



Trading Standards Joint Advisory Board

Wednesday 18 March 2020 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	LB Brent	S Choudhary	
Long	LB Brent	Chohan	
Kennelly	LB Brent	Dar	
Ferry	LB Harrow	Assad	
Mithani	LB Harrow	Osborn	
Murphy- Strachan	LB Harrow	Parmar	

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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 or 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 Harrow 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 Minutes of the previous meeting	1 - 6
4 Matters arising	
5 Deputations (if any)	
6 Trading Standards Work Plan for 2020/21	7 - 16
This report provides Members with information concerning the proposed 2020/21 work plan for Brent & Harrow Trading Standards.	
I have attached an appendix to the report.	
7 Trading Standards Fees and Charges 2020/20	17 - 22
This report provides Members with information concerning the proposed level of fees and charges to be made by the Brent & Harrow Trading Standards Service during 2020/21.	
8 Tenants Fees Act and Client Money Protection policy on determining the appropriate level of financial penalties	23 - 30
The Ministry of Housing, Communities & Local Government has produced statutory guidance under both the Tenants Fees Act 2019 (TFA) and the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations (CMPR). The guidance requires Trading Standards to develop and publish their own policy on determining the appropriate level of financial penalties to impose with regards to breaches in the legislation.	
I have attached an appendix to the report.	

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 November 2019 at 6.30 pm**

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

Apologies were received from: Councillor Kennelly (London Borough of Brent). Councillor Choudhary acted as a substitute.

For the purpose of the minutes, it was requested that apologies for Richard Le-Brun (Harrow Head of Community and Public Protection) were noted.

1. Election of Chair

RESOLVED:

That Councillor Miller be elected as Chair for the meeting.

2. Declarations of personal and prejudicial interests

None.

4. Minutes of the meeting held on 13 March 2019

RESOLVED:

That the minutes of the meeting held on 26 June 2019 be approved as an accurate record.

5. Matters arising

The following matters were raised under the notes of the meeting held on 26 June 2019:

Minute 5 – Matters Arising – Outstanding Delegations

Board members asked whether the previous matter regarding outstanding issues had been resolved, as Councillor Parmar (London Borough of Harrow) was to request details of issues and follow up with Officers.

Simon Legg (Head of Regulatory Services, Brent & Harrow Trading Standards) reported that the outstanding issues remained unresolved and nothing had

progressed. He suggested that the actions had not progressed due to the absence of Harrow's Commissioning Officer. However, a meeting had been scheduled with a new representative at Harrow and these outstanding matters would be raised with them. Councillor Miller (London Borough of Brent) requested that a Harrow Councillor contacted Councillor Parmar.

6. Deputations (if any)

None.

7. Proposed Product Safety Incident Management Plan

Members received the report Product Safety Incident Management Plan.

Anu Prashar (Senior Service Manager, Brent & Harrow Trading Standards) outlined the content of the report and explained that the management plan aimed to enable effective communication between Trading Standards acting as a regulator and manufacturers who needed assistance with product safety issues. The Plan helped them to deal with problems proactively rather than reactively.

Anu Prashar explained the plan satisfied the Council's compliance with the Office of Product Safety and Standards and the British Standards Institution's Code of Practice which made sure businesses understood what needed to be done if product safety issues arose, and was split into guidance for manufacturers, importers and distributors and guidance for regulators, such as Trading Standards.

It was explained there was no legal requirement to have the plan, but it was felt necessary considering the number of importers/wholesalers in the Councils jurisdiction and the growing number of primary authority businesses, in Brent and Harrow.

Simon Legg (Head of Regulatory Services, Brent & Harrow Trading Standards) spoke of the issues surrounding the product safety of Whirlpool washing machines. He told the board that investigations had found the working relationship and communication between the Local Authority and Whirlpool were not as good as they could have been, which had led to dangerous products remaining in people's homes. Simon Legg felt that by following a Code of Practice, guidance was provided in a uniform way that allowed manufacturers to be familiar with processes and responsibilities.

As the Code of Practice was voluntary, board members queried whether there would be sanctions for businesses who did not follow the Code. Simon Legg informed the board that legislatively, businesses were required to have a system in place to ensure they did not put faulty / dangerous products on the market. The code intended to assist the process of corrective actions when unsafe goods made it to the marketplace and then needed to be removed.

Councillor Miller (London Borough of Brent) noted that the London Borough of Brent had been contacted recently by Whirlpool Customer Relations in response to assisting them with their recall. Simon Legg confirmed that all local authorities should have been written to by Whirlpool.

