



Trading Standards Joint Advisory Board

Wednesday 13 March 2019 at 6.00 pm
Board Room 2 - Brent Civic Centre, Engineers Way,
Wembley HA9 0FJ

Membership:

Members
Councillors:

Miller
Long
Kennelly
Ferry
Mithani
Murphy-
Strachan

Representing

First alternates
Councillors:

Dar
Assad
Osborn
Parmar
S Choudhary
Chohan

Second alternates
Councillors:

For further information contact:

(LB Brent) Joe Kwateng, Governance Officer
0208 937 1354 joe.kwateng@brent.gov.uk
(LB Harrow) Miriam Wearing, Senior Democratic Services Officer,
0208 454 1542 miriam.wearing@harrow.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit: www.brent.gov.uk/committees

The press and public are welcome to attend this meeting

Notes for Members - Declarations of Interest:

If a Member is aware they have a Disclosable Pecuniary Interest* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest** in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also a Prejudicial Interest (i.e. it affects a financial position or relates to determining of any approval, consent, licence, permission, or registration) then (unless an exception at 14(2) of the Members Code applies), after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

***Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences**- Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

****Personal Interests:**

The business relates to or affects:

(a) Anybody of which you are a member or in a position of general control or management, and:

- To which you are appointed by the council;
- which exercises functions of a public nature;
- which is directed is to charitable purposes;
- whose principal purposes include the influence of public opinion or policy (including a political party of trade union).

(b) The interests a of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward affected by the decision, the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who employs or has appointed any of these or in whom they have a beneficial interest in a class of securities exceeding the nominal value of £25,000, or any firm in which they are a partner, or any company of which they are a director
- any body of a type described in (a) above.

Agenda

Introductions, if appropriate.

Election of Chair for the meeting (from amongst the Brent members)

Apologies for absence and clarification of alternate members

Item	Page
1 Election of Chair	
2 Declarations of personal and prejudicial interests	
Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
3 Notes of Informal previous meeting - 22 November 2018	1 - 2
To adopt the notes as an accurate record of the meeting.	
4 Matters arising	
5 Deputations (if any)	
6 Trading Standards Work Plan for 2019/20	3 - 14
This report provides Members with the proposed 2019/20 work plan for Brent & Harrow Trading Standards.	
I have attached an appendix to the report.	
7 Trading Standards Fees and Charges 2019/20	15 - 20
This report provides Joint Advisory Board Members, with information concerning the proposed level of fees and charges to be applied to relevant activities by Brent & Harrow Trading Standards Service during 2019/20.	
8 Proposal for Trading Standards to Charge for Business Advice	21 - 26
This report seeks comment from Joint Advisory Board Members, of the proposal to revise the limit of the amount of free advice provided to businesses and make a charge for non-statutory advice provided by Trading Standards to better manage demand of the Service's resources and increase income.	

9 Date of next meeting

The date will be confirmed at the Council's annual Meeting in May 2019.

10 Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Head of Executive and Member Services (London Borough of Brent) or his representative before the meeting in accordance with the constitutions of both councils.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor
- Catering facilities can be found on the first floor near The Paul Daisley Hall
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

NOTES OF AN INFORMAL TRADING STANDARDS JOINT ADVISORY BOARD MEETING

22 November 2018 at 6.00 pm

Inquorate Meeting

The meeting was declared inquorate as the requirement for attendance by at least two Members from each Authority was not met.

Minutes of the previous meeting held on 8 March 2018

The minutes would be subject to formal approval at the next Trading Standards meeting.

Matters Arising:

Harrow's Use of Website

It was noted that a link to the Trading Standards pages from the Harrow website was still outstanding.

Action - The Head of Community and Public Protection undertook to progress the matter.

Proposal for Providing a POCA/Planning Enforcement Service to Harrow

The Senior Regulatory Service Manager referred to the offer of a planning enforcement officer secondment from Brent to Harrow, funded by reserves, to enable the identification of cases of planning breaches for investigation and prosecution by Brent. There would be no cost to Harrow.

Action – it was agreed that the Head of Community and Public Protection would take forward a meeting with Councillor Keith Ferry, Interim Chief Planning Officer and Senior Regulatory Service Manager.

Rogue Letting Agents

A Member asked whether the approach was cross-borough. It was noted that a report had been submitted to the Joint Board about a year previously regarding delegation to enforce the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. Whilst this delegation had been approved in Brent, nothing had happened in Harrow.

ACTION - The Head of Community and Public Protection undertook to arrange for the delegation of the function in Harrow.

