



Trading Standards Joint Advisory Board

Wednesday 21 October 2020 at 7.00 pm

This will be held as a virtual meeting

www.harrow.gov.uk/virtualmeeting

Membership:

Members Councillors:	Representing	First alternates Councillors:	Second alternates Councillors:
Knight	Brent	S Choudhary	
Long	Brent	Chohan	
Kennelly	Brent	Dar	
Ferry	Harrow	Assad	
Mithani	Harrow	Osborn	
Murphy- Strachan	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 on-line virtual meeting. The link to attend and view proceedings will be made available online via the following link:
www.harrow.gov.uk/virtualmeeting

Notes for Members - Declarations of Interest:

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

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

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

***Disclosable Pecuniary Interests:**

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

****Personal Interests:**

The business relates to or affects:

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

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

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

or

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

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

Agenda

Introductions, if appropriate.

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

Apologies for absence and clarification of alternate members

Item	Page
1 Election of Chair and Vice 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 - 13 November 2019	1 - 6
4 Matters arising	
5 Deputations (if any)	
6 Trading Standards Fees and Charges 2020/21	7 - 12
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.	
7 Tenants Fees Act and Client Money Protection policy on determining the appropriate level of financial penalties	13 - 22
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. This report seeks members' comments on the draft policy. I have attached an appendix to this report.	
8 Trading Standards Annual Report 2019/2020	23 - 42
This report presents the Trading Standards annual report for the year 2019/2020. 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.

9 The Trading Standards Service Response to Covid-19

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This report provides Members with details of Trading Standards response and change of duties during the COVID 19 pandemic.

10 Any other urgent business

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



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**

21 October 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

Letting Agent

Tenant Fees and

Client Money Protection

Enforcement Policy



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 are 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.

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

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

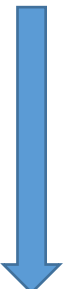
If a monetary penalty is to be imposed, the Service will have regard to the factors expressed in paragraphs 6.3 and 6.2 of the relevant statutory guidance.

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.

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

**London Boroughs of Brent and Harrow
Trading Standards Joint Advisory Board
21 October 2020
Report from the Senior Service Manager**

FOR INFORMATION

TRADING STANDARDS ANNUAL REPORT 2019/2020

1.0 Summary

- 1.1 This report presents the Trading Standards annual report for the year 2019/2020.
- 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 take note of the report and provide comment where appropriate.

3.0 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. 2019/2020 annual report is attached for Members' information and consideration showing some of the work carried out in that financial year.
- 3.3 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.

- 3.4 A copy of the report for the year 2019/2020 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 2019/2020, was provided within its agreed net budget of £400k.

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 work detailed in this report has 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 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 Anu Prashar, Senior Regulatory Service Manager, Trading Standards, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ.

ANU PRASHAR
SENIOR REGULATORY SERVICE MANAGER

APPENDIX 1

- 1) 2019/20 Annual Report

Report sign off:

Alan Lunt

Strategic Director of Environment and Regeneration



Brent & Harrow Trading Standards

Annual Report
2019-2020

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Introduction

This Annual Report highlights some of the key work outcomes delivered by the Trading Standards Service for the period of the April 2019 to March 2020. Towards the end of this period, due to the pandemic officers routine and proactive work was suspended due to Government advice of only essential travel.

The service is managed by Anu Prashar with Samuel Abdullahi covering a Team Leader role. The Service Manager reports to the Head of Regulatory Service, Simon Legg, who has overall responsibility for Food Safety, Air Quality, Licencing and Health and Safety. This team sits within the wider Regeneration and Environment directorate.

It has been another exciting and busy year for Trading Standards in which I am pleased to report we concluded a major fraud and money laundering prosecution, which had taken well after over a year to investigate. The trial involved five defendants and took six weeks to hear the evidence in the Crown Court resulting in a total of 18 years imprisonment between each of the defendants. A record sentence for our Service.