ACTION: Councillor Miller to inform the board of any follow up with Whirlpool.

Further information was sought regarding whether the Code of Practice had guidance for customer warranties, which would allow easier tracing of users if a product was faulty or dangerous. Simon Legg informed the board that the Code did not include guidance on customer warranties as it focused on how to deal with an incident.

Members of the board queried how the management plan focused on imported goods such as food and make-up, and whether the responsible party for ensuring product safety in those instances was the importer or the manufacturer. Anu Prashar confirmed that in those instances, the importer would be responsible, but if the products were manufactured in the UK, it would be the manufacturer's responsibility. She informed the board that the plan did not cover food items. Anu Prashar also responded to queries about responsibilities for online sellers who sold both direct and third party, such as Amazon, explaining that the responsibility for product safety would lie with the Trader.

Simon Legg told the board that the Code of Practice would not apply to second sellers and second hand items, as different parts of the law applied to second hand products.

Anu Prashar explained that there was a Code of Practice for risk assessment and that Officers had been trained to undertake risk assessments. Simon Legg explained that Officers assessed manufacturer identified risks, which would identify what the problems were, how many of the products had been sold, and what the likelihood and severity of the risk was. He affirmed that it was not necessary in particular circumstances to speak to every customer to determine risk, but it was helpful to talk to some where evidence was required.

Responding to queries regarding how much of the management plan would duplicate work already undertaken and how much extra burden it would place on the business and local authorities, Simon Legg agreed that there might be some additional work. For example, the plan required local authorities to have an out of hour's service businesses could contact for emergencies. Simon Legg believed that in reality, it would be unlikely businesses would use the service on weekends.

Board members queried the impact Brexit could have on the management plan. Simon Legg explained that subject to what happened with Brexit, the laws were expected to remain much the same although there would be implications for UK based businesses who may find themselves meeting the legal definition of being an 'importer' and who would face additional responsibilities, checks and controls if the UK was no longer part of the EU.

As no further questions were raised, the Chair thanked Anu Prashar and Simon Legg for their work on the product safety incident management plan.

RESOLVED

That the Product Safety Incident Management Plan be approved.

8. London Responsible Retailers Agreement on the Safe Storage, Sale of Knives and Other Age Restricted Products

Samuel Abdullahi (Regulatory Team Leader, Brent Trading Standards) introduced the report providing members with information concerning a new online initiative to help retailers who sell knives comply with the law. It was explained that the initiative, an online training package, had been developed in partnership with MOPAC, the Metropolitan Police and London Trading Standards as a response to reducing London knife crime.

It was a criminal offense for anyone to sell knives and other bladed items to a person under 18, and as of the Offensive Weapons Act 2019 age verification needed to take place when a knife was delivered. The new toolkit was launched in September during the London Trading Standards Week of action. Samuel Abdullahi informed the board that the toolkit gave access to materials for businesses that sold knives, and provided an online training package with videos related to the safe sale and storage of knives, how to ask and challenge a customer for ID and when to call the police. The board were shown some of the videos.

The package also included a voluntary best practice agreement businesses were encouraged to follow that showed their commitment to complying with the rules. The initiative was intended to run alongside the Service's existing Responsible Trader Scheme, which had been in use for ten years and covered more products such as alcohol and fireworks.

Simon Legg (Head of Regulatory Services, Brent & Harrow Trading Standards) told the board that they intended to introduce the scheme to businesses while Officers were carrying out their daily duties.

Members were concerned about the use of identification apps and how Trading Standards could ensure they worked. Samuel Abdullahi responded that they would only encourage the use of apps if they were satisfied they were reliable and the business was confident in using them.

Responding to queries regarding what percentage of businesses had signed up to the Responsible Traders scheme, Samuel Abdullahi informed members that in Brent 108 had signed up and in Harrow 93.

Samuel Abdullahi answered queries regarding HR implications from the scheme, confirming that he was of the opinion they needed more Officers but that the work would be accommodated when staff were out doing 'Days of Action' for example.

Members asked whether the Trading Standards Team had scope to lobby for a change in knife design that may make them safer. Samuel Abdullahi explained that it would not be within the remit of the work, but that some knives had been outlawed such as the 'Zombie Knife'.

In relation to knife crime, members asked whether Trading Standards planned to do a piece of work educationally to tackle the carrying and harmful use of knives. Simon

Legg responded that the Service had a duty to prevent underage sales of knives and that was where they would focus their resource.