TRADING STANDARDS ANNUAL REPORT 2017/2018

The Board noted the report. In response to questions it was reported that:

- There had been no cases of unlicensed firework sales in Harrow. A list of those licensed to sell fireworks had been shared with Licensing officers and the Police in Harrow;
- In the absence of legislation prohibiting the sale of acid to under 18's, leaflets recommending traders not to sell harmful substances to young people had been distributed.

The Board expressed concern that Harrow was not issuing more press releases on trading standards matters which was having the effect of the service being seen as a Brent function rather than a partnership with Harrow. An example was publicity for the London Trading Standards Week of Action when Harrow was one of the only London Borough's not to take part. **Action** - The Head of Community and Public Protection undertook to raise the matter with the appropriate contact in the Harrow Communications Team.

Report Regarding the Energy Performance of Buildings Regulations

The report was noted.

Action - The Senior Regulatory Service Manager to inform the TSJAB of progress

Report Regarding a Proposed Enforcement Policy and Service Standards as Required by the Regulators' Code

It was noted that Brent had adopted the government template for conformity and the Harrow document covered all the same aspects.

Action - No action required.

Note: The Informal meeting of the Trading Standards Joint Advisory Board, having started at 6pm finished at 7.15pm

**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
13 March 2019**

FOR INFORMATION
TRADING STANDARDS WORK PLAN FOR 2019/20

Wards Affected:	N/A
Key or Non-Key Decision:	Non Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	1
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Simon Legg Head of Regulatory Service Simon.legg@brent.gov.uk 0208 937 5522

1.0 Purpose of the Report

1.1 This report provides Members with the proposed 2019/20 work plan for Brent & Harrow Trading Standards.

2.0 Recommendation(s)

2.1 That Members consider the report and suggested priority areas of work and make recommendations or comments where appropriate.

3.0 Detail

3.1 The Service drafts an annual work plan which proposes the activities to be undertaken and the priority areas of work for the coming financial year. The plan also acts as a guide for the purposes of performance management of the Service during this period.

3.2 Under paragraph 23.3 of the consortium agreement, there is a requirement for the London Borough of Brent to estimate the number and type of activities that will be undertaken by the Service during the financial year and to present this to the Joint Advisory Board.

3.3 The proposed work plan for the year 2019/20 is attached as an Appendix to this report.

4.0 Financial Implications

- 4.1 There are no financial considerations arising from this report as the work plan is drafted in a manner to be achieved within the budget provided for the Service for 2019/20.
- 4.2 It is expected at the time of writing this report, that the 2019/20 budget will remain unchanged from the previous year.

5.0 Legal implications

- 5.1 There are no legal implications arising from this report.

6.0 Equality Implications

- 6.1 The proposals in this report have been screened to assess their relevance to equality and were found to have no equality implications.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 There is no requirement to specifically consult Ward Members about this report as it affects all wards across both boroughs.

8.0 Human Resources/Property Implications

- 8.1 There are no specific staffing implications arising from this report as the work detailed will be carried out by existing employees and will form part of their usual duties as per job descriptions.

Any person wishing to obtain more information should contact Simon Legg, Head of Regulatory Services, Regulatory Services, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ.

SIMON LEGG
HEAD OF REGULATORY SERVICES

Report sign off:

AMAR DAVE

Strategic Director of Environment and Regeneration



**Brent & Harrow
Trading Standards**

**Team Work Plan
2019-2020**

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Introduction

The Trading Standards Service will start the year with a new Head of Regulatory Services, with Simon Legg taking up this role. This marks the start of the restructuring exercise to bring together Brent Council's regulatory functions to form a more resilient and cohesive team which will continue throughout 2019/20. In addition to Trading Standards, Food Safety and Environmental Health functions will report directly to this new post. The Head of Regulatory Services reports to the Environment Operational Director.

This work plan aims to set out some of our priority areas for the coming year and provides a guide to the expected levels of performance for each of the boroughs' teams. The plan offers flexibility to assist in meeting unexpected demands and to adapt service delivery as required, to meet emerging threats or respond to major investigations.

At the time of writing, the team is recruiting to appoint staff to two vacant enforcement officer posts that it is hoped will be filled by the beginning of the new financial year. We will be losing the Brent Assistant Enforcement Officer post following a Council wide offer of voluntary redundancy. This will unfortunately, put extra burdens on to the existing frontline staff in the Brent team, so we are exploring different ways to mitigate this loss of capacity.

The Service will continue conducting financial investigations for both our own Council's and other external customers. We are keen to increase this work and hope plans to undertake more financial investigations on behalf of the London Borough of Harrow, will progress during the coming year. At present, we employ two Financial Investigators. Their duties and performance measures are monitored and accounted for outside the scope of this work plan.