In another case, the Service seized unsafe children's fancy dress costumes from an importer in our area. This led to a prosecution and the all the unsafe costumes forfeited for destruction.

The Trading Standards Service has responsibility for the vast majority of consumer protection issues that arise in Brent & Harrow. We provide advice and guidance to consumers and businesses based within the borough, in conjunction with Citizens Advice Consumer Service. We ensure consumers are more empowered to resolve their disputes and businesses are confident to invest and trade.

Our Primary Authority Partnerships, compliance inspections and offering a free 'Responsible Trader Scheme' to businesses selling age restricted products are two of the many ways the service supports business to help them trade confidently and grow.

We are strongly committed to have competent and trained officers to deliver our services to local residents and businesses. This year one of our officers was the first in Brent Council to complete an apprenticeship, a level 4 Diploma in Intelligence Operations. The officer's new qualification will assist the team in improving its intelligence led enforcement, to ensure we target our resources in the most needed areas of our work.

In addition, I am pleased to report that another member of staff has qualified as a Chartered Trading Standards Practitioner, evidencing the highest level of Trading Standards competency. At the current time, every employee in the Trading Standards team, holds a professional qualification.

Supporting Business

We continue to provide advice to businesses and traders to help enable and support economic growth. Our experience is that the majority of businesses and traders in Brent and Harrow seek to trade fairly and ensure they maintain necessary standards, but our support, increases business confidence, helps them to streamline processes and reduce costs and maximises compliance with a wide ranging spectrum of legislation.

Primary Authority

We continue to have Primary Authority partnerships (PA) with businesses that have bases both within and outside our area. PA is a contractual cost recovery arrangement between the service and the business, to provide ongoing specialist assured advice on specific areas of regulations such as product safety, fair trading.

In 2019/2020 we had 16 PAs, spent just under 200 hours giving advice and support and recovered costs of £22,000. We also signed up a new business in the fashion sector to the partnership and supported them on several product recalls.

Each partner has a dedicated officer and we tailor our partnerships to the needs of the business. A large number of the interactions involve liaising with other local authorities and acting as a single point of contact for any enquiries concerned with our Primary Authority companies, thereby reducing burdens on business and preventing any unnecessary duplication. The advice given by our officers under this scheme is considered robust and reliable and therefore other councils have to take this into account when carrying out inspections or addressing non-compliance to



these businesses in their areas. This helps reduce businesses costs and assures those in trade, that what they are doing will not be subject to challenge elsewhere.

Not all our partnerships are with big companies, we also have partnerships with medium and small businesses as well, who are also given assured advice. This support is invaluable to smaller businesses as without it, they would have to obtain much more expensive advice from legal experts which doesn't come with the added benefit of the protections offered by PA advice.

We support our businesses and traders in many different ways, including information on our website, inspections and Primary Authority.

(See Annex 1 for our table on the number of businesses enquires).

The Service also agreed their statutory Product Safety Incident Management Plan which assists businesses with such things as product recalls. The Office for Product Safety and Standards in conjunction with the British Standards Institution (BSI), the UK's National Standards Body, has published the first government-backed Code of Practice (PAS 7100) for product safety recall and corrective action in the UK. The Code sets out guidance and advice local authorities should make available to enable businesses to meet their legal responsibilities and act in the public interest.

Responsible Trader Scheme

During 2019/20, our free *Responsible Trader scheme* was refreshed and updated with pages regarding age restricted knife sales. This was in line with the initiative that had been developed in partnership between the Mayor's Office for Policing and Crime (MOPAC), the Metropolitan Police Service and London Trading Standards (LTS) in response to reducing knife crime in London. Members receive free training, advice and marketing materials to use with their customers.

Responsible Trader Scheme



A total of 36 members received audit visits to ensure the scheme's terms and conditions were being adhered to and standards maintained

The number of members of the scheme remained the same as the previous year of 206, (108 Brent and 98 Harrow).

