



**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
8 March 2018**

FOR INFORMATION
TRADING STANDARDS FEES AND CHARGES 2018/19

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

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 2018/19.

2.0 Recommendation(s)

2.1 That Members consider the report and make any recommendations where appropriate.

3.0 Detail

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

- 3.2 Brent's Cabinet agreed a new 'Fees and Charges Policy' in February 2018 which provides delegated power permitting Strategic Directors to vary fees within set parameters. Where appropriate circumstances provide, the Service has utilised this policy to maximise income and to create an efficient mechanism for agreeing fees without the need to bring reports before Cabinet or other decision making bodies.
- 3.3 During 2018, Brent Council's Civic Enterprise Board has suggested a raise of 10% across all fees which are not statutory, unless justification can be given as to why this shouldn't happen.
- 3.4 A The Service's fee structure is applied at the same level for each borough.
- 3.5 Trading Standards fees fall into one of three categories, as follows:
1. Statutory fees (Set by statute, although some offer discretion to vary the amount up to a maximum value)
 2. RPI linked fee (Agreed previously by Brent's Executive)
 3. Discretionary fees (Discretion to increase or decrease them)

- 3.5.1 **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

- 3.5.2 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. In Brent, this function is carried out by the Licensing Team who receive the income, it is not a Trading Standards responsibility.
- 3.5.3 There have been no change to the fees for explosive licenses in the last 12 months from the figures reported to the Board last year on 11 May 2017.

Letting and/or Property Management Penalty Fees

- 3.5.4 Other forms of statutory fee charged by the Service are found 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.
- 3.5.5 Both these pieces of legislation were subject to reports presented to the Joint Advisory Board in October 2016 and 23 November 2017 respectively. This legislation states that monetary penalties of up to £5,000 can be imposed where breaches of the legislation have taken place, but gives the local authority the option to determine what level they wish to set the fee.

- 3.5.6 To bring Brent's fees in line with those charged by Harrow, it was agreed the penalty notice charge for breaches of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 was set at the maximum of £5,000, reduced by 50% for an early payment made within 14 days.
- 3.5.7 This decision conflicts with the charges imposed under the Consumer Rights Act 2015 where the penalty charge is set at £5,000 with no discount for early payment.
- 3.5.8 It is suggested that the discount for early payment is removed for breaches of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 to bring the two charges in line with each other.
- 3.5.9 It should be noted that both pieces of legislation permit representations to be made by a recipient of a penalty notice detailing any mitigating factors that may apply and the Service can vary the value of the penalty if it is considered appropriate.
- 3.5.10 The Board should be aware that to date, the Trading Standards have not yet been delegated permission by Harrow to enforce the provisions of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.

Primary Authority Fees

- 3.5.11 A **RPI escalator** (Retail Price Index) applies to our Primary Authority partnerships where we have created statutory partnerships with businesses who work across the country, who wish to receive assured advice from one regulatory service as opposed to multiple authorities wherever they trade.
- 3.5.12 Section 31 Regulatory Enforcement and Sanctions Act 2008 provides that a local authority is entitled to charge a business on a 'cost recovery' basis, for primary authority services supplied through the partnership. Brent's Executive agreed a report titled "*Introduction of a Charge Based Regulatory Advice Service for Businesses*" in June 2013, to increase the rates charged for primary authority advice, on an annual basis on 1st April each year by the annual change in the RPI for January of the year concerned.
- 3.5.13 The Office of National Statistics no longer use the RPI as it did not comply with international statistical standards. However, they still provide it as a statistic, which as of January 2018, was 4.0%. In view of this, the table below shows the proposed increase to the hourly rates charged for our primary authority service.

Service	2017/18	2018/19
Primary Authority – fixed contract (per hour)	£55.89	£58.12
Primary Authority - pay as you go (per hour)	£69.91	£72.67

3.5.14 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 considering the level in which to fix these fees, it should be noted of the need to remain complete amongst other local authorities who offer similar services to ensure we do not price ourselves excessively higher than neighbouring authorities which could result in customers choosing to use a cheaper local authority.

Weights and Measures Fees

3.5.15 S11(5) and S49(4) of the Weights and Measures Act 1985 states the local authority can charge 'such reasonable fees as we determine' for carrying out our duties under the Act. To assist us determine the fees for our weights and measures work, we suggest following annual guidance issued by the Association of Chief Trading Standards Officers (ACTSO).

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

Service	VAT	2017/18 (Inc VAT where applicab le)	2018/19	
			(excl VAT)	(incl VAT)
Verification of weights & measures equipment	20%	72.00	61.32	73.58
Calibration of weights for business	20%	72.00	61.32	73.58
Weights & measures testing for other local authorities (per item)	0%	60.00	61.32	No VAT
Additional officer testing assistance (per hour)	0%	36.12	36.74	No VAT
Use of safety lab (per hour)	20%	75.98	64.00	76.80

Registration of Premises for Auction Fee

3.5.17 By virtue of S26(2) Greater London Council (General Powers) Act 1984, we can charge a 'reasonable fee' for the registration of a premises to host an auction. The legislation states this fee has to cover 'administration and inspection costs'. The current fee is £327 and it is proposed this fee increases to £332.

3.5.18 It is very rare to get applications for this purpose with none received during 2017/18.

Fee for Officers Carrying Out Duties at Wembley Events

3.5.19 We make a charge for officers who are requested to conduct duties at Wembley events on behalf of brand holders or other merchandisers. The rate for this work is currently set at £40 per hour per officer. This fee is managed by Brent Council's Licensing team who take the lead in negotiating any change to the fee so there are no proposals to change this fee contained within this report. .

Financial Investigator's Fee

- 3.5.20 Our Financial Investigators continue to offer their services to other local authorities. We enter into agreements whereby we share a split of any money raised via the Home Office Proceeds of Crime incentivisation scheme and charge an hourly fee for our time spent conducting the investigation. The latter fee is to cover our costs in the event that no order is made or if an order is made by the Courts and it is not paid for any reason resulting in no incentivisation scheme payment.
- 3.5.21 It is proposed to increase this fee from £36.09 to £37.00 per hour. Whilst this may appear a low rate compared to other officer fees, the main financial benefit from this service is obtained from any subsequent incentivisation scheme payment.
- 3.5.22 There is a risk that we will not continue to attract work from other local authorities, if we increase our hourly rate more than what has been suggested. As it is, we are already having to compete for instructions in a very small marketplace and there are other agencies who will conduct financial investigations without the hourly charge for Investigator's time.
- 3.5.23 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 Whilst the importance of generating income for the Service is fully recognised, there is limited scope within the Service's statutory functions to generate income opportunities. In 2017/18, the budgeted fee income was £31,500, up from £27,500 for 2016/17 (excluding Court costs awarded or proceeds of crime recovery).
- 4.2 At the time of writing, the Service has received an income of approximately £26,000 with a further £4,500 forecast to be achieved before year end which will leave us just short of the budgeted figure.
- 4.3 Any rise in fees for 2018/19, will generate negligible increase in income as the proposals are only small and the amount of fee based work undertaken is limited.

5.0 Legal Implications

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

6.0 Equality Implications

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

7.0 Consultation with Ward Members and Stakeholders

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

8.0 Human Resources/Property Implications

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

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

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