

**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
2 March 2022
Report from the Senior Service Manager**

FOR INFORMATION

TRADING STANDARDS FEES AND CHARGES 2022/23

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 2022/23.

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 2021. 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.

Letting and/or Property Management Penalty Fees

- 3.4.3 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.
- 3.4.4 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.
- 3.4.5 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

- 3.4.6 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.
- 3.4.7 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 2020 as January's figure had not been published at the time of writing this report.

3.4.8 The Office of National Statistics have provided an RPI figure for December 2022 as 4.8%. The proposed rounded up, hourly rate increase in our primary authority fees to include this rise are shown in the table below.

| Service | 2021/22 | 2022/23 |
|---|---------|---------|
| Primary Authority – fixed contract (per hour) | £63.00 | £67.00 |
| Primary Authority - pay as you go (per hour) | £78.00 | £83.00 |

3.4.9 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

3.4.10 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 decided to keep the charges the same as in 21/22 to assist with business recovery due to the pandemic.

3.4.11 The table below shows the proposed fees:

| Service Charged Per Officer Per Hour | VAT | 2021/22 (Inc VAT where applicable) | 2022/23 | |
|---|-----|---------------------------------------|------------|------------|
| | | | (excl VAT) | (incl VAT) |
| Verification of weights & measures equipment | 20% | 78.00 | 66.00 | 79.20 |
| Calibration of weights for business | 20% | 78.00 | 66.00 | 79.20 |
| Weights & measures testing for other local authorities (per item) | 0% | 65.00 | 66.00 | No VAT |
| Additional officer testing assistance (per hour) | 0% | 49.20 | 42.00 | 50.40 |
| Officer use of safety lab (per hour) | 20% | 86.40 | 73.00 | 87.60 |

Registration of Premises for Auction Fee

3.4.12 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 £356 and it is proposed this fee increases to £357.

3.4.13 It is very rare to get applications for this purpose with none received during 2021/22.

Fee for Officers Carrying Out Duties at Wembley Events

3.4.14 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 £62 per hour per Enforcement officer and between £82 to £92 for Senior/Supervisory Staff. Officers are expected to work during matches and events held 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

3.4.15 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.

3.4.16 It is proposed to keep this fee the same as the previous year at £41.00 hour. This is to ensure we remain competitive with other local authorities offering a similar service and make allowances due to the pandemic. This fee is charged in addition to a share of any subsequent incentivisation scheme payment.

3.4.17 The hourly fee quoted above for our financial investigation services, does not apply to any internal London Borough of Brent but will apply to 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 At the time of writing this report, the Service had spent nearly two years under Covid-19 restrictions, which has affected our income generation. This is also likely to continue to affect us until there is easing of the restrictions.

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
- 2020/21 - £45,500
- 2021/22 - £40,200

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

There was a slight reduction in the income budget to reflect the reduction in the overall budget the Service received.

- 4.3 At the time of drafting this report, income of £30k for 2021/22 had already been achieved via its fees and charges against a fees and charges income figure of £40k. It is expected that we will reach our income target.

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, as well as the continued restrictions during the pandemic.

Contact Officer

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