The Service's leadership team currently includes Simon Legg, Anu Prashar and Samuel Abdullahi.

Priorities

Trading Standards' work is central to maintaining a confident marketplace, supporting businesses to develop and help the local economy grow. The Service fulfils the local authority's statutory role of a 'weights and measures authority' and is tasked with enforcing more than 250 pieces of legislation.

Our priorities for the year are influenced by the following:

The National Trading Standards Board (NTSB) has identified the following areas in its Strategic Assessment dated September 2018, which it considers to be priority areas of work:

- Doorstep Crime and Cold Calling – safeguarding of vulnerable adults and consumers
- Mass Marketing Scams - disrupting and reducing consumers' exposure to scams
- Fair Trading issues - specific threats include used cars, housing, travel, distance selling, traders acting as private sellers and complaints about businesses who claim to be in approved trader schemes
- Product Safety - improving intervention on unsafe products, of particular concern are electrical items, toys and cosmetics
- Intellectual property (counterfeiting) – focusing on the rise in social media as a market place, illegal streaming devices, electrical appliances and toys.

London Trading Standards (LTS), who represent the 33 local authority Trading Standards Services across London, have identified their priority areas of work for members.

Intelligence suggests that illicit tobacco is still a large problem across London. Letting agents are also a major threat to consumers within the London region and will continue to be a focus for us over the coming 12 months. The Government has introduced new legislation, the Tenant Fees Act 2019, which will come into effect on the 1 June 2019. New rules have been created which means holding deposits cannot be more than one week's rent and security deposits are capped at five week's rent. Landlords and agents are only able to recover reasonably incurred costs from tenants and must provide evidence of these costs before they can impose any charges.

Initial breach of the fees ban means Trading Standards Services can impose a £5,000 fine. Criminal offences are then created where a person has been fined or convicted of the same offence within the last 5 years. Financial penalties of up to £30,000 can be issued as an alternative to prosecution.

LTS priority areas are as follows:

- Doorstep crime
- Fair trading and scams
- Intellectual property crime (counterfeiting)
- Product safety
- Illicit tobacco and alcohol
- Underage sales
- Lettings

Within the London Boroughs of Brent and Harrow each Borough has a corporate plan setting out what it is to accomplish in the future and how this will be achieved. Brent has a 'Borough Plan 2019-2023' and Harrow an 'Ambition Plan 2020'. These plans highlight the broad subject areas listed below as priority areas for each Council:

Brent:¹

- Every opportunity to succeed
- A future built for everyone, an economy for all
- A cleaner, more considerate Brent
- A borough where we can all feel safe, secure, happy and healthy
- Strong foundations

Harrow:²

- Build a Better Harrow
- Be More Business-like and Business Friendly
- Protect the Most Vulnerable and Support Families

These areas of work have each been given consideration including an assessment of the intelligence available. From this, we are able to focus where our resources should be deployed to achieve the biggest impact. This approach is in line with the IOM (National Trading Standards Intelligence Operating Model) as well as contributing to the relevant Borough objectives.

Whilst setting our work plan, the following assumptions have been made:

- Work will be reactive (complaint-driven) focusing on statutory responsibilities rather than proactive except for the purposes of supporting specific borough priorities or initiatives
- All complaints (service requests) received for investigation will be risk-assessed via our matrix and will only be investigated if the relevant threshold is reached
- We will continue to focus on steering business towards primary authority advice
- Any commercial activities which generate an income will be prioritised to maximise revenue
- We will seek to manage demand where possible by signposting service users to other resources and encouraging greater use of on-line advice and information
- We will publicise our work as much as possible to act as an educational resource or deterrent warning when applicable.

¹ <https://www.brent.gov.uk/boroughplan>

² http://www.harrow.gov.uk/download/downloads/id/8431/harrow_ambition_plan

We have categorised the following areas of work to form the basis of our 2019/20 priorities:

High Priority

Most Complained About Businesses	Underage Sales – alcohol, tobacco, knives
Doorstep Crime and Scams	Estate Agents/Letting Agents
Unsafe Goods (Manufacture /wholesale)	Counterfeit Goods (Large Scale Operation)
Primary Authority Partnerships	Proceeds of Crime Investigations
Niche and Illicit Tobacco Products	

Medium Priority

Misleading Descriptions (higher value goods)	Incorrectly Labelled Goods (safety)
Consumer Credit/illegal lending*	Counterfeiting and Copyright (low level)
Underage Sales – fireworks (seasonal)	Cosmetic Products
Unsafe Goods (Retail Level)	Hallmarking
Package Travel holiday complaints	Storage of Fireworks (unless critical safety implication)
Inaccurate Weights and Measures	Online Terms and Conditions
Misdescribed or Unroadworthy Cars	Energy Labelling of Premises and Goods
Provision of Advice re Credit Card Charges	

