budget changes for Members' consideration and discussion. The Consortium Advisory Board is then required to decide proposals to recommend to the Councils of Brent and Harrow for the budget to be set for each Council's area.

5.1.3 The current establishment is 32 staff; 22 provided on a borough basis and 10 shared staff. The Brent and Harrow borough teams have 12 and 10 front line enforcement staff respectively. The 10 members of staff who are shared between both boroughs include:- the Director, 3 Assistant Heads of Service, Laboratory & Systems Manager, Service Development Officer, Customer Services Manager, Finance & Administration Officer and 2 Customer Services Officers.

The Service, therefore, has an equivalent total of fifteen officer posts working for Harrow and seventeen for Brent, which reflects the proportion of the budget contributions made by each borough during 2008/2009.

5.2 Fixed Costs

The items to be included as fixed costs in the budget are detailed in the Consortium Agreement. The estimated fixed costs for 2009/2010 are £790,249 (£392,258 + £64,517 for Brent and £333,474 for Harrow). This is 43.2% of the total budget. Included in the figures for fixed costs is the notional rent for the office accommodation, which currently is being paid by Brent for both boroughs' contribution. The apportionment of fixed costs is, according to the Consortium Agreement, on the basis of the percentage budget split of the total budget from the previous year.

5.3 Variable/Activity Costs

5.3.1 The major expenditure of the Service is on the variable costs. The 2009/2010 estimate is £1,039,031 (£561,596 for Brent and £477,435 for Harrow). 92% of these costs are for staff salaries; 2.5% is for core support services; 3.1% is for essential transport; and 2.4% for sampling and analyst fees.

5.3.2 Each area of variable costs has been examined and reduced wherever possible. £1,039,031 is required to maintain the same level of service delivery as this year. There are no areas, apart from salaries, where significant reductions could be made without jeopardising the operation of the whole Service. The trend over the past few years has led to the reduction of the overall budget and has not kept pace with inflation thereby leading to a decline in the provision of trading standards services in the two boroughs.

5.4 Income

5.4.1 There is little scope for increasing income. Historically, the main source of income has been from fees for verification of equipment under the Weights and Measures Act. Deregulation, however, has permitted manufacturers to verify their own equipment (both new and repaired) which has drastically reduced this source of income for the Service. Fees charged under the Weights and Measures Act are recommended by the Local Authority Co-ordinating Body on Regulatory Services. We have deviated from that recommendation in the past and substantially increased the charge for testing of some types of equipment. The income from these fees, however, has reduced over this year, but I have estimated the income from this source, to be £10,000 for next year.

5.4.2 The main source of income for the Service now is from costs awarded against defendants following conviction in court. The estimated income for next year is £45,000. This reflects the fact that costs are dependant on the number of cases taken to court, which in turn is directly related to the number of staff employed by the Service. Although the Service is generally being awarded more costs per court case, the number of staff has been reduced during the past two years. These posts would have produced prosecutions which would have resulted in greater costs next year. This income is by no means certain and subject to award by the courts. Conversely, it must be remembered that the cost of undertaking prosecutions has also increased, particularly in cases where the Service has no alternative but to use barristers in matters that are heard in the Crown Court. The present level of income

is dependant on maintaining the current level of prosecutions. Obviously, if there are staffing reductions involving enforcement staff then fewer cases will be prosecuted and the projected income may not be achieved. The introduction of The Protection of Consumers from Unfair Commercial Practices Regulations 2008 in May 2008 means that whenever infringements are detected, the Service will have a statutory duty to consider other alternatives to prosecutions, such as informal/formal undertakings, civil orders and injunctions. This will undoubtedly further reduce the costs that the Service has been able to recoup from criminal proceedings in the past whilst, at the same time, increasing the legal costs incurred in pursuing the new civil sanctions.

5.4.3 As a result of recent changes in legislation there will be further opportunity to generate income under the Proceeds of Crime Act 2000 (POCA) which allows prosecuting authorities to seize the assets of those who benefit from criminal lifestyles, such as counterfeiting. However, sufficient resources need to be available to investigate this type of criminal activity and complicated financial investigations cannot be conducted by reducing the budget and effectively reducing the number of staff in post. In addition to generating our own income, there is opportunity to market the skills of our qualified financial investigators to other Council Departments to assist them with their POCA investigations. It is my intention to submit a report to both Councils later in the year outlining my proposals for growth for setting up a Financial Investigations team to conduct our investigations and to market our services to other councils.

