



Trading Standards Joint Advisory Board

Wednesday 26 June 2019 at 6.00 pm

Boardroom 5, Harrow Civic Centre, Station Road, Harrow
HA1 2XY

Membership:

Members
Councillors:

Representing

First alternates
Councillors:

Second alternates
Councillors:

Miller
Long
Kennelly
Ferry
Mithani
Murphy-
Strachan

Dar
Assad
Osborn
Parmar
S Choudhary
Chohan

For further information contact:

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0208 937 1354 joe.kwateng@brent.gov.uk

(LB Harrow) Navshika Beeharry, Democratic Services Officer,

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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
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1 Election of Chair	
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2 Declarations of personal and prejudicial interests	
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Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

3 Minutes of the previous meeting - 13 March 2019	1 - 8
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4 Matters arising	
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5 Deputations (if any)	
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6 Trading Standards 2018/19 Annual Report	9 - 24
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This report presents the Trading Standards annual report for the year 2018/2019. It is a requirement of the Trading Standards Consortium Agreement that an annual report is presented to the Joint Advisory Board which includes details of the work undertaken by each borough team during the financial year to which it relates.

I have attached an appendix to this report.

7 Update Concerning Advice and Enforcement Around Lettings and Property Management Businesses	25 - 30
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The purpose of this report is to update the Joint Advisory Board on the progress made by the Trading Standards Service in delivering our Lettings and Property Management Project and two new statutory duties for the Service, enforcing the provisions of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 and the Tenant Fees Act 2019.

8 Date of next meeting: 13 November 2019 at Brent Civic Centre	
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9 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.



MINUTES OF THE TRADING STANDARDS JOINT ADVISORY BOARD Wednesday 13 March 2019 at 6.00 pm

PRESENT: Councillors Long (London Borough of Brent), Miller (London Borough of Brent), Mithani (London Borough of Harrow) and Murphy-Strachan (London Borough of Harrow).

Apologies were received from: Councillors Kennelly and Ferry (London Borough of Harrow).

1. Election of Chair

That Councillor Long be elected as Chair for the meeting.

2. Declarations of personal and prejudicial interests

None.

3. Notes of Informal previous meeting - 22 November 2018

RESOLVED:-

that the notes of the previous inquorate meeting held on 22 November 2018 be noted.

4. Minutes of the meeting held on 8 March 2018

RESOLVED:-

that the notes of the previous meeting held on 8 March 2018 be approved as an accurate record of the meeting.

5. Matters arising

The following matters were raised under the notes of the informal meeting held on 22 November 2018:

Harrow's Use of Website

Simon Legg advised that some progress has been made inserting a link on Harrow's website to the Trading Standards website and inserting contact details. However, it was felt that some information was not correct on the Harrow website, insufficient prominence had been given to the the Trading Standards link and further improvements were needed to ensure information was sufficiently accessible for both residents and businesses.

Proposal for Providing a Proceeds of Crime Act (POCA)/Planning Enforcement Service to Harrow

Officers advised that two meetings had been held between Brent and Harrow representatives with an offer made to Harrow to appoint a secondment officer in Harrow's Planning Enforcement Service to help with financial investigations. Formalities of the secondment were due to be agreed and post holder was expected to be in place in due course.

Rogue Letting Agents

The Board heard that the issue of ensuring letting agents were properly registered in a redress scheme and that Trading Standards received authority to enforce the relevant legislation on behalf of LB Harrow, was being taken forward in consultation with Cllr Parmar (Lead Member for Environment, LB Harrow) as the relevant portfolio holder and a report was being prepared for Harrow's Cabinet

Energy performance

The Board was informed that the subject of energy performance in buildings and reciprocal enforcement arrangements as required by the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended, would be addressed within a wider Cabinet report prepared by Harrow's Commissioning Officer.

Press releases

The Board was advised of a significant increase in press releases from Harrow, with a double page article arranged in next issue of Harrow magazine and a further press released expected in due course following an outcome of a court case. The Board expressed their gratitude to Richard Le-Brun (Head of Community and Public Protection, LB Harrow) for his work and influence resolving this matter.

6. Deputations (if any)

None.

7. Trading Standards Work Plan for 2019/20

The Board considered a report that provided information on Brent & Harrow Trading Standards Work Plan for 2019/20, outlining the activities and priorities for the next year. The plan factored in additional flexibility by way of its time assigned to project work, to assist adapting the service delivery as required to addressing emerging issues. Further, the plan incorporates flexibility in its outcomes should office time be diverted to major investigations for example.

Whilst the overall delivery of Trading Standards remained the same, Members were informed that the work would now be overseen by Simon Legg who had been appointed as Head of Regulatory Services at Brent Council and a new Senior Service Manager will be appointed for the Service. Further changes to the staff structure and merging of the existing Brent regulatory teams were also anticipated, with an update on these to be provided when appropriate.

Mr Samuel Abdullahi (Senior Enforcement Officer, LB Brent) drew members' attention to how the priority areas were determined. He explained that the Work Plan took into account both national priorities as determined by the National Trading Standards Board and local ones, in line with the borough's corporate plan. Key priorities for the year included a number of areas such as tackling doorstep crime, cold calling, product safety, mass marketing fraud and large scale intellectual property crime as well as further visits and investigations of most complained about businesses to ensure compliance.