*High priority cases are also referred to Illegal Money Lending Team

Low Priority

Classification of video works	Restrictive Notices
Misleading Descriptions (low value goods)	Underage Sales – lottery, films, spray paints DVDs / games, butane
Mock Auctions	Essential Packaging
Market Sales	Price Marking of Goods or Services
Metrication	Business Names
Misleading Prices/Promotions (unless high value)	

Work Volumes

The tables below show the projected performance of the respective Brent and Harrow teams during 2019/20. It should be noted the nature of Trading Standard's duties is variable. For example some investigations take much longer than others or it may be necessary to carry out more inspection visits than expected in response to a particular outbreak of noncompliance.

As a result, at year end some areas of work may have generated a higher than expected volume whereas other areas might see a decrease as a result of the need to respond to demands in other areas that arise during the year. Our work volumes will be kept under continuous review and reported quarterly to ensure that they are being implemented effectively and progress is being made.

Harrow Team 2019/20 Based on staff numbers:	Brent Team 2019/20 Based on staff numbers:
<ul style="list-style-type: none"> 3.5 Enforcement Officers 	<ul style="list-style-type: none"> 4.5 Enforcement Officers

	Planned volume Brent	Planned volume Harrow
Complaints (Service Requests) Completed	471	350
Trader Enquiries / requests for advice	100	75
High Risk / Most Complained-about Trader Inspections	40	35
Other Business Inspections	86	100
Weights & Measures, Average Quantity or Verification visits	5	4
Primary Authority Hours	150	50
Underage Test Purchase Visits	110	110
Infringement reports (average 40 work units per report)	40	30
eReports (average 7 work units per report)	12	10
Prosecutions completed – Crown Court	2	2
Prosecutions completed – Magistrates' Court	10	8
Licensing Reviews Completed	1	2
Simple Cautions Signed	8	5
Letters of Warning Issued	12	14
Fixed Penalty Notices Issued	8	2
Local and Regional Projects Completed	3	3
Service Improvement Work (Hours)	125	150
Approved Trader Scheme New Recruits or Audits	25	45
Doorstep Crime Rapid Response Actions	4	7
Number of Scam Victims Contacted c/o NTS Scams Hub	20	30
Partnership or Area Based Working Events / Weeks of Action	4	8
Samples, Mileage and Websites Checks	75	75
Number of Intelligence Logs Input on Regional Database	100	84
Press Releases Issued	8	6
RIPA/Warrant Applications	1	1

