

**London Boroughs of Brent and Harrow
Trading Standards Advisory Board**

7 December 2009

Report from the Head of Trading Standards

FOR INFORMATION

Trading Standards Budget for 2010/2011

1.0 SUMMARY

- 1.1 This report provides Members with information concerning the Trading Standards budget required for 2010/2011 which will enable Members to make recommendations to the main Committee in each borough.

2.0 RECOMMENDATIONS

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

3.0 FINANCIAL CONSIDERATIONS

- 3.1 This report concerns the finance of the Trading Standards Service for 2010/2011 and the proposals are for consideration by both Councils.

4.0 STAFFING IMPLICATIONS

- 4.1 Significant reductions from the estimated 2010/2011 required budget detailed at paragraph 5.6 could result in staffing reductions.

5.0 DETAIL

5.1 Background

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

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

5.1.3 The current Trading Standards staffing establishment is 29.3 FTE staff; 22.3 provided on a borough basis and 7 shared staff. The Brent and Harrow borough teams have 11.8 and 10.5 front line enforcement staff respectively. The 7 members of staff who are shared between both boroughs include:- Head of Service, Assistant Head of Service (x1), Laboratory & Systems Manager, Service Development Officer, Customer Services Manager, Finance & Administration Officer and 1.5 Customer Services Officers. Therefore, the Service has an equivalent of 15.3 FTE staff working for Brent and 14 for Harrow, which reflects the proportion of the budget contributions made by each borough during 2009/2010.

5.2 Fixed Costs

The items to be included as fixed costs in the budget are detailed in the Consortium Agreement. The estimated fixed costs for 2010/2011 are £719,562 (£374,172 for Brent and £345,390 for Harrow). This is 42% of the total budget. Included in the figures for fixed costs is the notional rent for the office accommodation, which currently is being paid by Brent for both boroughs' contribution. The apportionment of fixed costs is, according to the Consortium Agreement, on the basis of the percentage budget split of the total budget from the previous year.

5.3 Variable/Activity Costs

5.3.1 The major expenditure of the Service is on the variable costs. The 2010/2011 estimate is £994,484 (£517,092 for Brent and £477,392 for Harrow). 92.6% of these costs are for staff salaries and the remainder is for sampling & analyst fees and legal costs for prosecutions taken by the Service.

5.3.2 Each area of variable costs has been examined and reduced wherever possible. £994,484 is required to maintain the same level of service delivery as this year. There are no areas, apart from salaries, where significant reductions could be made without jeopardising the operation of the whole Service. The trend over the past few years has led to the reduction of the overall budget and has not kept pace with inflation, thereby leading to a decline in the provision of trading standards services in the two boroughs.

5.4 Income

5.4.1 There is little scope for increasing income. Historically, the main source of income has been from fees for verification of equipment under the Weights and Measures Act. Deregulation, however, has permitted manufacturers to verify their own equipment (both new and repaired) which has drastically

reduced this source of income for the Service. Fees charged under the Weights and Measures Act are recommended by the Local Authority Coordinating Body on Regulatory Services. We have deviated from that recommendation in the past and substantially increased the charge for testing of some types of equipment. The income from these fees, however, has reduced over this year, but I have estimated the income from this source to be £8,000 for next year.

5.4.2 The main source of income for the Service now is from costs awarded against defendants following successful court convictions. The estimated income for next year is £70,000. This reflects the fact that costs are dependant on the number of cases taken to court, which in turn is directly related to the number of staff employed by the Service. Although the Service is generally being awarded more costs per case, the number of staff has been reduced during the past two years. These posts would have produced prosecutions which would have resulted in greater costs next year. This income is by no means certain and subject to award by the courts. Conversely, it must be remembered that the cost of undertaking prosecutions has also increased, particularly in cases where the Service has no alternative but to use barristers in matters that are heard in the Crown Court. The present level of income is dependant on maintaining the current level of prosecutions. Obviously, if there are staffing reductions involving enforcement staff then fewer cases will be prosecuted and the projected income may not be achieved. Since the introduction of The Protection of Consumers from Unfair Commercial Practices Regulations 2008 in May 2008, the Service has a statutory duty to consider other alternatives to prosecutions, such as informal/formal undertakings, civil orders and injunctions. This will undoubtedly further reduce the costs that the Service has been able to recoup from criminal proceedings in the past whilst, at the same time, increasing the legal costs incurred in pursuing the new civil sanctions.

5.4.3 As a result of recent changes in legislation there is a further opportunity to generate income under the Proceeds of Crime Act 2000 (POCA) which allows prosecuting authorities to seize the assets of those who benefit from criminal lifestyles, such as counterfeiting. However, sufficient resources need to be available to investigate this type of criminal activity and complicated financial investigations cannot be conducted by reducing the budget and effectively reducing the number of staff in post. In addition to generating our own income, there is opportunity to market the skills of our qualified financial investigators to other Council Departments to assist them with their POCA investigations.

5.4.3 Instead of the Consortium budget being treated as one cost centre for both Boroughs, the income and expenditure is accounted for separately for each so as to provide improved monitoring. This has involved constructing the budget into three cost centres:-Brent (variable costs), Harrow (variable costs) and Shared costs.