A new member joining the RTS Scheme

Inspections

All of our business inspections are conducted in on a risk based approach. They are not routine, instead being based on need, determined by intelligence, risk and a trader's past compliance history.

On some occasions, the Consumer Rights Act 2015 applies to our officers which requires them to give two days written notice to business owners of their intention to carry out an inspection unless a specific exemption exists. This prohibits unannounced spot checks of businesses unless there is a specific reason.

The numbers of inspections and comparisons to previous years, are shown in Annex 2.

Assisting Consumers

Responding to Service Requests

The Service continues to work with our partners Citizen's Advice Consumer Service. Any enquiries they receive which concern either a Brent or Harrow resident or business are referred to us if an alleged criminal breach is identified. Unfortunately, we cannot investigate every complaint so we continue to operate a systems of risk assessing each enquiry and prioritise the most serious ones to ensure our resources are applied to those situations where they are needed the most.

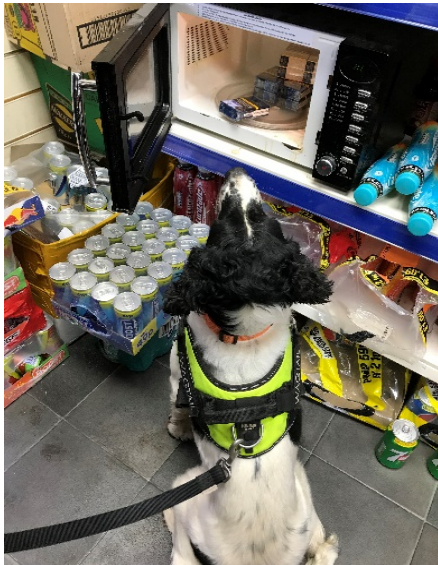
The Service investigated 639 complaints. 387 complaints were investigated by the Brent team and 252 by the Harrow Team.

Citizens Advice Consumer Service provide first tier advice to members of the public giving them the ability to resolve their own disputes or enforce their contractual rights in the marketplace.

Investigations

Another key area of work for the service is investigations into breaches of legislation. There are a range of sanctions/outcomes with many cases needing nothing more than some advice to the businesses, but where necessary, the Service follows the Enforcement policy to impose more formal sanctions.

During the year, the Brent Team submitted a total of 21 investigation reports and the Harrow Team a total of 16. This represents an overall decrease of the number of investigations, largely attributable to the smaller staffing resource, meaning there are a lower amount of complaints investigated and reduced intelligence leading to these investigations. A table can be found in Annex 3 comparing previous years.



The Service takes the growing supply of illicit tobacco being sold from most of our high streets very seriously. Both teams were involved in operation Wagtail targeting possible sellers of illicit tobacco, working with sniffer dogs to uncover the tobacco from all the novel hiding places traders try to conceal their stock. Illicit tobacco was seized from 15 businesses, over 15,000 cigarettes, 10kg of hand rolling tobacco and over 6,000 niche tobacco products were seized.

Brent Investigations



After receiving a complaint from a trade mark representative that a business in our area was supplying counterfeit children's and adults fancy dress costumes, Trading Standards officers carried out a search of their warehouse. The officers found uncovered a selection of children and adult dressing up costumes. The storage boxes were partially full, suggesting that several had been supplied to retail clients. These were branded Superman, Supergirl, Zorro, Spiderman, Batman, and Bat Hero. The officers seized over 2000 items, most were unsafe and counterfeit. Some of the children's fancy dress were found to fail the flammability and strangulation tests under the Toys (Safety) Regulations. The defendants pleaded guilty and were fined £6500 and ordered to pay £3,666.

The team had two illicit tobacco cases in court, for one of the defendants this was his third time in front of the magistrates for identical offences. The defendants had to pay a total of £6,622.