No further questions were raised, and the Chair thanked Samuel Abdullahi for presenting the work being done regarding responsible retailers and the sale of knives.

RESOLVED:

To note the report.

8. Operation Snowball: The Prosecution of a Rogue Roofing Gang

Andrew Faulkner (Enforcement Officer, Brent Trading Standards) introduced the report, explaining that it detailed a case that he had investigated. The matter had just concluded and resulted in the largest custodial sentences obtained by the Service.

The case involved 2 Harrow residents who had been cold called with the advice that their roof tiles needed changing, which escalated further through false claims of rotten roof beams and risk of serious damage. This encouraged the residents to keep paying more instalments. Andrew Faulkner expressed that the perpetrators used many different tactics to get money as soon as possible. In the first instance, a Harrow resident had paid over £300,000, which happened over a 6-week period, beginning with payments of £20,000 and gradually increasing.

It was brought to the team's attention as it was linked to another roofing incident in Harrow around the same time, and intelligence flagged other incidents which they were also able to investigate.

The case resulted in convictions after a 6-week trial at Harrow Crown Court in September, with custodial sentences for 4 defendants. Andrew Faulkner had obtained 82 witness statements with over 2,000 pages of exhibits, conducted 7 entry warrants, and obtained communication data using his powers.

The case had been mentioned in the Express, who were calling on the government to make crimes of this nature a hate crime against older people. Andrew Falkner confirmed that all 6 victims in the case had been over the age of 70. Trading Standards were now working with the BBC on a programme called Defenders UK.

In response to whether the victims had recovered any money, Anu Prashar (Senior Service Manager, Brent & Harrow Trading Standards) explained that the process was ongoing as the matter was now subject to financial investigation under the Proceeds of Crime Act 2002.

The board heard some personal stories about fraud of this type, and Andrew Falkner showed the board a video from a new case they had received, where the homeowner had a 'ring' doorbell camera. The video depicted a man entering the house while covering his face.

Simon Legg (Head of Regulatory Services, Brent & Harrow Trading Standards) told the board that the Council had a statutory duty under the Care Act 2014 to protect the

community from financial abuse, and endorsed the hard work that had been put into this case by Andrew Faulkner.

The Chair thanked Andrew Faulkner for their work on the case.

RESOLVED:

To note the report and thank the Trading Standards Team for conducting the investigations for this case.

10. **Date of next meeting**

RESOLVED:

That the date of the next meeting be held on **18 March 2020** at Harrow Civic Centre.

11. **Any other urgent business**

None.

The meeting closed at 19.50pm.

COUNCILLOR Tom Miller
Chair

**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
18 March 2020
Report from the Senior Service Manager**

FOR INFORMATION

TRADING STANDARDS WORK PLAN FOR 2020/21

1.0 Purpose of the Report

- 1.1 This report provides Members with information concerning the proposed 2020/21 work plan for Brent & Harrow Trading Standards.

2.0 Recommendations

- 2.1 That Joint Advisory Board Members consider the report and make any recommendations or comments where appropriate. Members may wish to suggest any priority areas of work that the Trading Standards Service may wish to consider.

3.0 Details

- 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 monitoring performance during this period.
- 3.2 In accordance with 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 A copy of the proposed work plan for the year 2020/21 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 2020/21.
- 4.2 This report is written for the purposes of the Joint Advisory Board consideration as if the 2020/21 budget will remain unchanged from the previous year. However, Members should note that we are in the process of reviewing the budget for provision of the service over the coming year following Harrow's request to reduce the level of funding.

- 4.3 Therefore, it is likely a further review of the service work plan will be required once a determination has been made as regards to the level of funding over the coming year.

5.0 Legal Implications

- 5.1 There is 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 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.

Contact Officer

Any person wishing to obtain more information should contact Anu Prashar, Acting Senior Regulatory Service Manager Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5515, anu.prashar@brent.gov.uk

ANU PRASHAR
ACTING SENIOR SERVICE MANAGER



Brent & Harrow Trading Standards

Team Work Plan 2020-2021

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Introduction

The Trading Standards Service starts the year with a new Acting Senior Regulatory Service Manager, Anu Prashar, who has taken up this role as the previous incumbent Simon Legg is the Head of Regulatory Services. Trading Standards, Food Safety and Environmental Health functions report directly to the Head of Regulatory Services. During 2019/20 the Licensing Team move into the Regulatory Services to create a more resilient and cohesive team. A restructuring exercise will take place during this year to accommodate the new team within the Regulatory Service Team. It is also anticipated that a further restructuring exercise of Trading Standards will take place in this year.