5.4.3 Instead of the Consortium budget being treated as one cost centre with both expenditure and income for each borough being paid in or out of the account as required and accounted for as one Service, the income and expenditure is accounted for separately for each borough to provide improved monitoring. This has involved constructing the budget into three cost centres:- Brent (variable costs), Harrow (variable costs) and Shared costs.

5.5 Prioritisation of Work

5.5.1 Most of the work of the Service is demand led, either from complaints received from members of the public or local businesses; requests for advice from local businesses or requests for action from other agencies. There have never been sufficient resources to enforce all the legislation assigned to the Service so a high degree of prioritisation occurs on a daily basis. During the course of 2007/08, additional statutory duties have been placed on the Service as a result of new legislation, i.e. the Copyright, Designs and Patents Act 1988 and the Home Information Packs Regulations 2007. The Service has been placed under considerable pressure over the last two years in trying to cope with new legislation and other demands from both businesses and consumers without the necessary resources to carry this out. In particular the Service has been given the duty to enforce legislation relating to the sale of alcohol to underage children; a new system of registration and enforcement of the legislation relating to the sale of fireworks; demand for more enforcement of illegal DVD sales and other counterfeit goods right across the Consortium area. The Service recognises that the illicit sales of age restricted goods cannot be stemmed by enforcement alone and that regular education of retailers and their staff is required. To that end, the Service is committed to sign up at least 500 members to its 'Responsible Trader Scheme' which gives businesses the necessary tools to prevent such sales to underage children. Checking businesses for compliance with their obligations with respect to age restricted sales is regularly carried with our child volunteers and invariably this includes operations at weekends and evenings. Another persistent issue with the

Service is the huge volumes of counterfeit DVDs and clothing that are sold across the boroughs. Again, much of this enforcement is carried out at weekends or outside normal hours for which overtime has to be paid to our staff. As such, the Service does not have the resources to respond to all these demands.

5.5.4 Prosecution work is also prioritised in order to minimise the cost of proceedings and maximise the protection of the public. The implications of instituting legal proceeding in a particular case are carefully weighed up before a decision to proceed is made. Carrying out prosecutions “in house” is extremely successful as very few cases are lost and the Service saves a considerable amount of money each year in legal fees. Many more defendants, however, are now opting for Crown Court trial which involves the cost of instructing counsel and an increasing number require the assistance of interpreters, which places an increased cost on the Service. The Criminal Procedure & Investigation Act has placed extra burdens on the Service, in particular having to identify a separate “Disclosures Officer” to catalogue evidence in greater detail and to retain that evidence after the conclusion of a case for a longer period of time. The Human Rights Act and the Regulation of Investigatory Powers Act place additional demands on our investigations and senior officers and our investigations are subject to external scrutiny by Commissioners appointed by the Home Office.

5.5.5 Many staff put in extra effort often in their own time to produce additional work without compromising the targets set. These include:- talks; displays; exhibitions; press releases; supervising work experience students; liaising with schools; and the achievement of various awards such as Investors in People and Chartemark. This extra work is a direct reflection of the high commitment of staff. However, any further reduction in the budgets would mean that this very important area of work would have to cease.

5.6 2007/2008 Budget Required.

The required budget for the Consortium for 2009/2010, including any unavoidable inflation is £1,829,280. This would be apportioned between the boroughs as follows:-

	Fixed Costs (43.2% of Total)	Activity Costs (56.8% of Total)	Total Costs
Brent (54.05%)	£392,258 + £64,517	£531,951	£924,209 +£64,517 =£988,726
Harrow (45.95%)	£333,474	£507,080	£840,554
TOTAL	£725,732 +£64,517 = £790,249	£1,039,031	£1,764,763 +£64,517 =£1,829,280

The above figures include Brent’s total payment of notional rent costs on the accommodation that Trading Standards occupy and are based on Brent’s guidance on an inflation rate of 3.0% for salaries, 3.0% for running costs and on an employer’s superannuation contribution of 23.1%.