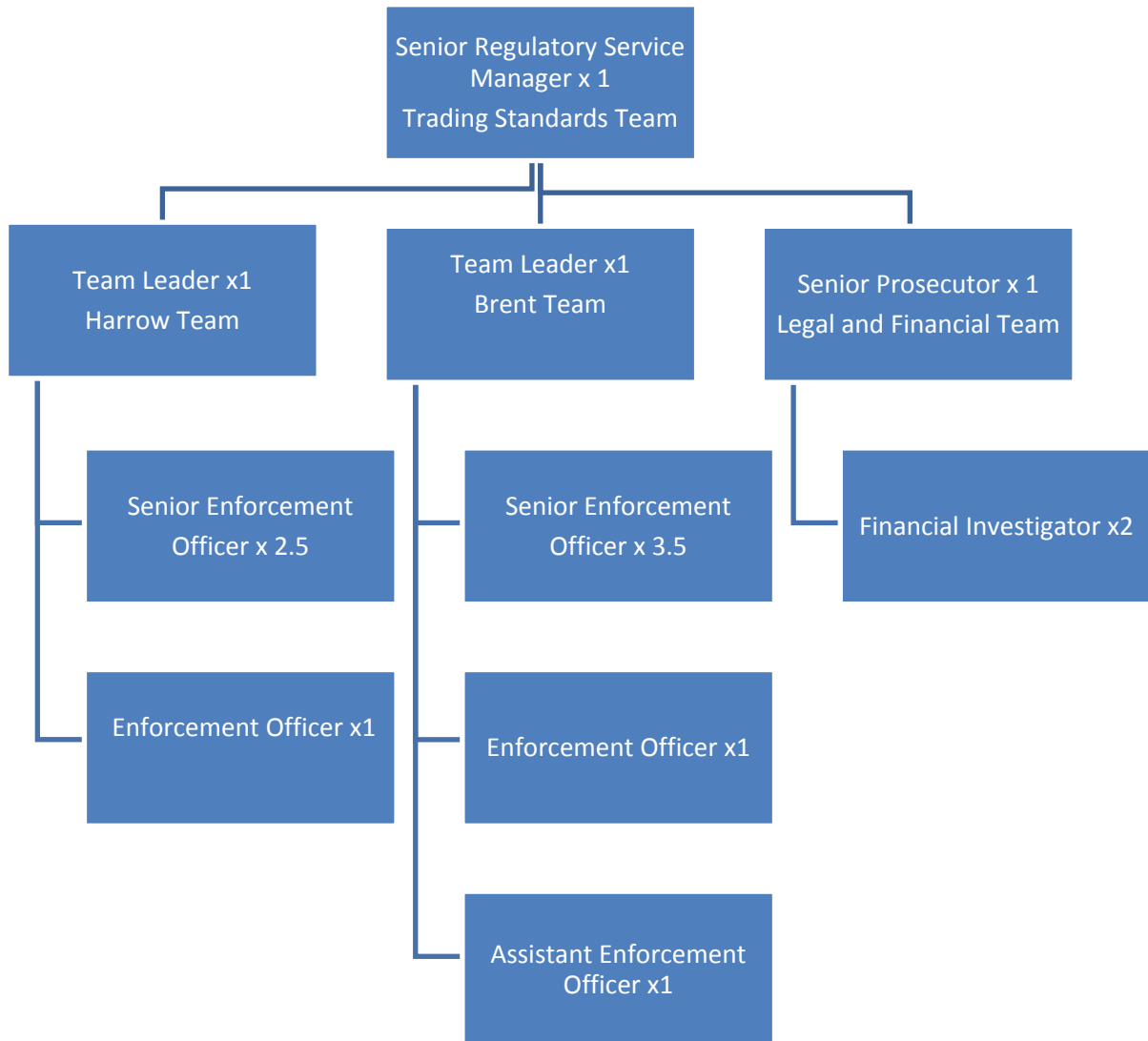
National Performance Indicators

The Service will be completing the year end Association of Chief Trading Standards Officers performance indicators which are being followed on a voluntary basis nationally with most Trading Standards Services across the country, participating in this process. The data collected will help to show the impacts that local services are having across the country.

Examples of the data to be collected are:

- Outcomes of investigations
- Redress obtained for consumers or victims of crime by service actions
- Number of businesses receiving advice
- Number of businesses found non-compliant when visited subsequently brought into compliance during the financial year
- Support for legitimate businesses by removing counterfeit goods from the market
- Unsafe or non-compliant goods prevented from entering or removed from marketplace
- Tackling the availability of illicit tobacco

Service Structure as of March 2019



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**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
13 March 2019**

Report from the Head of Regulatory Services

FOR INFORMATION

TRADING STANDARDS FEES AND CHARGES 2019/20

Wards Affected:	N/A
Key or Non-Key Decision:	Non Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Simon Legg Head of Regulatory Services Simon.legg@brent.gov.uk 0208 937 5522

1.0 Purpose of the Report

1.1 This report provides Joint Advisory Board Members, with information concerning the proposed level of fees and charges to be applied to relevant activities by Brent & Harrow Trading Standards Service during 2019/20.

2.0 Recommendation(s)

2.1 That Members consider the report and make recommendations or comment where they feel necessary.

3.0 Detail

3.1 In accordance with paragraph 13(f) of the Consortium Agreement between the London Borough of Brent and the London Borough of Harrow, the Joint Advisory Board 'should consider and make recommendations on the level of fees and charges to be made to the public in respect of any part of the service, for consideration by whoever is authorised to make fees and charges decisions by each respective council's constitution'.

3.2 Brent's Full Council agreed a '2019/20 Fees and Charges Policy' on 25 February 2019. As per the previous policy, our Strategic Director has delegated powers in conjunction with the Chief Executive, to vary fees in certain circumstances without the need to bring reports before Cabinet or other decision making bodies. When appropriate circumstances provide, the Service will utilise this policy to maximise income opportunities.

3.3 As Brent acts as the host borough for the Trading Standards consortium, Brent's fee structure is applied and the same level for charges are applied to each borough.

3.4 Trading Standards fees fall into the following categories:

1. Statutory fees (set by legislation, although some offer discretion to vary the amount up to a maximum value)
2. RPI linked fees (agreed previously by Brent's Executive)
3. Discretionary fees (there is discretion to vary the value charged)

3.4.1 Statutory fees are set nationwide by government. Generally, local authorities have no discretion to change these fees although on occasions, the legislation will permit a fee to be set locally up to a maximum value.