Our lettings agents work has continued, with 18 agents being inspected which resulted in £16,500 in financial penalties. (see also the Harrow update below). Unlike other London authorities, we have had very few agents appealing our formal notices, suggesting our approach is fair and proportionate with most agents agreeing to pay the penalties.

Traders selling age restricted items to people under the age of 18 were inspected. Out of the 99 inspections, we found 3 businesses that did sell to our volunteers, one was given a simple caution and the other two of the businesses received letter of warnings.

See Annex 4 for Table comparing the results.

Harrow Team Investigations

Operation Snowball

As mentioned in my introduction, during September 2019, a six weeks trial began at Harrow Crown Court. This was after an investigation which commenced in September 2017, following two Harrow residents, aged 84 and 86, being cold called by bogus roofers who claimed that minor repair work was required on their properties. The repairs and costs rapidly escalated with the vulnerable residents eventually making payments totalling £350,000 for the unnecessary works.



The Service made enquiries which led to the discovery of three more elderly victims from across London. In two cases, roofs were left exposed when the vulnerable victims refused to pay more money. When our Accredited Financial investigators analysed the financial records they discovered that much of the money was transferred through a web of bank accounts before being funnelled out of the UK to Dubai, China and Singapore in a sophisticated international money laundering operation.

Officers found that a further £400,000 sent to one of the company accounts, was in fact payment for a fictitious investment bond, leaving a 92-year-old without his life savings, intended to pay for his wife's care.

Between September 2017 and March 2018, a total of £870,000 was taken from the six victims.

Five dawn raids were executed by our Service across England and Wales during May 2018, leading to the arrest of two of the defendants on suspicion of conspiracy to defraud and money laundering. A further defendant was in Lithuania at the time and later interviewed. Two further warrants were executed in London in September 2018 and a fourth defendant was interviewed for his role in the transfer of large sums of the money via various company bank accounts.

Mobile phones, laptops and diaries recovered from the defendant's homes provided crucial evidence of the offences along with prosecution witnesses which included building surveyors and a forensic accountant.

Sentencing followed unanimous guilty verdicts with four of the defendants given a total of 18 years imprisonment for conspiracy to defraud and money laundering offences.

The Service was also commended by the judge hearing the case saying "this was a very professional and well conducted case by Trading Standards".

During the two-year investigation, our Service obtained 82 witness statements, 2000 pages of exhibits, executed 7 entry warrants resulting in the seizure and analysis of 17 electronic devices, conducted 5 interviews under caution and carried out 24 communication data checks in relation to telephone, website and IP addresses relating to the defendants.

More than £200,000 has since been returned by the banks as a result of our intervention and we are continuing to pursue Confiscation Proceedings against the defendants for their financial benefit, under the Proceeds of Crime Act 2002.

Other Harrow Team Investigations

In April 2019, the conclusion of a case regarding a business selling and providing fitted kitchens, that were either never or partially provided. The customers had paid thousands of pounds, and in some cases had their old kitchens ripped out, but only to find that they either did not receive any new kitchen or only part of a new kitchen. When they asked for a refund they did not receive any and were given excuse after excuse why he could not. The defendant even went to extreme lengths to make his business sound reputable by faking customers' testimonies.

This investigation was assisted by National Trading Standards, who looked into over 40 complaints across South East London. At Harrow Crown Court the defendant was



sentenced to 98 weeks prison sentence, suspended for 2 years and ordered to do 150 hours community service and pay our costs of £59,354. The defendant also paid refunds back to his victims of a total of £76,000.

In July 2019, a builder carrying out home improvements to a Harrow resident's home

pleaded guilty to engaging in an unfair commercial practice. The builder had given the home owner a quote and timescale to renovate her home. The victim ended up paying the defendant nearly £100,000

After making an initial payment, the defendant began demolition on the property but stopped work after 4 days and began demanding more money. The service investigated the complaint and found that the defendant had left his victim confined to one room, with no kitchen, running water or heating through the winter of 2017.