- 5.7. The budget shown in 5.6 above would produce the same units of output work as 2008/09 in both boroughs, but would not account for new legislation and duties. This is based on the work priorities remaining largely the same as this year (see Appendix 1).
- 5.8. The Consortium agreement requires the Director of Trading Standards to provide alternatives to the proposed budget for consideration by the respective councils. As stated in this report there has been an increase in the legislation that is enforced by this Service which has led to additional pressures on existing resources. Therefore, the preferred option is to increase the establishment by one officer in each respective borough. This would result in an increase of approximately £45,000 each for both Brent and Harrow and ensure that the Service will be able to fulfil its additional statutory duties such as the enforcement of Copyright Designs and Patents Act, Home Information Packs Regulations 2007, The Protection of Consumers from Unfair Commercial Practices Regulations 2008, The Protection of Businesses from Misleading Marketing Regulations 2008, Proceeds of Crime Act and legislation in relation to age restricted goods. These additional posts would represent a 5% increase in the total Brent and Harrow Trading Standards budget.
- 5.9. However, any reduction in the Trading Standards budget would lead to a significant reduction in responding to consumer complaints and trader enquiries. It would also mean that there will be a decrease in proactive work such as inspection of trade premises, consumer education and partnership working to address the problem in relation to the sale of counterfeit goods such as DVDs at Wembley Market and Harrow Town Centre. Any reduction in the Trading Standards budget will lead to an increase in complaints against the Service and would adversely affect the Service's ability to achieve the upper threshold standard with respect to the new national performance indicators for trading standards. (see 5.10 below).

The table below sets out several options that should be considered along with the impact of any such increase/reduction in the 2008/09 Trading Standards Budget.

<u>Options</u>	<u>Total Cost (£)</u>	<u>Cost Per Borough (£)</u>		<u>Complaints</u>		<u>Reports</u>		<u>Prosecutions</u>	
		Brent	Harrow	Brent	Harrow	Brent	Harrow	Brent	Harrow
Zero Growth	1,829,280	988,726	840,554	1344	1208	72	62	34	28
Decrease of 3%	1,774,401	959,064	815,337	1303	1172	70	60	33	27
Decrease of 5%	1,737,816	939,290	798,526	1277	1148	68	59	32	26
Increase of 3%	1,884,158	1,018,388	865,770	1384	1244	74	64	35	29
Increase of 5%	1,920,744	1,038,162	882,581	1411	1268	76	65	36	30

5.10 The Best Value Performance Indicator - BV 166, is a checklist of enforcement best practice for Trading Standards and Environmental Health Services. The score for the Service on compliance with the Indicator is currently at 100%. In addition to this a new single set of national indicators have been introduced this year as part of the new Performance Framework for Local Authorities. In this 'basket' of indicators the two that directly affect Trading Standards are "*Satisfaction of businesses with local authority regulatory services*" and the "*Impact of local authority regulatory services*"

on the fair trading environment". There are also a host of other indicators where the Service will have an indirect impact as part of the Comprehensive Area Assessments, namely, with respect to Safer Communities and Children & Young People. In order to maintain the "upper threshold" standard for both respective Authorities it is vital that the existing complement of officers is maintained.

5.11 The budget making processes in each Council are currently at too early a stage to identify likely budgetary allocations for 2009/2010.

6.0 **BACKGROUND INFORMATION**

6.1 2008/2009 Budget File

Any person wishing to inspect the above should contact N S Bilon, First Floor, 249 Willesden Lane, London NW2 5JH, telephone 020 8937 5500.

N S BILON
DIRECTOR OF TRADING STANDARDS

APPENDIX 1

Service Aim, Priorities and Objectives

Service Aim

The overall aim of the Trading Standards Service is **"to ensure a safe, fair and equitable trading environment exists for consumers and commerce alike."** This aim will be achieved by enforcement of the legislation assigned to the Service, carried out with due regard to our mission statement and within the terms of our overall objectives.

Service Priorities

The priorities for the Service are:-

National Priorities

- i) Informed Confident Consumers
- ii) Informed Successful Businesses
- iii) Enforcement of a Fair and Safe Trading Environment
- iv) Efficient, Effective and Improving Trading Standards Services

Local Priorities

- i) Investigation and speedy resolution of consumer complaints.
- ii) Advice to traders and consumers.
- iii) Inspection of relevant trade premises to achieve compliance.
- iv) Partnership working with other organisations.
- v) Promotion of these objectives to the community.
- vi) Verification of trade equipment
- vii) Warning and prosecuting offenders where appropriate.

Performance Management has been introduced for all staff, who have monthly assessments to ensure targets and results are met and full appraisals twice a year to ensure all the unit priorities and objectives are achieved. Each officer's Key Result Areas and Success Criteria reflect the priorities and objectives.