Explosive License Fees

3.4.2 The fees to process explosive (firework) licenses, charged by the Harrow team are set by the Health and Safety Executive by virtue of the Health and Safety and Nuclear Fees Regulations 2016. These fees vary subject to the exact License required although are typically £54 to renew a short term license rising to £500 for an all year round license. It remains the case that in Brent, this function is the responsibility of the Licensing Team who receive the income.

3.4.3 There have been no changes to the fees for explosive licenses since those reported to the Board on 11 May 2017.

Letting and/or Property Management Penalty Fees

3.4.4 Under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 and the Consumer Rights Act 2015, we can impose monetary penalties of up to £5,000 where breaches of the legislation have taken place.

3.4.5 However, the legislation requires us to take into consideration any representations received from the recipients of such penalties. Accordingly, the value of each penalty is considered on a case by case basis to determine what is appropriate in the given circumstances.

Primary Authority Fees

3.4.6 A RPI escalator (Retail Price Index) applies to our Primary Authority partnerships which is a scheme enabling us under Section 31 Regulatory Enforcement and Sanctions Act 2008, to charge businesses on a 'cost recovery' basis, for primary authority services.

3.4.7 Brent's Executive agreed a report titled "*Introduction of a Charge Based Regulatory Advice Service for Businesses*" in June 2013, which stipulates that an increase is applied to the rates charged for primary authority advice, on an annual basis on 1st April each year by the annual change in the RPI for January of the year concerned.

3.4.8 The Office of National Statistics have provided an RPI figure for January 2019 as 2.5%. The proposed rounded up, hourly rate increase in our primary authority fees to include this rise are shown in the table below.

Service	2018/19	2019/20
Primary Authority – fixed contract (per hour)	£58.18	£60.00
Primary Authority - pay as you go (per hour)	£72.77	75.00

3.4.9 The remaining fees the Council has discretion to determine annually, with any change in the fee being set each year according to prevailing circumstances. When determining the level to fix these fees, care is required to ensure we remain competitive amongst other local authorities who offer similar services so as to ensure we do not lose custom.

Weights and Measures Fees

3.4.10 By virtue of S11(5) and S49(4) of the Weights and Measures Act 1985, the local authority can charge ‘such reasonable fees as we determine’ for carrying out our duties under the Act. A small increase has applied to each of these fees this year. With the exception of the cost of an additional officer, these increases are below those suggested in the annual guidance issued by the Association of Chief Trading Standards Officers (ACTSO) so we can remain competitive compared to other local authorities offering the same service.

3.4.11 The table below shows the proposed increase to these fees:

Service Charged Per Officer Per Hour	VAT	2018/19 (Inc VAT where applicable)	2019/20	
			(excl VAT)	(incl VAT)
Verification of weights & measures equipment	20%	73.58	62.70	75.24
Calibration of weights for business	20%	73.58	62.70	75.24
Weights & measures testing for other local authorities (per item)	0%	61.32	62.40	No VAT
Additional officer testing assistance (per hour)	0%	36.74	40.00	48.00
Officer use of safety lab (per hour)	20%	76.80	70.00	84.00

Registration of Premises for Auction Fee

3.4.12 By virtue of S26(2) Greater London Council (General Powers) Act 1984, we apply a ‘reasonable fee’ for the registration of a premises to host an auction. The legislation states this fee has to cover ‘administration and inspection costs’. The current fee is £327 and it is proposed this fee increases to £346.

Fee for Officers Carrying Out Duties at Wembley Events

3.4.13 A charge is made for officers conducting their duties at Wembley events on behalf of brand holders or other merchandisers. The rate for this work £40 per hour per officer. This fee is negotiated and managed by Brent Council's Licensing team so is beyond the scope of this report.

Financial Investigator's Fee

3.4.14 Our Financial Investigators continue to conduct financial investigations on behalf of other local authorities. In addition to agreements with these local authorities which ensures a share of any money raised via the Home Office Proceeds of Crime incentivisation scheme, we charge an hourly fee for our time spent conducting the investigation. This covers our costs in the event that no order is made or if an order is made by the Court and it is not paid for any reason resulting in no incentivisation scheme payment being received.

3.4.15 It is proposed to increase this fee from £36.09 to £40.00 per hour. This may appear a low rate compared to other officer fees but in most cases, would be in addition to a share of any subsequent incentivisation scheme payment.

3.4.16 The hourly fee quoted above for our financial investigation services, does not apply to any internal London Borough of Brent or London Borough of Harrow referrals. The hourly rate to be applied, is the rate on the date that any contract is made with an external authority as opposed to the applicable fee on the date a financial investigation may conclude.