Responding to questions on how priorities were set and what the implications of the differences between national and local level was, officers advised that these were based on national intelligence operating model which was adopted by most local authorities providing valuable insight into identifying where demands and issues were. However, the priorities were prescriptive and local authorities were under no obligations to follow them. Officers acknowledged that regional differences were not uncommon thus leading to some variance between national and London specific issues. Members were assured that there was scope factored within the work plan for cases where priorities differed significantly to be devoted to specific projects to investigate the matters further.

Mr Abdullahi continued by pointing out that a key assumption made in drawing up the plan was that majority of the work would be reactive rather than proactive, due to limited staff resources, thus allowing the Trading Standards Team to focus primarily on the statutory responsibilities. Any service requests which fell outside of this scope would be risk assessed before further investigation be commissioned. The intention was to balance the priorities by focusing on statutory functions with the caveat that proactive work could be carried on as and when required. Provisions for both Brent and Harrow were in place to host three projects per year which would provide an opportunity to address any pending themes.

Members' attention was drawn to page 11 from the agenda pack which outlined the projected performance and work volumes of Brent and Harrow Trading Standards teams. In noting the variable nature of trading standards duties, officers stated that the list provided a helpful indication of the workload and assisted in managing the performance of the service by looking at a range of areas such as overall complaints and service request, compliance, partnership working and complaints requests, project based work. Work was being calculated based on a long standing consortium agreement using work units which allowed for more accurate reporting on work done. In conclusion of this section, the Board was informed that Trading Standards would be completing the year end Association of Chief trading standards officers performance indicators, which sought to gather trading standards intelligence on a voluntary basis. Officers indicated that work would be under constant review and reported quarterly to ensure it was being implemented effectively and progress was being made.

In welcoming the Work Plan 2019/20, members asked questions about specific trading standards issues. With regards to quality of tobacco used in vaping products and issue with illegal unregulated market sale supplies, Mr Abdullahi stated that this was a growing problem as legitimate supply of tobacco and shisha was expensive forcing many businesses to buy illegitimate products. He advised that there is a lot of legislation on the matter and added that some funding had been received from the Department of Health to do further research on the vaping products issue over the next few months.

In terms of completed licensing reviews, Simon Legg stated that there were many regulated activities licensed by both Harrow and Brent Councils and that Trading Standards mostly used licensing reviews for alcohol and in particular in terms of selling alcohol to under aged people. Members were assured that regular test purchasing was being carried out and a range of sanctions was available for those found to be incompliant such as such as issuing warnings, prosecutions and reviewing licenses.

In response to a question on issues with business names, officers stated that the legal requirement for businesses was to prominently display who the legal owner of a given premise and where/how to contact them. While helpful in terms of monitoring business ownership, it was not a consistent practice with a number of incompliant small to medium traders. In addition, financial penalties were set at such a rate that they did not always justify adequate enforcement measures.

Responding to a question on whether the landlord licensing scheme had affected the way letting agents were investigated, Mr Legg advised there was not a lot of trading standards related legislation to protect the rights of tenants where they are getting overcharged rent by a landlord. Furthermore, Trading Standards focus was predominantly on letting agents rather than landlords which fell within the remit of Housing management team. However, the Board noted that there had been an increase in joint working due to the number of commonalities between the two teams and progress in addressing these issues was being made.

The discussion concluded with Samuel Abdullahi informing Board Members of a new piece of legislation which was due to be released on 1st June 2019 relating to tenants fees and holding of deposits. Further publicity programme in the lead up to the legislation was expected to be released in the near future. Current information on the website would be cross-referenced on housing website.

RESOLVED

- i. That the report on Trading Standards Work Plan for 2019/20 be noted

8. Trading Standards Fees and Charges 2019/20

Members received a report that provided them with information concerning the proposed level of fees and charges to be made by Brent and Harrow Trading Standards during 2019/20. In accordance with paragraph 13(f) of the Consortium Agreement between the London Borough of Brent and the London Borough of Harrow, Brent's Full Council had agreed the fees and charges policy in February

2019, which included delegated authority to permit Strategic Directors to vary the fees within set parameters if this was required.

Trading Standard fees fell into one of the following three categories as follows:

Statutory:

Statutory fees were set nationwide by the government, with some discretion available to local authorities to set fees locally up to a maximum value.

Explosive License fees

The fees to process explosive license, 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 set at £54 to renew a short term license rising to £500 for an all year-round license. In Brent this function is carried out by the Licensing Team, rather than Trading Standards, who receive the income. There had been no changes to the fees for explosive licenses since those reported to the Board on 11 May 2017.

Letting and Property management Penalty Fees

A relatively new type of fee, under the Redress Schemes for Lettings Agency Work and Property Management Work Order 2014 and Consumer Rights Act 2015, giving Trading Standards the power to impose maximum financial penalties to landlords.

It was noted that the legislation permitted that representations be made by recipients of such penalties detailing any mitigating factors and the Service may vary the value of penalty if considered appropriate. The Board heard that over the last 12 months, 6 penalty fees had already been issued, 4 of which accepted and 2 appealed.