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.

After a recruitment drive, the team appointed a new enforcement officer to the Harrow Team. Unfortunately, this member of staff took on another role outside of the Council after 7 months. Both teams have been functioning with vacancies, which has put extra burdens on to the existing frontline staff.

Across the Trading Standards profession, there is difficulty in finding suitable candidates to recruit to the vacant enforcement roles. The Service has participated in recruiting a Regulatory Compliance Apprentice, who will spend time across the teams in Regulatory Services. We were hoping to have someone in place by April 2020, but this is not the case. We will be continuing to participate in this recruitment and hope to have at least one apprentice in place during this year.

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.

Brexit has now happened, and there is now in the transitional period with Europe regarding goods and services to and from the UK and Europe. During this year, it is expected that there will be changes in legislation that will have an effect on our businesses. This will put extra burden on our Service to keep up to date with any changes and to disseminate any information to our businesses. We cannot gauge, at the time of writing this report, what the burden on the Service delivery and on businesses will be, but we will be keeping a close eye on any developments in this area.

The Service's leadership team currently includes 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 Service 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 2019, which it considers to be priority areas of work:

- Mass Marketing Scams - disrupting and reducing consumers' exposure to scams
- Estate agency and Lettings work- protecting tenants and landlords from letting agents who aren't complying with the law
- Doorstep Crime and Cold Calling – safeguarding of vulnerable adults and consumers
- Fair Trading issues - specific threats include used cars, housing, travel, energy frauds, distance selling, traders acting as private sellers and complaints about businesses who claim to be in approved trader schemes
- Age Restricted Sales – preventing the sales of knives to children.
- 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 as the demand for rented accommodation increases.

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LTS priority areas are as follows:

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

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 2020/21 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	Brexit related advice and training

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

*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)	Provision of Advice re Credit Card Charges

Work Volumes

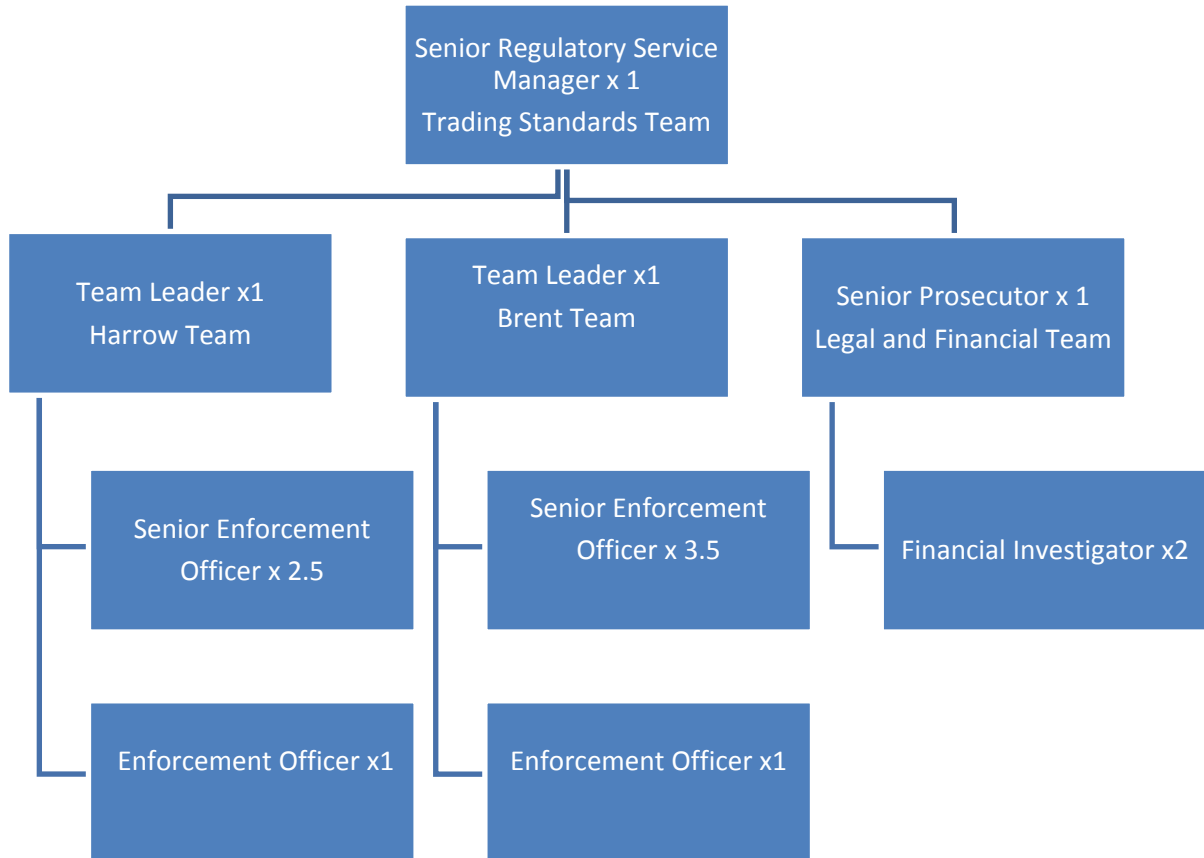
The tables below show the projected performance of the respective Brent and Harrow teams during 2020/21. It should be noted the nature of Trading Standard's duties is variable. For example some investigations take much longer than others or it may be necessary to carry out more inspection visits than expected in response to a particular outbreak of noncompliance or there might be a large volume of trader enquiries resulting from changes in legislation.