The defendant was sentenced to 9 months imprisonment, suspended for 12 months, ordered to undertake 200 hours of unpaid work and his company fined £500.

In one case, a business from Harrow who had previously been prosecuted for possessing illicit tobacco, was yet again in court and this time the company and its director were given a fine of £3,000 and we were awarded costs of £1,236. The business also had their alcohol licence revoked following a review of their activity.

Our lettings agents work has continued, with 18 agents being inspected which resulted in £11,320 in financial penalties. (See the Brent update on letting agents above).

Financial Investigations

During the financial year 2019/20 the team have secured nine confiscation orders under the Proceeds of Crime Act 2002 (POCA) totalling £1.2m and some of these cases are detailed below.



During April 2019 two confiscation orders were made for £105,000.00 and for £65,250.00, which represented the benefit made from a building that had been erected by the side and attached to a petrol station. Brent Council served an enforcement notice, which required the six self-contained dwellings contained within the construction to cease. The enforcement notice was ignored therefore Brent Council started legal proceedings for the planning breach. After convictions had been secured, the Council took action under POCA to recover the rental income that had been made from crime. The two orders

have since been paid in full.

During July 2019, a confiscation order was made, after a lengthy trial. Brent Council took confiscation proceedings against a company after it converted a single dwelling into six self-contained flats. The judge found that the defendants did benefit from its criminal conduct and did not find any reason to reduce the benefit figure. A confiscation order was awarded of £88,436 which has been paid in full. Below is a picture of the living conditions in the property.



In October 2019, another confiscation order was made against AA Property & Construction Services Ltd for £356,443.18. An Accredited Financial Investigator employed by Brent Council conducted this case on behalf of Lambeth Council. This matter also related to a planning infringement, whereby an enforcement notice had been breached, following the conversion of a single house into two self-contained dwellings. The sum of the confiscation order reflected the rental income that had been made from crime.

During October 2019, a confiscation order totalling £260,000 was made following a case when houses were converted into flats without planning permission. These orders have now been paid in full.

During February 2020, a confiscation order was made against difficulties as the proprietor was not a resident in the UK. The Accredited Financial Investigator applied for a Restraint Order which was granted which placed a restriction on the property with Land Registry and prevented its sale before the Council were notified. It is effective way to secure the benefit from criminal conduct where there is a likelihood the asset may be dissipated.

We continue to work with all departments within Brent Council and see more POCA cases being referred to us from other London Councils.

Publicity

The service has been very successful in publicising our work. We have featured in the BBC's Defenders UK aired on the BBC1. The programme filmed officers regarding the case of a travel agent who defrauded over 20 victims by not booking their flights and holidays and a received over £70,000 from these victims. He received a 25 months prison sentence.

They have also filmed officers regarding the above two cases featuring home improvements. The new season has yet to be aired.

We were also delighted to be featured in a double page article within Harrow People where the role of a Trading Standards officer explained.