Primary Authority

A type of fee where under Section 31 Regulatory enforcement and Sanctions Act 2018, statutory authorities and businesses could pay for a Trading Standards assured advice, offering greater flexibility for those businesses which operate on more than one area. Following a report in June 2013 Brent Executive had agreed that an increase be applied to the rates charged for primary authority services annually by the change in the Retail Price Index of the year concerned – according to the Office of National Statistics the increase from January 2019 was set at 2.5%. The proposed increases for 2018/19 are as follows:

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

Weights and Measurers Fees

A type of fee in line with guidance issued by the Association of Chief Trading Standards Officers, which allows local authorities to charge for carrying out duties under the Weights and Measures Act 1985. The fees, outlined in the report, were mostly reactive measures and were applied when there was a suspicion of unregulated activity. An example was given with a recent project on supermarkets scales across Brent which found that a number of scales were not operating within the legal tolerance and that there were no systems in place for checking the accuracy of these devices. It was also clarified that where a service could not be provided privately and was only available as a statutory service, then no VAT would be charged.

A question was raised by a Board Member on lettings fees, specifically where a web based agent did not have an advertised office address. Officers advised that in terms of Trading Standards legislation, the focus was on where the UK websites are viewed not necessarily where the operator was based. Systems were available to Trading Standards to help obtain the exact location of a given agent if necessary using their enforcement powers.

Discretionary:

The Board attention was drawn to the proposals on the *Registration of premises for auction fee* which would see an increase from £327 to £346. In terms of the *Fees for Officers carrying out duties at Wembley Events*, which was managed by the Brent Council's Licensing team currently set at £40 per hour. However, officers suggested that an increase may be required to bring the fees in line with other trading standards officer charges. Finally, Members heard that *Financial investigation fees* which were charged by the trading standards team when carrying out work for other authorities, were proposed to increase from £36.09 to £40 per hour. While the rates were relatively low compared to other officer fees, they would be in addition to a share of any subsequent incentivisation scheme payment. It would also help better manage officers' time and reduce the number of nuisance calls received. It was noted that the hourly fee would not apply to any Brent or Harrow referrals but only to external authorities.

RESOLVED

- i. That the report on Trading Standards Fees and Charges 2019/20 be noted

9. Proposal for Trading Standards to Charge for Business Advice

The Board heard a report outlining proposals to revise the limit of the amount of free advice provided to businesses and introduce charges for non-statutory advice provided by Trading Standards. The proposals were due to be referred to Brent's Cabinet for approval with further liaison planned with the commissioning officer in the London Borough of Harrow to advise them on the changes to the service.

In seeking the Board's views on the proposals, officers advised that whilst providing Trading Standards advice to business was part of the primary authority statutory scheme imposed by the government, the intention of Brent was to introduce a non-statutory scheme for those businesses who want advice which falls outside of the remit of the scheme. Currently businesses were allowed up to 7 hour of free regulatory advice, but the intention was to cap the amount of time and reduce it

down to only 30min per year. A minimum of charge equivalent to half an hour's advice would apply, with the rate applied for business advice set as the prevailing primary authority fee (£75). Whilst some income was likely to be generated as a result of the changes, the main aim of the proposals was to ensure demands on the service were properly managed, as well as better management of expectations from businesses by setting clear boundaries. Officers advised that while the scheme would be a first for London it had been a long going practice in some of the larger counties.

The Board was assured that the intention of the proposals was to provide a quick and simple to use service which avoided any ambiguities between the Council and the business while at the same time allowing the Council to help those who need help the most. Referencing information in the report, it was explained that the proposed fees had been benchmarked against those charged in other authorities and had been set up at a higher rate specifically to prompt businesses to take proper primary authority partnership advice. As part of the proposals a system of positive identification of businesses would need to be established to avoid duplication of advice and to take into account complicated legal set up of some of the companies.

RESOLVED

- i. That the report on proposed charges for Trading Standard's Business Advice be noted
- ii. That the proposals on the Trading Standard's Business Advice charges be recommended for proceeding to Cabinet.

10. **Date of next meeting**

RESOLVED:-

That the date of the next meeting would be confirmed following the Council's Annual Meeting on 1st May 2019 but is currently proposed to take place on 26 June 2019.

11. **Any other urgent business**

None.

The meeting closed at 7.17 pm

COUNCILLOR JANICE LONG
Chair

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**London Boroughs of Brent and Harrow
Trading Standards Joint Advisory Board
26 June 2019**

FOR INFORMATION

TRADING STANDARDS 2018/2019 ANNUAL RPEORT

1.0 Purpose of the Report

- 1.1 This report presents the Trading Standards annual report for the year 2018/2019.
- 1.2 It is a requirement of the Trading Standards Consortium Agreement that an annual report is presented to the Joint Advisory Board which includes details of the work undertaken by each borough team during the financial year to which it relates.

2.0 RECOMMENDATIONS

- 2.1 That Joint Advisory Board Members consider the report and make comments where appropriate.

2.0 DETAILS

- 3.1 The Trading Standards Service operates on a joint consortium basis between the London Borough of Brent and the London Borough of Harrow, with Brent being the host authority. In accordance with the contractual terms between the two boroughs, an annual report must be presented to the Trading Standards Joint Advisory Board.
- 3.2 The Service carries out the local authority's statutory duties relating to the legislation enforced by a Weights and Measures Authority. This gives the Service responsibility of enforcement and legal powers to enforce, hundreds of Acts of parliament or statutory instruments.
- 3.2 The Service seeks to promote and maintain a fair and equitable trading environment for consumers and businesses alike, creating a level and equal marketplace in which consumers can spend in confidence and business can confidently trade. Our duties extend to all business types including those who trade online and the growing internet marketplace, our local high streets, commercial business parks, trading estates, those who trade from their homes and door to door tradespeople.