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 2020/21 Based on staff numbers:	Brent Team 2020/21 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	470	350
Trader Enquiries / requests for advice	100	75
High Risk / Most Complained-about Trader Inspections	40	35
Other Business Inspections	85	100
Weights & Measures, Average Quantity or Verification visits	5	4
Primary Authority Hours	150	50
Underage Test Purchase Visits	80	80
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	10	10
Local and Regional Projects Completed	3	3
Service Improvement Work (Hours)	125	150
Approved Trader Scheme New Recruits or Audits	15	30
Doorstep Crime Rapid Response Actions	4	7
Number of Scam Victims Contacted c/o NTS Scams Hub	60	60
Partnership or Area Based Working Events / Weeks of Action	10	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

Service Structure as of March 2020



**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
18 March 2020**

Report from the Head of Regulatory Services

FOR INFORMATION

TRADING STANDARDS FEES AND CHARGES 2020/21

1.0 Purpose of the Report

- 1.1 This report provides Members with information concerning the proposed level of fees and charges to be made by the Brent & Harrow Trading Standards Service during 2020/21.

2.0 Recommendations

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

3.0 Details

- 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 As per the council's Fees and Charges 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 Brent is the host authority for the Consortium and therefore the fee structure and charges are applied at the same level 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 Under the Tenant's Fees Act 2019 and Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, we can impose monetary penalties of up to £30,000 where breaches of the legislation have taken place.
- 3.4.6 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. It is proposed that the penalties range from £1,000 (low harm) to £5,000 (high harm) for first offences. For subsequent offences, we will either prosecute or levy a penalty of £5,000 (low harm) to £30,000 (high harm). These penalties only relate to the legislation quoted in 3.4.5 above.

Primary Authority Fees

- 3.4.7 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.
- 3.4.8 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. The figures given in this report have been taken for December 2019 as January's figure had not been published at the time of writing this report.

3.4.9 The Office of National Statistics have provided an RPI figure for December 2019 as 2.2%. The proposed rounded up, hourly rate increase in our primary authority fees to include this rise are shown in the table below.

Service	2019/20	2020/21
Primary Authority – fixed contract (per hour)	£60.00	£62.00
Primary Authority - pay as you go (per hour)	£75.00	£77.00

3.4.10 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

3.4.11 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. The Association of Chief Trading Standards Officers (ACTSO) used to publish annual guidance for weights and measures fees to local authorities so they could remain competitive. ACTSO took the decision in April 2019 not to give this guidance as the 'actual costs of each local authority vary widely for many reasons and local authorities must follow their own corporate rules in relation to assessing costs and charging'. In the absence of the ACTSO guidance, we have applied a 2% inflationary increase to each of these fees this year.

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

Service Charged Per Officer Per Hour	VAT	2020/21 (Inc VAT where applicab le)	2020/21	
			(excl VAT)	(inc I
Verification of weights & measures equipment	20%	75.24	65.00	78.00
Calibration of weights for business	20%	75.24	65.00	78.00
Weights & measures testing for other local authorities (per item)	0%	62.40	65.00	No VAT
Additional officer testing assistance (per hour)	0%	40.00	41.00	49.20
Officer use of safety lab (per hour)	20%	84.00	72.00	86.40

Registration of Premises for Auction Fee

3.4.13 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 £346 and it is proposed this fee increases to £354.

3.4.14 It is very rare to get applications for this purpose with none received during

2019/20.