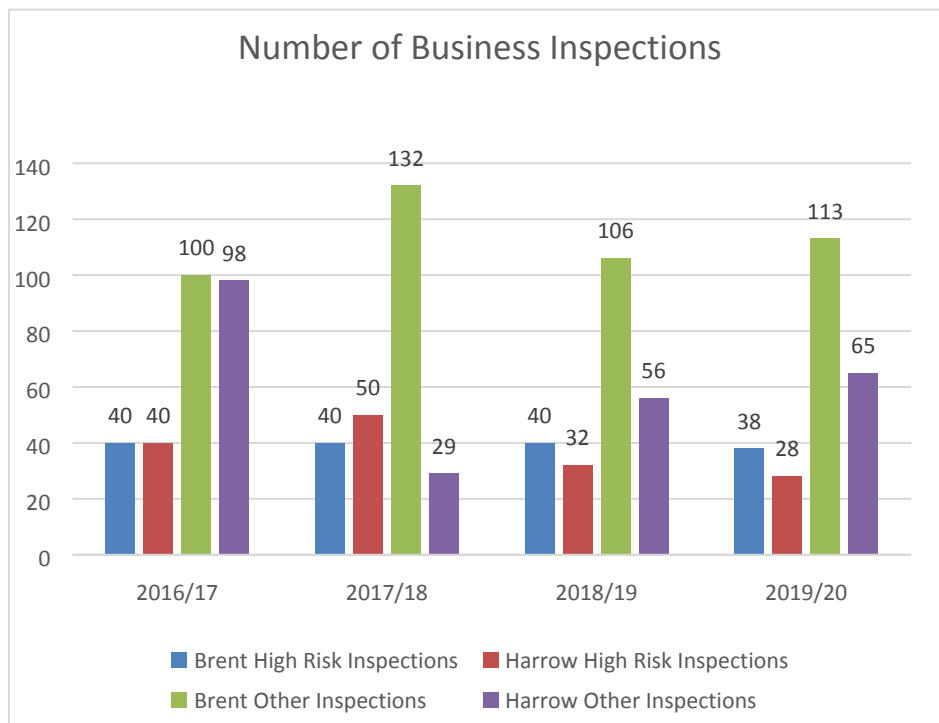


We also have made posts throughout the year on council's Twitter accounts and Facebook posts alerting members of the public of any scams and advice.

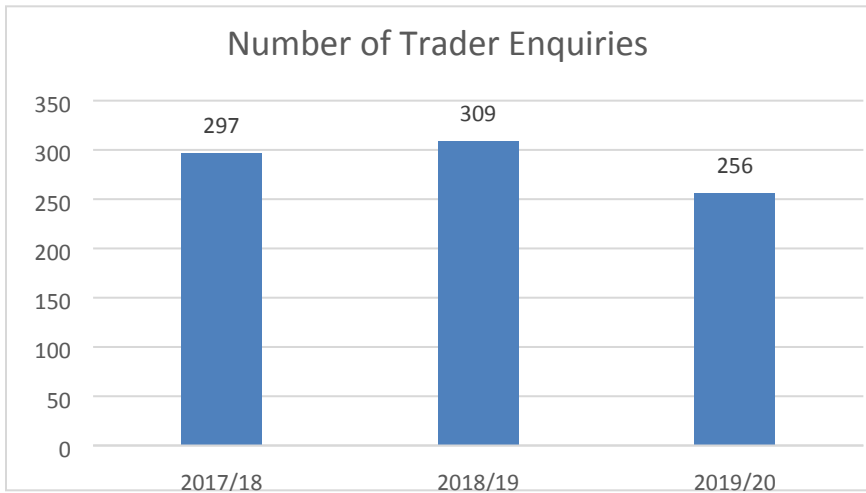
Our work also made an appearance in an edition of the Evening Standard.



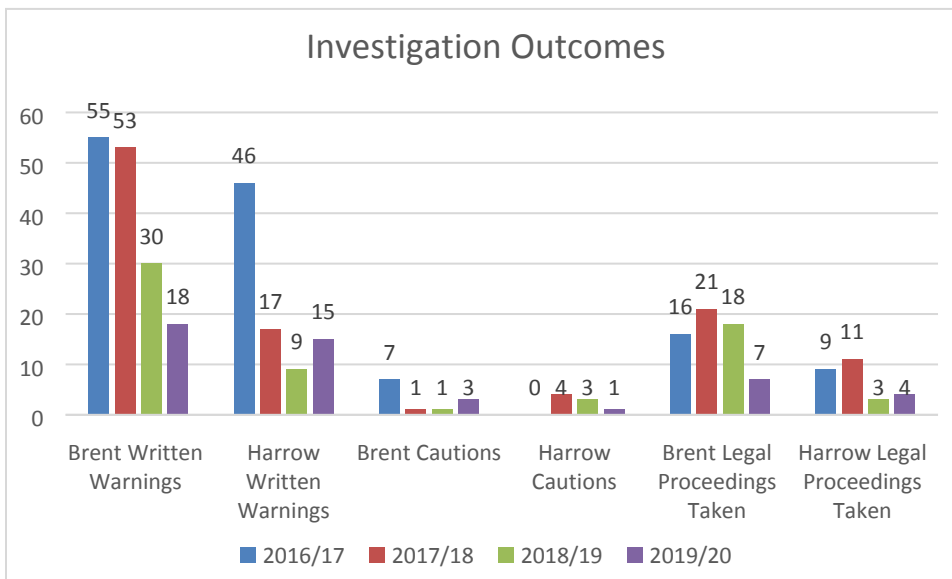
Annex 1 Number of Business Inspections.