4.0 Financial Implications

4.1 Increasing income for the Service remains a priority despite the limited scope given the Service's predominantly statutory functions. The service's income target has increased year on year i.e.:

- 2016/17 - £27,500
- 2017/18 - £31,500
- 2018/19 - £33,500.

(These figures exclude income received from court costs awarded or proceeds of crime recovery).

4.2 At the time of drafting this report, income of £30,700 had already been achieved. It is expected that the full income target would be met before the financial year end.

4.3 Any rise in fees for 2019/20 as a result of this report, will lead to a small increase in income as the rises are slight and the amount of fee based work undertaken is constrained by staffing capacity and the amount of chargeable work secured by the service.

5.0 Legal Implications

5.1 There are no legal implications arising from this report.

6.0 Equality Implications

6.1 The proposals in this report have been screened to assess their relevance to equality and were found to have no equality implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 There is no requirement to specifically consult Ward Members about this report as it affects all wards across both boroughs. The Brent Council Lead Member for Trading Standards has been consulted and Harrow Council's Divisional Director for Commissioning Services.

8.0 Human Resources/Property Implications

8.1 There are no human resource or property implications arising from this report although it should be noted that the number of staff vacancies currently within the Service may result in a reduced ability to generate income.

Any person wishing to obtain more information should contact Simon Legg, Head of Regulatory Services, Regulatory Services, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ.

SIMON LEGG
HEAD OF REGULATORY SERVICES

Report sign off:

AMAR DAVE

Strategic Director of Environment and Regeneration

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**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
13 March 2019**

Report from the Head of Regulatory Services

FOR INFORMATION

**PROPOSAL FOR TRADING STANDARDS TO CHARGE FOR
BUSINESS ADVICE**

Wards Affected:	N/A
Key or Non-Key Decision:	Non Key at this stage
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Simon Legg Head of Regulatory Services Simon.legg@brent.gov.uk 0208 937 5522

1.0 Purpose of the Report

1.1 This report seeks comment from Joint Advisory Board Members, of the proposal to revise the limit of the amount of free advice provided to businesses and make a charge for non-statutory advice provided by Trading Standards to better manage demand of the Service's resources and increase income.

2.0 Recommendation(s)

2.1 That Members consider the report and make recommendations or comment where they feel necessary.

3.0 Detail

3.1 The provision of advice given to businesses, continues to be an important function for the Service. Good regulatory advice gives businesses confidence in their trade and the assurance of their investments, increasing rates of compliance, allowing businesses to implement sustainable solutions in a practical and realistic manner to suit their needs, creating more business and economic growth.

3.2 Businesses appreciate officer's knowledge of the subject and recognise the value it provides to them. Assistance given at an early stage, often prevents problems escalating saving business owners' time and costs.

- 3.3 Advice given in a professional manner, can have a much greater impact on securing compliance reducing the need for formal action and the resource from our Service taking that formal action.
- 3.4 As the pressure on our budgets continues, it is necessary to re-examine the services we offer and consider whether functions such as business advice, can be provided in a way that does not attract a cost.
- 3.5 Currently, the Trading Standards Service offers up to 7 hours free advice on regulatory matters each year, to businesses based within the jurisdiction of the consortium. This follows a Brent Council Executive report dated June 2013, titled 'Introduction of a Charge Based Regulatory Advice Service for Businesses'.
- 3.6 Following the agreement of the above report, the Service started offering a 'primary authority' scheme. This is a statutory scheme whereby the Regulatory Enforcement and Sanctions Act 2008 allowed Trading Standards and other enforcement teams such as Food Safety and Health and Safety, to enter into a legally recognised partnership with businesses to receive assured advice on complying with regulations.
- 3.7 The Act provides that a local authority can charge a business for this work on a cost recovery basis. Currently, the Service partners seven businesses on a regular basis, generating an annual fee of approximately £23,000. The cost of this advice is £58.10 for a bulk purchase of hours or £72.77 to receive advice on a pay as you go basis. VAT is not payable on these fees as it a service provided under statute. Our experience is that most businesses prefer to bulk buy their hours in advance.
- 3.8 Whilst it is encouraging to note a growing number of businesses are enjoying the benefits of a primary authority partnership, the majority receive comprehensive advice from our officers, without paying for it. Figures from last financial year show that 297 requests for business advice were received by the Service.
- 3.9 The reduction of staff numbers within the Trading Standards team, has resulted in less capacity to operate at the same levels as previously offered. Accordingly, the continuation of free business advice is unsustainable without further resources being made available to the team.
- 3.10 Given the clear benefits that exist from the delivery of business advice, our proposal is to revise the amount of free advice available to businesses and allow Trading Standards to charge for advice except where specific circumstances might apply.
- 3.11 It is our intention to cap the amount of free business advice offered to businesses to half an hour per year where that advice is provided over the phone or on the internet. In order to receive this advice, the business must provide the Service with sufficient information for us to be satisfied of the business' identity to prevent abuse of the time limit. Thereafter, businesses will be required to either pay for further advice on an hourly basis or enter into a formal primary authority partnership.