3.3 A copy of the report for the year 2018/2019 is attached as an Appendix for Members' information and consideration showing some of the work conducted and our achievements during that financial year.

4.0 FINANCIAL IMPLICATIONS

4.1 The Trading Standards Service for 2018/2019, was provided within its agreed overall budget of £380k.

5.0 LEGAL IMPLICATIONS

5.1 There are no legal implications arising from this report.

6.0 EQUALITY IMPLICATIONS

6.1 The proposal in this report has been screened to assess its relevance to equality and was 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 its contents has no specific impact on any particular ward in either of the two consortium Boroughs.

8.0 HUMAN RESOURCES/PROPERTY IMPLICATIONS

8.1 There are no staffing or property implications arising from this report.

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. Telephone: (020) 8937 5522 Email: simon.legg@brent.gov.uk

SIMON LEGG
HEAD OF REGULATORY SERVICES

APPENDIX 1

- 1) The 2018/2019 Annual Report

Report sign off:

AMAR DAVE

Strategic Director of Environment and Regeneration



Brent & Harrow Trading Standards

Annual report
2018-2019

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Introduction

It has been another exciting and busy year for Trading Standards. We prosecuted a seller of expensive, counterfeit headphones, a travel agent was given a holiday for 25 months with Her Majesty's Prison Service, we prevented over £150,000 being handed over to criminals by intervening in a rogue trader complaint and stopped over 7,000 dangerous items throughout the year entering the supply chain in Brent and Harrow. These were travel adaptors, set top boxes and electrical chargers. In another case currently awaiting sentencing, a trader refunded a total of £70,000 back to consumers for incomplete kitchen work or in some instances, nothing was ever done despite consumers handing over deposits to pay for their dream kitchens.

The Trading Standards team cost each resident 78p for the year across both boroughs, well below the national average of £1.69 as reported by the Trading Standards Institute in 2017. The Service continues to respond to consumer complaints, gives advice and information to residents and business owners, to ensure consumers are more empowered to resolve their disputes and businesses are confident to invest and trade.



The Service also supports business growth via various methods, including Primary Authority Partnerships, compliance inspections, offering a free 'Responsible Trader Scheme' to businesses selling age restricted products and giving traders advice when needed.

To deliver the best possible service to our residents and business community, we are strongly committed to have competent and trained officers. Accordingly, this year, we are pleased to report two of our officers completed and passed their Diploma in Trading Standards and Consumer Affairs professional qualification. In addition, two staff attained their Chartered Trading Standards Practitioner accreditation. This means that all the staff employed by the Service hold a professional qualification.

Supporting Business

We continue to support our businesses and traders in many different ways, including information on our website, inspections, offering written advice and Primary Authority. (See Annex 1 for our table on the number of businesses enquires). We provided our Primary Authority partners a total of 200 hours of advice and support to help the achieve compliance and potentially reduce their businesses costs. This is up from the previous year's advice which totalled 180 hours.

Primary Authority



In 2018/2019 we continued to actively encourage partnerships under the Primary Authority Scheme (PA) promoted and administered by the Office for Product Safety and Standards (formerly known as Regulatory Development) OPSS is part of the Department for Business, Energy and Industrial Strategy (BEIS).

This page shows some of the businesses we partnered during the year with a Primary Authority Partnership. Each partner has a dedicated officer and we tailor each of our partnerships to the needs of the business, thereby giving advice and support to the areas they want.

The DIAGEO logo, consisting of the word "DIAGEO" in white, bold, sans-serif capital letters centered on a solid maroon rectangular background.



The Service is always promoting Primary Authority and looking for new partners giving them robust and reliable advice for other councils to take into account when carrying out inspections or addressing non-compliance. This helps reduce businesses costs and assures those in trade, that what they are doing will not be subject to challenge elsewhere.

This year we entered into partnership with a business which is an importer of seasonal decorative products such Christmas, summer and Halloween related products.

The Premier Decorations Limited logo, featuring the word "Premier" in a large, white, sans-serif font with a colorful, multi-colored square graphic to its left. Below "Premier" is the text "DECORATIONS LIMITED" in a smaller, white, sans-serif font.

We also partner with smaller businesses including Aerozone Trading Company, UK Electronic Cigarette Limited and Quality Part X Limited.

Inspections

The Trading Standards Service continues to assess all of our business inspections on a risk based approach. (See Annex 2 shows a comparison of Inspections to previous years). All businesses who are subject to an inspection, receive a written record of our findings which will list any actions required to increase their compliance and provide advice on what is required.

These visits include metrology visits undertaken by our three qualified Inspectors of Weights and Measures to ascertain the accuracy and legality of weighing and measuring equipment such as scales used in shop premises.



The Service participated in a national project regarding 'non-automatic weighing instruments' in supermarkets. During this project, we tested and examined 136 weighing machines. 12 machines were rejected as they were outside the tolerance permitted by legislation and 10 were given a formal notice to bring them back into compliance. All of the results were fed back to the Office for Product Safety and Standards who coordinated the project and collated the statistics on a national basis to determine the levels of compliance around the country.

