

**London Boroughs of Brent & Harrow  
Trading Standards Joint Advisory Board  
13 March 2019**

**Report from the Head of Regulatory Services**

FOR INFORMATION

**PROPOSAL FOR TRADING STANDARDS TO CHARGE FOR  
BUSINESS ADVICE**

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

## **1.0 Purpose of the Report**

- 1.1 This report seeks comment from Joint Advisory Board Members, of the proposal to revise the limit of the amount of free advice provided to businesses and make a charge for non-statutory advice provided by Trading Standards to better manage demand of the Service's resources and increase income.

## **2.0 Recommendation(s)**

- 2.1 That Members consider the report and make recommendations or comment where they feel necessary.

## **3.0 Detail**

- 3.1 The provision of advice given to businesses, continues to be an important function for the Service. Good regulatory advice gives businesses confidence in their trade and the assurance of their investments, increasing rates of compliance, allowing businesses to implement sustainable solutions in a practical and realistic manner to suit their needs, creating more business and economic growth.
- 3.2 Businesses appreciate officer's knowledge of the subject and recognise the value it provides to them. Assistance given at an early stage, often prevents problems escalating saving business owners' time and costs.

- 3.3 Advice given in a professional manner, can have a much greater impact on securing compliance reducing the need for formal action and the resource from our Service taking that formal action.
- 3.4 As the pressure on our budgets continues, it is necessary to re-examine the services we offer and consider whether functions such as business advice, can be provided in a way that does not attract a cost.
- 3.5 Currently, the Trading Standards Service offers up to 7 hours free advice on regulatory matters each year, to businesses based within the jurisdiction of the consortium. This follows a Brent Council Executive report dated June 2013, titled 'Introduction of a Charge Based Regulatory Advice Service for Businesses'.
- 3.6 Following the agreement of the above report, the Service started offering a 'primary authority' scheme. This is a statutory scheme whereby the Regulatory Enforcement and Sanctions Act 2008 allowed Trading Standards and other enforcement teams such as Food Safety and Health and Safety, to enter into a legally recognised partnership with businesses to receive assured advice on complying with regulations.
- 3.7 The Act provides that a local authority can charge a business for this work on a cost recovery basis. Currently, the Service partners seven businesses on a regular basis, generating an annual fee of approximately £23,000. The cost of this advice is £58.10 for a bulk purchase of hours or £72.77 to receive advice on a pay as you go basis. VAT is not payable on these fees as it a service provided under statute. Our experience is that most businesses prefer to bulk buy their hours in advance.
- 3.8 Whilst it is encouraging to note a growing number of businesses are enjoying the benefits of a primary authority partnership, the majority receive comprehensive advice from our officers, without paying for it. Figures from last financial year show that 297 requests for business advice were received by the Service.
- 3.9 The reduction of staff numbers within the Trading Standards team, has resulted in less capacity to operate at the same levels as previously offered. Accordingly, the continuation of free business advice is unsustainable without further resources being made available to the team.
- 3.10 Given the clear benefits that exist from the delivery of business advice, our proposal is to revise the amount of free advice available to businesses and allow Trading Standards to charge for advice except where specific circumstances might apply.
- 3.11 It is our intention to cap the amount of free business advice offered to businesses to half an hour per year where that advice is provided over the phone or on the internet. In order to receive this advice, the business must provide the Service with sufficient information for us to be satisfied of the business' identity to prevent abuse of the time limit. Thereafter, businesses will be required to either pay for further advice on an hourly basis or enter into a formal primary authority partnership.

- 3.12 A minimum charge equivalent to half an hours advice will apply. For simplicity, the proposal is that the same rate is applied for business advice as the prevailing pay as you go primary authority fee. However, unlike advice provided under the primary authority scheme, it may be necessary to charge VAT on this rate. Further specialist taxation advice will be required if this proposal is to progress.
- 3.13 No chargeable advice will be given to a business unless they agree to the charge and accept appropriate standard terms and conditions. The Council's usual methods for accepting payment for services will apply with businesses being able to make payments via card over the phone or if they prefer, they can receive a written invoice.
- 3.14 The proposed change will not prevent Trading Standards giving businesses free advice when they have been identified as a sufficient risk to require an inspection, if their business has been subject to a complaint that requires an immediate response from an officer, if it is part of a programme of proactive business education such as the current focus on letting agents or second hand tyre fitters or where that advice is received in pursuance of an officer carrying out a statutory function.
- 3.15 There may be other occasions where advice is given for free such as when an officer considers it prudent to avoid a problem escalating to prevent formal enforcement action or when it is needed as part of a formal sanction following an investigation.
- 3.16 Businesses who are unwilling to pay for advice, will be signposted to free information from sources such as the Business Companion website, which offers comprehensive information in differing levels of detail. The website is operated by the Chartered Trading Standards Institute and the Department of Business Energy and Industrial Strategy and a link to it can be found on the Trading Standards business advice pages of the Council's website.

#### **4.0 Financial Implications**

- 4.1 Increasing income remains a priority despite the limited scope given the Service's predominantly statutory functions. Adopting this proposal will allow for income generation, as the cost of providing the business advice, will be recovered on a cost recovery basis.
- 4.2 There will be financial implications for businesses who have previously benefitted from receiving free advice as they will be expected to pay for the service. However, the proposal will include the provision of free sign posting advice in addition to half an hour of free advice per year.
- 4.3 The current income target of the provision of primary authority business advice is £22,500. At the time of writing this report, income of £20,625 has been generated.

- 4.4 It is not known at this stage, what the level of demand will be for paid for business advice. Some businesses may chose self-help and not pay, whereas others would realise the benefits and make a payment. It is expected that initially there may not be a considerable high increase in income but at this stage an income target of £5,000 per annum can be assumed.

## **5.0 Legal Implications**

- 5.1 As a local authority, Section 93 of the Local Government Act 2003, gives authorities such as ours, a general power to charge for 'discretionary services' on a cost recovery basis.
- 5.2 Services that a local authority is bound by statute to provide, are not a discretionary service and will not benefit from the power to charge specified above. However, additions or enhancements to such mandatory services above the level or standard that an authority has a duty to provide, may be considered as discretionary services.
- 5.3 For example, where business advice is given when an officer is using their powers to enter a premises to conduct an inspection, to observe a business, or to inspect products, Trading Standards are mandated to carry out this task and as such would not be able to charge for any advice offered as part of this process.
- 5.4 However, the provision of follow up advice or more detailed engagement with a business, could be classed as an enhancement or an addition over and above the mandatory duty, and therefore should be defined as a discretionary service which can be charged for.
- 5.5 It is recognised that the intention of Section 93 of the 2003 Act is not for authorities to make a profit, but this provision does provide a legal basis to charge for discretionary services, should local authorities wish to offer a service which they can no longer justify financially or afford to provide for free.

## **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. 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 any increase in the demand for business advice, will attract an income on a cost recovery basis which could be used to increase staffing capacity to provide this service. Any decrease in demand, will free up officer capacity to concentrate on other duties.

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:**

**AMAR DAVE**

Strategic Director of Environment and Regeneration