- 3.12 A minimum charge equivalent to half an hours advice will apply. For simplicity, the proposal is that the same rate is applied for business advice as the prevailing pay as you go primary authority fee. However, unlike advice provided under the primary authority scheme, it may be necessary to charge VAT on this rate. Further specialist taxation advice will be required if this proposal is to progress.
- 3.13 No chargeable advice will be given to a business unless they agree to the charge and accept appropriate standard terms and conditions. The Council's usual methods for accepting payment for services will apply with businesses being able to make payments via card over the phone or if they prefer, they can receive a written invoice.
- 3.14 The proposed change will not prevent Trading Standards giving businesses free advice when they have been identified as a sufficient risk to require an inspection, if their business has been subject to a complaint that requires an immediate response from an officer, if it is part of a programme of proactive business education such as the current focus on letting agents or second hand tyre fitters or where that advice is received in pursuance of an officer carrying out a statutory function.
- 3.15 There may be other occasions where advice is given for free such as when an officer considers it prudent to avoid a problem escalating to prevent formal enforcement action or when it is needed as part of a formal sanction following an investigation.
- 3.16 Businesses who are unwilling to pay for advice, will be signposted to free information from sources such as the Business Companion website, which offers comprehensive information in differing levels of detail. The website is operated by the Chartered Trading Standards Institute and the Department of Business Energy and Industrial Strategy and a link to it can be found on the Trading Standards business advice pages of the Council's website.

4.0 Financial Implications

- 4.1 Increasing income remains a priority despite the limited scope given the Service's predominantly statutory functions. Adopting this proposal will allow for income generation, as the cost of providing the business advice, will be recovered on a cost recovery basis.
- 4.2 There will be financial implications for businesses who have previously benefitted from receiving free advice as they will be expected to pay for the service. However, the proposal will include the provision of free sign posting advice in addition to half an hour of free advice per year.
- 4.3 The current income target of the provision of primary authority business advice is £22,500. At the time of writing this report, income of £20,625 has been generated.

4.4 It is not known at this stage, what the level of demand will be for paid for business advice. Some businesses may chose self-help and not pay, whereas others would realise the benefits and make a payment. It is expected that initially there may not be a considerable high increase in income but at this stage an income target of £5,000 per annum can be assumed.

5.0 Legal Implications

5.1 As a local authority, Section 93 of the Local Government Act 2003, gives authorities such as ours, a general power to charge for 'discretionary services' on a cost recovery basis.

5.2 Services that a local authority is bound by statute to provide, are not a discretionary service and will not benefit from the power to charge specified above. However, additions or enhancements to such mandatory services above the level or standard that an authority has a duty to provide, may be considered as discretionary services.

5.3 For example, where business advice is given when an officer is using their powers to enter a premises to conduct an inspection, to observe a business, or to inspect products, Trading Standards are mandated to carry out this task and as such would not be able to charge for any advice offered as part of this process.

5.4 However, the provision of follow up advice or more detailed engagement with a business, could be classed as an enhancement or an addition over and above the mandatory duty, and therefore should be defined as a discretionary service which can be charged for.

5.5 It is recognised that the intention of Section 93 of the 2003 Act is not for authorities to make a profit, but this provision does provide a legal basis to charge for discretionary services, should local authorities wish to offer a service which they can no longer justify financially or afford to provide for free.

6.0 Equality Implications

6.1 The proposals in this report have been screened to assess their relevance to equality and were found to have no equality implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 There is no requirement to specifically consult Ward Members about this report as it affects all wards across both boroughs. The Brent Council Lead Member for Trading Standards has been consulted and Harrow Council's Divisional Director for Commissioning Services.

8.0 Human Resources/Property Implications

- 8.1 There are no human resource or property implications arising from this report although it should be noted that any increase in the demand for business advice, will attract an income on a cost recovery basis which could be used to increase staffing capacity to provide this service. Any decrease in demand, will free up officer capacity to concentrate on other duties.

Any person wishing to obtain more information should contact Simon Legg, Head of Regulatory Services, Regulatory Services, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ.

SIMON LEGG
HEAD OF REGULATORY SERVICES

Report sign off:

AMAR DAVE

Strategic Director of Environment and Regeneration

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