Assisting Consumers

Responding to Service Requests

The Service investigated 586 complaints received from members of the public, 367 from Brent residents and 219 from Harrow residents. Due to the high number of service request received every year, it is not possible for us to investigate every complaint received so we prioritise the most serious ones and those that are likely to have the biggest impact, to ensure our resources are applied to those situations where they are needed the most.

Like most other Trading Standards authorities, the Citizens Advice Consumer Service act as the first point of contact for the majority of our consumer queries. They ensure relevant and timely advice which is fundamental to ensuring that members of the public are informed, more confident

and have the ability to resolve their own disputes or enforce their contractual rights in the marketplace.

The Citizens Advice Consumer Service send us daily referrals via a secure computer system when consumers require further help to resolve an issue where there is an allegation of criminal law having been breached.

Investigations

Another key area of work for the Service is investigations into breaches of legislation. There are a range of sanctions/outcomes and the Service follows the Enforcement Policy, which was updated and refreshed early 2019.

During the year, the Brent Team submitted a total of 49 investigation reports and the Harrow Team a total of 19. This represents an increase of investigations, up from 32 in Brent, largely attributable to the increase in our letting agency investigations and 16 in Harrow from the previous year. A table can be found in Annex 3 comparing previous years.

Brent Investigations



Complaints from members of the public prompted Brent Trading Standards to carry out a search of the seller's property in Willesden. They found fake headphones were being sold on the internet including the high end brands of Bose, Beats, and Sennhieser.

The case proceeded to the Crown Court where a jury found the defendant guilty. He was handed a 12 month community order and ordered to complete 120 hours unpaid work and pay our investigation costs of £4,500.

A second counterfeit case was heard at Willesden's Magistrates Court, regarding a trader in Kilburn selling counterfeit handbags from his shop. He was found guilty and given a fine of £1,250 and we were awarded our costs of £12,50 as well.

The Service takes the growing supply of Illicit tobacco very seriously. Last year we carried out a programme of joint visits with the HMRC who were interested in the evasion of duties paid on tobacco. During these operations, we uncovered 119,710 illicit cigarettes, 9.5 kilos of hand-rolling tobacco and 79.9 kilos of smokeless tobacco within both boroughs. In one case, a business from Brent who had previously been prosecuted, was yet again taken to court and this time the company and its director were given a fine of £2,450 and we were awarded costs of £1,446. The business also had restrictions placed on their alcohol licence following a review of their legal activity.



We used a specially trained dog to sniff out illicit tobacco as business continue to concealed illicit tobacco in an attempt to avoid it being seized.

Our lettings agents work has continued, with 30 letting agents being inspected from which only 2 agents were found to be fully compliant. This has resulted in 13 legal Notices of Intent being issued with 7 of these receiving a Penalty Notice, generating £22,750 in financial penalties.

Our usual visits to traders selling age restricted items to people under the age of 18 were carried out throughout the year. Out of the 114 inspections, we found four businesses that did sell to our volunteers, one was prosecuted and received a £500 fine and we were awarded costs of £1,237. Two of the businesses received simple cautions and one was given a letter of warning.



Following on from the wide scale noncompliance discovered during a previous project regarding unsafe part-worn tyres being supplied in the borough, the Service carried out a further round of test purchases. This led to 4 prosecutions taking place during the year, with total fines of £11,600 and costs of £3,351.

The initiative received good, positive publicity which helps to raise awareness of this important aspect of road safety.

Harrow Team Investigations

In April 2018, a Harrow business was prosecuted with regards to the sale of a knife to a 14 year old child. The director pleaded guilty on behalf of the company and was fined £1,000, ordered to pay our costs of £943 and a victim surcharge of £100. The Harrow team continued to carry out age restricted test purchases with child volunteers and support from the local Police cadets. A total of 52 premises were visited and five businesses sold offending items to the children. Two of these traders received a Simple Caution each and the remaining are currently still under investigation.

In June 2018, the director of a travel agency company was given a 25 months custodial sentence and he was also disqualified from being a director for 10 years. The business sold holidays and plane tickets from five different websites from where they were able to dupe their customers. Customers would ring contact numbers on those websites and make payments for the flights and /or holidays on the phone via the call centre using their debit or credit card. Later, they would

find that the business had not booked or their reserved flights or be given a story that they had been cancelled. Often customers only found out there was a problem when the business asked them for more money or when they contacted the airline for routine enquiries. There were 25 consumer witnesses and the amount of fraud was calculated from their loss to be just shy of £70,000.

In another investigation, a market trader pleaded guilty to 14 counts of possessing to sale counterfeit goods after his vehicle was stopped in his van by the Police. Finding fake goods, they proceeded to search his property where further counterfeits were found and we were called to assist. He was sentenced to 60 hours unpaid work, given a fine of £500 and the Service was awarded costs of £562 and a victim surcharge of £85.

Financial Investigations



The team secured 11 confiscation orders under the Proceeds of Crime Act 2002 totalling £2.9m and some of these cases are detailed below.

Brent set a record securing its highest ever confiscation order. The order for £1,483,422 was made against a landlord who had flouted planning laws for years. He was given three months to pay or face nine years in prison. The confiscation order stems from a prosecution Brent Council took against the landlord for converting a property from a single dwelling into eight self-contained dwellings.