Fee for Officers Carrying Out Duties at Wembley Events

- 3.4.15 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 £60 per hour per Enforcement officer and between £80 to £90 for Senior/Supervisory Staff. Officers are expected to work during the UEFA Euro 2020 matches at Wembley. This fee is negotiated and managed by Brent Council's Licensing team so is beyond the scope of this report.

Financial Investigator's Fee

- 3.4.16 Our Financial Investigators continue to offer their services to 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.
- 3.4.17 It is proposed to increase this fee from £40.00 to £41.00 per hour. This may appear a low rate compared to other officer fees but in most cases, but this fee is charged in addition to a share of any subsequent incentivisation scheme payment.
- 3.4.18 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 There is some scope to increase income for the service in order to offset the cost of providing the service. The service's income target has increased year on year. The increase in income target of £12,000 reflects the Letting and/or Property Management Penalty Fees, which in the previous year no target was set.
- 4.2 Below is the list of the previous income budgets.
- 2016/17 - £27,500
 - 2017/18 - £31,500
 - 2018/19 - £33,500
 - 2019/20 - £45,500.

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

- 4.3 At the time of drafting this report, income of £39k for 2019/20 had already been achieved via its fees and charges against a fees and charges income figure of

£38.5k. This is less than last year (£45,500) due to a reduction in Primary Authority advice and a considerable decrease in the weights and measures worked carried out for other local authorities and businesses. However, we have seen an increase in fees arising from letting agent fixed penalty notices charges

- 4.4 Any rise in fees for 2020/21 as a result of this report, is anticipated to 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 is 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 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.

Contact Officer

Any person wishing to obtain more information should contact Simon Legg, Head of Regulatory Services Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5522, simon.legg@brent.gov.uk

SIMON LEGG
HEAD OF REGULATORY SERVICES

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**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
18 March 2020
Report from the Senior Service Manager**

FOR INFORMATION

**Tenants Fees Act and Client Money Protection policy on
determining the appropriate level of financial penalties**

1.0 Purpose of the Report

- 1.1 The Ministry of Housing, Communities & Local Government has produced statutory guidance under both the Tenants Fees Act 2019 (TFA) and the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations (CMPR). The guidance requires Trading Standards to develop and publish their own policy on determining the appropriate level of financial penalties to impose with regards to breaches in the legislation.
- 1.2 This report seeks members comments on the draft policy.
- 1.3 The policy will apply to the activities of the Trading Standards consortium.

2.0 Recommendations

- 2.1 That Joint Advisory Board Members:
 - 2.1.1 Consider the contents of the policy (see Appendix 1) and make appropriate comments.
 - 2.1.2 Note the responsibility of the Head of Regulatory Services to agree and implement the policy.

3.0 Details

- 3.1 The Tenant Fees Act 2019 (TFA) came into force on the 1 June 2019. The Act amended the Housing and Planning Act 2016 section 135 making the enforcement of client money protection scheme regulations a responsibility for weights and measures authorities, otherwise known as Trading Standards.
- 3.2 The TFA imposes a ban on a range of letting fees charged to the tenants. Under the Act, a landlord or agent is able to impose certain specified charges in respect of new tenancies commenced after 31 May 2019, such as rent payments and refundable deposits but any charge which is not permitted will be a 'prohibited payment' under the Act. Each request that a landlord or letting agent makes for a

prohibited payment is a breach of the Act for which a financial penalty of up to £5,000 may be imposed by the Council.

- 3.3 However, if a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be a criminal offence for which an enforcement authority may impose a financial penalty of up to £30,000 as an alternative to prosecution. Upon conviction, the penalty is an unlimited fine and a banning order offence under the Housing and Planning Act 2016. Enforcement authorities are expected to develop and publish their own policy on determining the appropriate level of financial penalties to impose.
- 3.4 From the 1 April 2019 it is a legal requirement for all property agents who hold client's money to be a member of an approved or designated client money protection scheme. In respect of a failure by a letting or property agent who holds client money to belong to an approved or designated scheme as required by Regulation 3 of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (CMPR), a financial penalty not exceeding £30,000 can be imposed.
- 3.5 Agents must obtain a certificate of membership of the approved client money protection scheme, display the certificate at their premises, publish the certificate on the agents' website and produce a copy of the certificate to anyone who reasonably requires it. Agents that fail one of these requirements, risk receiving a £5,000 fine.
- 3.6 Under the Act, landlords or agents are no longer able to require tenants in the private rented sector in England, or any persons acting on behalf of a tenant or guaranteeing the rent, to make certain payments in connection with a tenancy. In essence this covers any fee or charge related to a tenancy except for those expressly permitted in the Act. Any such payment will be a 'prohibited payment' under the Act. 'Permitted payments' include:
- a) Rent payments [which must be paid at regular and specified intervals, generally split equally across the period of the tenancy];
 - b) A refundable tenancy deposit [capped at 5 or 6 weeks rent depending on whether annual rent income is below or above £50,000];
 - c) A refundable holding deposit (to reserve a property) capped at no more than one week's rent;
 - d) Payments in event of a default of the tenant such as the cost of replacing a lost key;
 - e) Payments on assignment, novation or variation of a tenancy when requested by the tenant capped at £50, or reasonable costs incurred if higher;
 - f) Payments associated with early termination of the tenancy, when requested by the tenant;
 - g) Payments in respect of utilities, communication services and council tax;