Annex 2 Comparison of Inspections to previous years



Annex 3 Investigation Outcomes



Annex 4 Age Restricted Sales

Product	Test purchases (no.)		Sales (no.)		Failure rate (%)	
	Brent 2019/20	Harrow 2019/20	Brent 2019/20	Harrow 2019/20	Brent 2019/20	Harrow 2019/20
Alcohol	65	29	3	0	4.6	0
Tobacco	28	19	0	1	0	5.3
Knife	6	6	0	0	0	0
Fireworks	0	0	0	0	0	0
E-Cigarettes	4	0	0	0	0	0
Total 2019/20	99	54	3	1	3.0	1.9
Total 2018/19	114	52	4	7	3.5	9.6

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**London Boroughs of Brent and Harrow
Trading Standards Joint Advisory Board
21 October 2020**

FOR INFORMATION

THE TRADING STANDARDS SERVICE RESPONSE TO COVID 19

1.0 Summary

- 1.1 This report provides Members with details of Trading Standards response and change of duties during the COVID 19 pandemic.

2.0 Recommendations

- 2.1 That Joint Advisory Board Members note the changes in duties undertaken and acknowledge the contribution made by staff.

3.0 Details

- 3.1 Following the outbreak of Coronavirus, the Trading Standards Service was required to review its service delivery to ensure we were responding to the most important tasks and at the same time, undertaking new duties placed upon us.
- 3.2 We have continued to respond to consumer issues, prioritising those where victims are vulnerable or if the issue is high risk such as scams and product safety. In addition, we have maintained the provision of business advice which has increased significantly. Ongoing investigations have continued to progress. We have received over 700 Covid related service requests since the beginning of the pandemic.
- 3.3 It has been necessary for us to stop some aspects of our work, such as non-essential activities where face-to-face contact is required for example, our letting agent project work, routine business inspections, under age test purchasing activities and attending meetings or training events in person.
- 3.4 All our staff have been primarily working from home with laptops from which they can access the same applications as when they are office based and mobile telephones. Software has been upgraded providing various ways for online meetings and communication. Virtual staff meetings have taken place regularly to ensure everybody was able to keep in touch with colleagues within the team. Staff were familiar with working from home before the pandemic so adapting to fulltime working from home has been relatively straight forward during the lockdown period.