During the confiscation investigation it was established that the landlord had also converted another four properties that he owned in Harrow from single to multiple self-contained dwellings. Harrow Council had served enforcement notices on the properties in Harrow, however the landlord ignored them and continued to rake in large sums of cash from renting the dwellings for a number of years. The confiscation order took account of rental income made from all five properties that breached enforcement notices. Brent Council also secured a restraint order which means he cannot dispose of his assets before the order is paid in full. If the order is not paid, then Brent Council can take steps to force the sale of his properties in order that the confiscation order is paid.



In another case, two confiscation orders totalling £322,282 were secured against a husband and wife. They had converted two properties into a total of eighteen self-contained flats without planning permission.

A new area of work has involved working with our colleagues in Private Housing. In one case, the two defendants were given a confiscation order for £116,000 following a housing breach relating to a seriously overcrowded and unsafe house in multiple occupation in Wembley.

A £304,458 confiscation order was secured after a conviction concerning a single dwelling converted into five self-contained flats. The company has paid the order in full.



And our work does not just relate to planning infringements, Harrow Trading Standards secured a confiscation order against a counterfeiter for £89,000 for selling thousands of fake football sew on patches and other merchandise. This followed his criminal conviction from the previous year.

Publicity

This year we have seen ourselves not only in the local papers but in the national ones as well, with headlines from our cases in the Metro, Guardian, Daily Mail.

Below are some of the headlines our cases made.

Rogue roofers

Brent Council clamp loan sharks

Rogue landlord in Harrow faces jail if he doesn't pay £1.5m fine



£1m doorstep scammers arrested

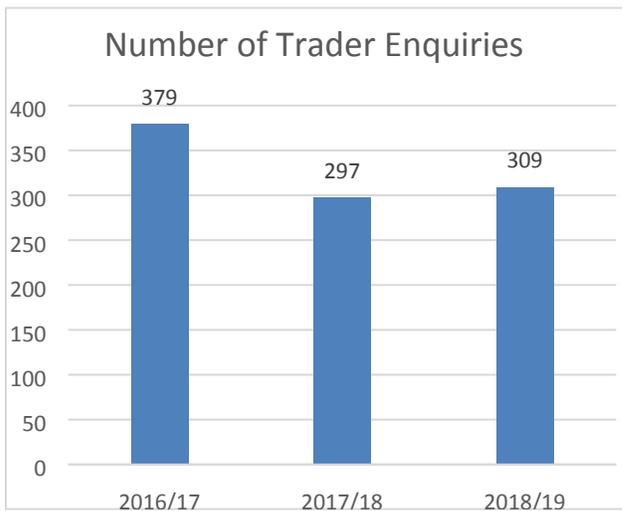
Could to get a grip 'safe' used tyres



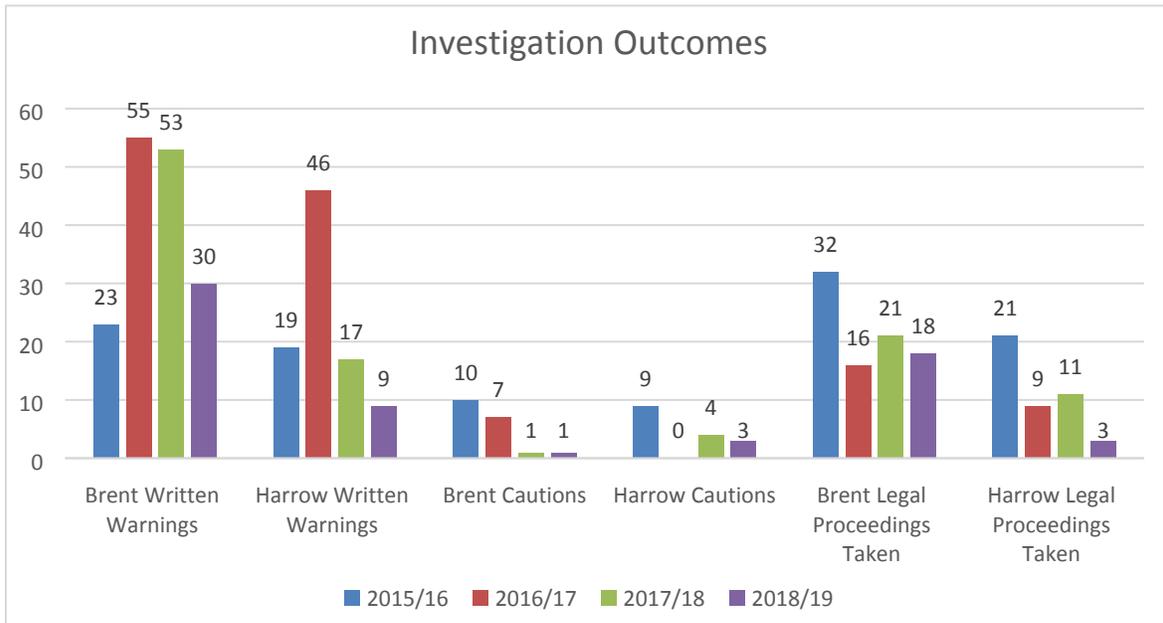
Annex 1.



Annex 2.



Annex 3.



Annex 4.