5.5 Prioritisation of Work

5.5.1 Most of the work of the Service is demand led, either as a result of complaints received from members of the public and businesses or requests for advice from local traders and other agencies. There have never been sufficient resources to enforce all the legislation assigned to the Service so a high degree of prioritisation occurs on a daily basis. The Service has been placed under considerable pressure over the last two years in trying to cope with new legislation and other demands from both businesses and consumers without the necessary resources to carry this out. The Service recognises that the illicit sales of age restricted goods cannot be stemmed by enforcement alone and that regular education of retailers and their staff is required. To that end, the Service is committed to sign up at least 500 members to its 'Responsible Trader Scheme' which gives businesses the necessary tools to prevent such sales to underage children. Checking businesses for compliance with respect to age restricted sales is regularly carried with our child volunteers and invariably this includes operations at weekends and evenings. Another persistent issue with the Service is the huge volume of counterfeit and unsafe goods that are sold across the boroughs. Again, much of this enforcement is carried out at weekends or outside normal office hours for which overtime has to be paid to our staff. As such, the Service does not have the resources to respond to all these demands.

5.5.4 Prosecution work is also prioritised in order to minimise the cost of proceedings and maximise the protection of the public. The implications of instituting legal proceeding in a particular case are carefully weighed up before a decision to prosecute is made. Carrying out prosecutions "in house" is extremely successful as very few cases are lost and the Service saves a considerable amount of money each year in legal fees. Many more defendants, however, are now opting for Crown Court trial which involves the cost of instructing Counsel and an increasing number require the assistance of interpreters, which places an increased financial burden on the Service. The Human Rights Act and the Regulation of Investigatory Powers Act also places additional demands on our investigations and senior officers and our investigations are subject to external scrutiny by Commissioners appointed by the Home Office.

5.5.5 Many staff put in extra effort often in their own time to produce additional work without compromising the targets set. These include:- talks; displays; exhibitions; press releases; supervising work experience students and liaising with schools to provide information on trading standards matters to the consumers of tomorrow. This extra work is a direct reflection of the high commitment of staff. However, any further reduction in the budgets would mean that this very important area of work would have to cease.

5.6 Proposed 2010/2011 Budget.

The required budget for the Consortium for 2010/2011, which only includes an inflation increase of 0.75% from the previous year's budget, is £1,714,046. This would be apportioned between the boroughs as follows:-

	Fixed Costs (42% of Total)	Activity Costs (58% of Total)	Total Costs
Brent (52%)	£374,172	£517,092	£891,264
Harrow (48%)	£345,390	£477,392	£822,782
TOTAL	£719,562	£994,484	£1,714,046

(The inflation rate of 0.75% is based on Brent's Budget Guidelines for 2010/11.)

- 5.7. The budget shown in 5.6 above would produce the same units of output work as 2009/10 in both boroughs, but would not account for new legislation and duties. This is based on the work priorities remaining largely the same as this year (see Appendix 1).
- 5.8. The Consortium agreement requires the Head of Trading Standards to provide alternatives to the proposed budget for consideration by the respective Councils. However, I fully recognise that the current financial situation within both Councils does not allow for growth in the Trading Standards budget for 2010/11. Therefore, I do not propose to seek any growth whatsoever apart from the inflationary increase as stated in paragraph 5.6 above.
- 5.9. Similarly, any decrease in the 2010/11 Trading Standards budget would lead to a significant reduction in our ability to respond to consumer complaints and trader enquiries. It would also result in a decrease in proactive work such as inspections of trade premises, consumer education and partnership working with other Council services and partner agencies, i.e. 'days of action', doorstep crime, Neighbourhood Champions Scheme, schools educational programmes. Any reduction in the Trading Standards budget will lead to an increase in complaints against the Service and would adversely affect the Service's ability to achieve the upper threshold standard with respect to the new national performance indicators for Trading Standards (see 5.10 below).
- 5.10. Nevertheless, to comply with the requirements of the Consortium Agreement, the table below sets out several options that should be considered along with the impact of any such increase/reduction in the 2010/11 Trading Standards Budget.

<u>Options</u>	<u>Total Cost (£)</u>	<u>Cost Per Borough (£)</u>		<u>Complaints</u>		<u>Reports</u>		<u>Prosecutions</u>	
		Brent	Harrow	Brent	Harrow	Brent	Harrow	Brent	Harrow
Zero Growth	1,714,046	891,264	822,782	1344	1208	72	62	34	28

(Includes 0.75% inflation)									
Decrease of 2%	1,679,765	873,438	799,030	1317	1184	70	61	33	27
Decrease of 4%	1,645,484	855,651	789,833	1290	1160	69	59	32	26
Increase of 2%	1,748,327	909,130	839,197	1371	1232	73	63	35	29
Increase of 4%	1,782,608	926,956	855,652	1398	1256	75	64	35	29

5.11 A new single set of national indicators were introduced last year as part of the new Performance Framework for Local Authorities. In this 'basket' of indicators the two that directly affect Trading Standards are "*Satisfaction of businesses with local authority regulatory services*" and the "*Impact of local authority regulatory services on the fair trading environment*". There are also a host of other indicators where the Service will have an indirect impact as part of the Comprehensive Area Assessments, namely, with respect to Safer Communities and Children & Young People. In order to maintain the "upper threshold" standard for both respective Authorities it is vital that the existing complement of officers is maintained.

5.11 The budget making processes in each Council are currently at too early a stage to identify likely budgetary allocations for 2010/2011.

6.0 BACKGROUND INFORMATION

6.1 2010/2011 Budget File

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

N S BILON
HEAD OF TRADING STANDARDS

APPENDIX 1

Service Aim, Priorities and Objectives

Service Aim

The overall aim of the Trading Standards Service is **“to ensure a safe, fair and equitable trading environment exists for consumers and commerce alike.”**

This aim will be achieved by enforcement of the legislation assigned to the Service, carried out with due regard to our mission statement and within the terms of our overall objectives.

Service Priorities

The priorities for the Service are:-

National Priorities

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

Local Priorities

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

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