- 3.7 Each request for a prohibited payment is a breach.
- 3.8 A breach of the legislation will usually be a civil breach with a financial penalty of up to £5,000. However, if a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this is a criminal offence under Section 12 of the Act. Upon conviction, the penalty is an unlimited fine and a banning order offence under the Housing and Planning Act 2016.
- 3.9 Where an offence under Section 12 is committed, enforcement authorities may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, enforcement authorities will have discretion over whether to prosecute or impose a financial penalty. Where a financial penalty is imposed this does not amount to a criminal conviction. A breach of the requirement to repay the holding deposit is a civil breach only and will be subject to a financial penalty of up to £5,000.
- 3.10 Enforcement authorities are expected to develop and document their own policy on when to prosecute and when to issue a financial penalty of up to £30,000 and should decide which option they wish to pursue, on a case-by-case basis, in line with that policy. Enforcement authorities are expected to develop and publish their own policy on determining the appropriate level of financial penalties to impose.
- 3.11 In doing so the Council must have regard to the relevant statutory guidance which, at present, is 'Tenant Fees Act 2019 – Statutory Guidance for Enforcement Authorities' and the Client Money Protection- Mandatory client money protection for property agents -Enforcement guidance for local authorities. The statutory guidance includes guidance to local authorities as to the matters which might be taken into account when deciding whether to pursue a prosecution or, in the alternative, impose a civil penalty.
- 3.12 A copy of the proposed policy is attached as an Appendix to this report.

4.0 Financial Implications

- 4.1 Enforcement authorities will be able to retain the money raised through financial penalties. The penalties will be fair, proportionate, independent and objective. None-the-less, there is a potential for the penalties to have an inadvertent financial benefit for the service.
- 4.2 It is proposed that first breaches receive penalties of £1,000 (low harm) to £5,000 (high harm) and second or further breaches receive penalties of £5,000 (low harm) to £30,000 (high harm).
- 4.3 There will be additional costs in processing the civil penalty paperwork, responding to any representations and then defending appeals. It is anticipated that any additional costs will be met through the additional income generated through levying civil penalties.

- 4.4 The decisions of whether to levy civil penalties or to have prosecution proceedings will each have a financial implication for the Council.

5.0 Legal Implications

- 5.1 Enforcement authorities are expected to develop and document their own policy on when to issue a financial penalty of up to £30,000 and when to prosecute (Paragraph 6.3, Tenant Fees Act 2019: Statutory Guidance for Enforcement Authorities and Paragraph 6.2, Mandatory client money protection for property agents -Enforcement guidance for local authorities). Local authorities that carry out enforcement activity must have regard to the guidance.

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 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.

Contact Officer

Any person wishing to obtain more information should contact Anu Prashar, Acting Senior Regulatory Service Manager Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5515, anu.prashar@brent.gov.uk

ANU PRASHAR
ACTING SENIOR SERVICE MANAGER

London Borough of Brent Policy under the Tenant Fees Act 2019 and Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

Tenant Fees Act 2019

From 1 June 2019, the Tenant Fees Act 2019 (TFA), came into force, prohibiting landlords and agents from charging any fees to tenants, other than those 'permitted' by the Act. Any tenancy that was signed on or after this date, must adhere to the new legislation.

The TFA applies to assured shorthold tenancies, student accommodation tenancies and licences to occupy housing in the private rented sector. The TFA only applies to landlords, agents and tenants in England.

Trading Standards has a duty to enforce the TFA, and where there has been a breach of the Act and/or associated legislation, to determine the appropriate enforcement action. This policy has been issued pursuant to this duty and should be read in conjunction with the council's published Enforcement Policy.

In creating this policy, regard has been given to the Tenant Fees Act 2019 Statutory Guidance for enforcement authorities¹.