Product	Test purchases (no.)		Sales (no.)		Failure rate (%)	
	Brent 2018/19	Harrow 2018/19	Brent 2018/19	Harrow 2018/19	Brent 2018/19	Harrow 2018/19
Alcohol	61	29	2	1	3.3	3.4
Tobacco	27	3	1	1	3.7	33.3
Knife	25	15	0	2	0	13.3
Fireworks	0	5	0	1	0	20
Spray Paint	0	0	0	0	0	0
E-Cigarettes	1	0	1	0	100	0
Video	0	0	0	0	0	0
Lottery	0	0	0	0	0	0
Total 2018/19	114	52	4	5	3.5	9.6
Total 2017/18	115	93	15	7	13	7.5

**London Boroughs of Brent and Harrow
Trading Standards Joint Advisory Board
26 June 2019**

FOR INFORMATION

**UPDATE CONCERNING ADVICE AND ENFORCEMENT AROUND LETTINGS
AND PROPERTY MANAGEMENT BUSINESSES AND TWO NEW STATUTORY
DUTIES FOR THE TRADING STANDARDS SERVICE**

1.0 SUMMARY

- 1.1 The purpose of this report is to update the Joint Advisory Board on the progress made by the Trading Standards Service in delivering our Lettings and Property Management Project and two new statutory duties for the Service, enforcing the provisions of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 and the Tenant Fees Act 2019.

2.0 RECOMMENDATIONS

- 2.1 For Members to consider the report and make recommendations where appropriate and note the two new statutory duties.

3.0 DETAILS

- 3.1 This project was commissioned as a result of new legislation which came into force regulating letting agents and property management businesses. The Consumer Rights Act 2015 (the CRA) introduced new requirements for businesses operating within this profession, to display a comprehensive list of all fees and charges payable by tenants and landlords engaging the services of an agent. It further required agents to display other “prescribed information”, namely details of membership held with a government approved redress scheme and details as to whether the business is a member of a client money protection (CMP) scheme.
- 3.2 This information must be displayed on any website operated by the business and within any premises whereby the agent deals face to face with clients or perspective clients.
- 3.2 A financial penalty of up to £5k (subject to representations received by the recipient) could be imposed if Trading Standards are satisfied on the balance of probabilities that someone who is engaged in letting or property management work has failed to correctly display its fees or prescribed information.
- 3.3 A further penalty of £5k (subject to representations received by the recipient) could be imposed where agents were found to be operating without appropriate Redress

Scheme membership under the Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014. This Order specifies that someone engaging in letting or property management work must be a member of a recognised ombudsmen scheme to assist with dispute resolution if needed.

- 3.4 Members should note that a report was presented to the Joint Advisory Board on 24 October 2016, recommending that Trading Standards are delegated responsibility for enforcing the legislation in relation to redress schemes in both boroughs. Whilst this has been agreed within the London Borough of Brent, we still have not been delegated responsibility for this function in the London Borough of Harrow, so at present, any non-compliance would need to be referred to Harrow's Housing Team.
- 3.5 This arrangement does create some inefficiencies as it means Trading Standards staff are unable to deal with any non-compliance in relation to this area of law, whilst they are covering other aspects of advice or enforcement with a business.
- 3.6 During 2018, an officer was nominated to lead on the project with specific responsibility for generating advice letters, conducting website and premise inspections, drafting notices of intent, and where relevant, training other staff members in relation to the procedures around enforcement of the legislation.
- 3.7 Subsequent to advising some 193 agents in Brent and 97 within Harrow, an initial area based scoping exercise was carried out and compliance levels surrounding the display of fees and prescribed information were found to be low. Conversely, the survey indicated that nearly all agents held redress scheme membership.
- 3.8 Since April 2018, the websites of 39 agents have been inspected. Of the 39, only 9 were fully compliant, in that they adequately displayed fees and prescribed information.
- 3.9 21 of these businesses were physically visited by the Officer and full inspections carried out. Of these 21, 15 were issued with a Notice of Intent (NOI) proposing to issue a financial penalty.
- 3.10 Representations put forward by those businesses were individually reviewed by the Trading Standards Senior Regulatory Service Manager. A decision was made to either withdraw the notice, amend the penalty proposed or issue the penalty without making any changes.
- 3.11 6 Notices of Intent ended with no formal action being taken. Letters of warning were issued and the businesses concerned were brought into compliance.
- 3.12 7 of the businesses issued with a NOI, were subsequently given penalty notices for failure to comply with the provisions of the CRA. Of these 7, 1 was also found to be operating without being a member of a Government approved redress scheme under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