- 3.5 The Courts initially adjourned our current live cases that were listed for hearings, but more recently, we have used video technology to make a legal application for a proceeds of crime investigation and remote hearings to be used more frequently.
- 3.6 As Members will be aware, emergency legislation has continued to be introduced during COVID 19 requiring many new statutory requirements for businesses to follow and observe. Government's guidance has indicated in some instances, local authority Environmental Health and Trading Standards teams should enforce this legislation.
- 3.7 Over the last six months, this legalisation has become a daily part of our officer's work responding to numerous complaints about businesses trading when they should not be, concerns over social distancing, businesses increasing their prices and scams or not following Covid Secure guidelines.
- 3.8 Furthermore, at the time, officers were receiving many requests from business owners keen to know when they can reopen their doors to trade and seeking advice on ways to diversify their trading in order to be able to operate legally.
- 3.9 Whilst most businesses are receptive to the advice given and were willing to do the right thing, in Brent, it was necessary to issue 27 warning/compliance notices and 26 formal Prohibition Notices to the minority of those who did not comply. Prohibition Notices ordered a premise to close with immediate effect. The majority of these businesses have been barbers although there were two pubs issued with a notice. In Harrow, Trading Standards issued one Prohibition Notice, as colleagues in the Environmental Health team were the primary enforcers.
- 3.10 The local authority does not have specific powers to enforce against business not observing social distancing guidance or requiring customers to wear facemasks. Nevertheless, officers are taking proactive steps to reinforce these messages.
- 3.11 The situation regarding Coronavirus continues to move quickly. The Service receives regular updates from the Office of Product Safety and Standards and we submit weekly data to them detailing actions we have undertaken locally.
- 3.12 During April and May, two members of Trading Standards staff volunteered to work on a full time basis alongside technicians in Brent Council's temporary mortuary. We have one member of the team who is currently on standby to assist with Public Health to respond to 'track and trace' requests.
- 3.13 More recently, with Brent being so hard hit during the first wave of the pandemic, staff have spent most of September and the early part of October, ensuring businesses comply with new legislation.
- 3.14 Working with regulatory teams from across the department, Trading Standards teams completed over 2,000 business visits to check compliance with the new rules. Currently, over 80 businesses are subject to warning letters, which are still being followed, with four fixed penalty notices having been issued for persistent non-compliance.
- 3.15 All 'close contact' businesses have been inspected and are now much more

compliant. Our attention now focuses on evening and late night teams who have reported quiet high streets in terms of customers, but this has provided a good opportunity to engage with business owners. Generally, social distancing is now being well observed in all pubs / bars visited.

- 3.16 Many takeaways are still not following new rules prohibiting collections after 10pm and this is a significant area of advisory work with 77 businesses now on our watch list.
- 3.17 The Trading Standards leadership team would like to specifically show their appreciation for the officers, all of whom have adapted to significant changes in their working environment, shown willingness and flexibility in challenging circumstances and have continued to show the highest levels of professionalism during the pandemic.

4.0 Financial Implications

- 4.1 Staff salary costs providing the Service's response to the COVID 19 pandemic is the largest expense although this is all being met from existing budgets with other workloads being reprioritised accordingly as detailed in this report.
- 4.2 It is expected that COVID 19 will have an impact on the income the Service generates throughout the year. This is mainly through a reduction of businesses activity caused by the lockdown restrictions.
- 4.3 It is currently forecast that Primary Authority income will fall by approximately £14k, letting agent penalty charges by £6k, legal costs by £12k and firework license application fees £4k. It is difficult to accurately predict these figures as they are subject to variables, such as how quickly businesses return to work and how the rules about social distancing may be applied in the future.
- 4.4 Legal costs are not usually paid in one go, so we may not see an immediate drop of income as currently, we have legacy cases making payments. The impact of COVID 19 may not be seen in our budget until next year's income is received.
- 4.5 We are regularly assessing our income and in the short term, have some salary savings as a results of vacant posts, which can be used to offset shortfalls.

5.0 Legal Implications

- 5.1 The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (SI 2020 No.350) came into force on Saturday 21 March 2020. It became a legal requirement for specific types of non-essential businesses to close from 1pm that day for set periods.
- 5.2 The Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 3) Regulations 2020 contain the most significant powers available to local authorities to use in emergency situations to prevent the spread of the virus.

- 5.3 There are now numerous other laws for local authorities to enforce and a range of sanctions for non compliance. To detail them all, goes beyond the intended scope of this report.

6.0 Equality Implications

- 6.1 The work detailed in this report has 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 The Service has not suffered any notable staff sickness arising from COVID 19 and there are no significant staffing 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.

SIMON LEGG
HEAD OF REGULATORY SERVICES

Report sign off:

ALAN LUNT

Strategic Director of Environment and Regeneration