The TFA provides that enforcement authorities may impose financial penalties depending on the breach as follows:

In respect of prohibited payments under sections 1 & 2 of the TFA a financial penalty not exceeding £5,000 for a first breach.

Under section 12 of the TFA a second or subsequent breach within 5 years of the previous breach, will be a criminal offence of which an unlimited fine may be imposed upon conviction.

As an alternative to prosecution the Act allows enforcement authorities to impose a financial penalty of up to £30,000.

¹ Tenant Fees Act 2019 – Statutory Guidance for Enforcement Authorities
<https://www.gov.uk/government/publications/tenant-fees-act-2019-guidance>

The Trading Standards Service will determine what is the most appropriate and effective sanction, whether it is applicable to impose a financial penalty or prosecute in any relevant case.

This policy sets out factors that will be used to determine whether to prosecute for an offence under section 12 or issue a monetary penalty for a breach of sections 1 or 2. The policy also lists factors to help determine the level of the financial penalty, where one is issued. The factors are not weighted or listed in any order of priority. If there is a deviation from this policy, the reasons will be documented in writing.

Decision to prosecute for an offence under section 12

The decision to prosecute a business under the TFA will take into consideration the TFA statutory guidance and our enforcement policy as well as the factors below;

- Whether a monetary penalty has been issued previously and if it has, was it paid?
- There is little or no cooperation with Trading Standards following being made aware of an alleged breach
- The business is being prosecuted for other offences

Decision to issue a monetary penalty for a breach of sections 1 or 2

The decision to issue a monetary penalty under the TFA will take into consideration the TFA statutory guidance and our enforcement policy as well as the factors below:

- Whether a monetary penalty has been issued previously and if it has, was it paid
- There is some evidence that compliance has improved since being made aware of the alleged breach
- The business is not being investigated or facing formal action for other matters
- There is no reason to believe at present that the business or its officers are unfit to practice as letting agents

Decision to determine the value of any monetary penalty for a breach of sections 1 or 2

- The considerations are set out on the following pages for both the TFA and CMPR

Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

Trading Standards has a duty to enforce the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (CMPR), and where there has been a breach of the Regulations and/or associated legislation, to determine the appropriate enforcement action.

In creating this policy, regard has been given to the CMPR Statutory Guidance for enforcement authorities².

In respect of a failure by a property agent who holds client money to belong to an approved or designated scheme as required by regulation 3 of the CMPR, a financial penalty not exceeding £30,000, may be imposed.

In respect of a failure to obtain a certificate confirming membership or display that certificate as required or publish a copy of that certificate on the relevant website or produce a copy of the certificate free of charge as required by regulation 4(1) of the CMPR a financial penalty not exceeding £5,000 may be imposed.

In respect of a failure by a property agent to notify any client within 14 days of a change in the details of an underwriter of a scheme or that the membership of the scheme has been revoked as required by regulation 4(2) of the CMPR a financial penalty not exceeding £5,000 may be imposed.

Determining the level of the monetary penalty for a breaches under TFA and CMPR

If a monetary penalty is to be imposed, the Service will have regard to the factors expressed in paragraphs 6.3 and 6.2 of the relevant statutory guidance.

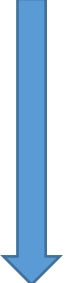
This guidance includes the following factors to help ensure that the financial penalty is set at an appropriate level:

- a)** Severity of the breach
- b)** Punishment of the landlord or agent
- c)** Aggravating and mitigating factors
- d)** Fairness and proportionality

The Service recognises the need for each case to be considered on its own merits when determining the appropriate level of financial penalty.

² Mandatory client money protection for property agents-Enforcement guidance for local authorities
<https://www.gov.uk/government/publications/mandatory-client-money-protection>

In order to achieve the aims of the guidance in regards to being fair, proportionate, independent and objective we shall use the following table to assist us in determining the starting point for the level of penalty.

			Starting point for first breach (subject to representations)	Starting Point for second or further breaches (subject to representations)
Low Harm	1		£1,000	£5,000
	2		£2,000	£10,000
	3		£3,000	£15,000
	4		£4,000	£20,000
High Harm	5		£5,000	£30,000

In accordance with the legislation, we will consider any representations made by the business within the statutory timescales permitted and apply reductions from the starting point figure accordingly.

In addition, we shall take into consideration, the value of the overall penalty imposed, if the situation should arise whereby a businesses is due to be issued additional penalty notices under alternative legalisation.

Head of Regulatory Services

Dated March 2020