- 3.13 These 7 generated a total of £22,750. One agent appealed a penalty notice to the First Tier (Property) Tribunal who found in the Council's favour although they did reduce the penalty from £20k to £5k. This remains unpaid and despite steps being taken to chase payment of the debt, the company has since dissolved meaning it is unlikely the penalty will ever be paid.
- 3.14 A further 2 businesses were issued with penalty notices amounting to £6,500. Both are currently going through the appeal process and it is envisaged a decision will be made by the First Tier (Property) Tribunal in the forthcoming weeks.
- 3.15 A further 2 business have been issued with Notices of Intent proposing penalties totalling £50k. One has been issued with three Notices of Intent for failure to comply with the provisions of the CRA, failure to be a member of an approved Redress Scheme, and failure to join an approved Client Money Protection Scheme. The other business has been issued with two Notices for failure to comply with the provisions of the CRA and failure to be a member of an approved Redress Scheme. Representations will be considered following the end of the 28 day period and a decision made in line with the contents of paragraph 3.8.
- 3.16 Compliance rates remain low and whilst many businesses have improved, there is still evidence of rogue practices which have a significant and detrimental impact on tenants and landlords.
- 3.17 This is further supported by the introduction of two new pieces of legislation this year both of which Trading Standards have a statutory duty to enforce, that impose hefty fines on agents who fail to adhere to new obligations.
- 3.18 Under The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, all letting and property management agents who hold client money must join a government approved Client Money Protection Scheme (CMP). Prior to this, it was not compulsory for agents to hold such membership, they simply had to state whether or not they were part of a CMP scheme. Now, if an agent does not join a CMP scheme, a financial penalty of up to £30k can be imposed. Furthermore, if an agent fails to display their CMP certificate of membership, they may be liable for a penalty up to £5k.
- 3.19 In addition to this, from 1 June 2019 the Tenant Fees Act 2019 came into force banning the majority of fees that landlords or agents impose on their tenants. Previously, agents were permitted to charge whatever fees they wanted and often this included charges described as administration fees, tenancy renewal fees, referencing fees and credit check fees among others. The Citizens Advice have reported that private renters are charged an average of £400 in fees¹. The new legislation provides that only permitted fees will be allowed. A penalty of up to £5k can be imposed if Trading Standards are satisfied on the balance of probabilities that a Letting Agent is found to have charged a prohibited fee.
- 3.20 If an agent commits a further breach under the Tenant Fees Act within the period of 5 years, they may be guilty of a criminal offence or as an alternative to

¹ Caroline Aliwell Senior Policy Researcher at Citizens Advice - housing and consumer. Tenant Fees Bill - 2nd reading

prosecution, an increased penalty of up to £30k may be imposed by Trading Standards.

- 3.21 These are two new legislative requirements on top of existing obligations the original project focused on. It is envisaged that compliance levels will be low and further advisory work followed up with enforcement where appropriate will be necessary.
- 3.22 This work is currently being undertaken by an agency member of staff dedicated solely, to delivering the project which is for a fixed term of 6 months. The Officer is responsible for:
- i. Supporting and educating honest businesses
 - ii. Increasing levels of compliance thus Improving landlords and tenant's rights
 - iii. Reducing the cost of rentals and greater transparency in the marketplace
 - iv. Taking appropriate action against those who fall below the required legal obligations.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The cost of employing an agency member of staff for a six-month period to carry out the continuing project work, is approximately £36k. This is being funded equally from Harrow's salary budget which currently has a surplus due to a vacancy and the Brent POCA reserves.
- 4.2 During 2018/19, the Service received an income of £17,750 as a result of financial penalties imposed against letting agents.
- 4.3 Since this work has commenced, the Department of Housing Communities and Local Government has issued further guidance which places a more stringent approach to how the value of penalty charge notices are calculated. This will mean that the value of penalty notices issued during 2019/20, could potentially be less than those issued the previous year.
- 4.4 Whilst the introduction of the new Tenant Fees Act 2019 does create further breaches which attract penalty charges, we will be operating a lighter touch approach to enforcement of this legislation during the early stages of its implementation,
- 4.5 Taking paragraphs 4.3 - 4.4 into consideration, the Service is projecting to receive an income of approximately £25k during the current financial year arising from payment of penalty notices.

5.0 LEGAL IMPLICATIONS

- 5.1 The continuation of this project brings about enforcement of four separate pieces of legislation governing the lettings industry.
- 5.2 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (SI 2014 No. 2359) came into force on 1 October 2014. It is a legal requirement for all letting

agents and property managers in England to register with one of three Government-approved redress schemes. Following delegation of enforcement powers, it is now the responsibility of Trading Standards to enforce these regulations.

- 5.3 The Consumer Rights Act 2015 requires letting agent businesses to clearly display details of any fees they charge for the rental of property, in their business premises and on their websites. The legislation took effect on 27 May 2015. It is statutory for local authority Trading Standards to enforce this Act.
- 5.4 The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 requires all letting and property management agents who hold client money to join a government approved Client Money Protection Scheme. The legislation took effect on 1 April 2019. It is statutory for local authority Trading Standards to enforce these Regulations.
- 5.5 The Tenant Fees Act 2019 sets out to ban virtually all fees imposed on tenants from letting agents and landlords. Only the permitted fees listed in the legislation will be allowed. This legislation comes into force on 1 June 2019. It is statutory for local authority Trading Standards to enforce this Act.
- 5.6 The proposals put forward in this report are in line with the assertions contained in statutory guidance produced by the Ministry of Housing, Communities & Local Government. This includes:
 - i. DCLG 2015 guidance document entitled *“Improving the Private Rented Sector and Tackling Bad Practice: A Guide for Local Authorities”*
 - ii. 12 March 2019 - Client money protection for letting and managing agents
 - iii. 1 April 2019 - Tenant Fees Act 2019: statutory guidance for enforcement authorities

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 significant staffing implications arising from this report due to the dedicated member of agency staff. New advice letters and notices will have to be drafted in line with the new legislation, all of which have be dealt with by officer leading the project.
- 8.2 There is a possibility that additional work may be generated by way of appeals to the

First Tier Tribunal, in which case, a greater staffing resource will be needed and may result in staff being taken away from 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. Telephone: (020) 8937 5522 Email: simon.legg@brent.gov.uk

SIMON LEGG
HEAD OF REGULATORY SERVICES

Report sign off:

AMAR DAVE

Strategic Director of Environment and Regeneration