



MINUTES OF THE TRADING STANDARDS JOINT ADVISORY BOARD
Wednesday 13 March 2019 at 6.00 pm

PRESENT: Councillors Long (London Borough of Brent), Miller (London Borough of Brent), Mithani (London Borough of Harrow) and Murphy-Strachan (London Borough of Harrow).

Apologies were received from: Councillors Kennelly and Ferry (London Borough of Harrow).

1. Election of Chair

That Councillor Long be elected as Chair for the meeting.

2. Declarations of personal and prejudicial interests

None.

3. Notes of Informal previous meeting - 22 November 2018

RESOLVED:-

that the notes of the previous inquorate meeting held on 22 November 2018 be noted.

4. Minutes of the meeting held on 8 March 2018

RESOLVED:-

that the notes of the previous meeting held on 8 March 2018 be approved as an accurate record of the meeting.

5. Matters arising

The following matters were raised under the notes of the informal meeting held on 22 November 2018:

Harrow's Use of Website

Simon Legg advised that some progress has been made inserting a link on Harrow's website to the Trading Standards website and inserting contact details. However, it was felt that some information was not correct on the Harrow website, insufficient prominence had been given to the the Trading Standards link and further improvements were needed to ensure information was sufficiently accessible for both residents and businesses.

Proposal for Providing a Proceeds of Crime Act (POCA)/Planning Enforcement Service to Harrow

Officers advised that two meetings had been held between Brent and Harrow representatives with an offer made to Harrow to appoint a secondment officer in Harrow's Planning Enforcement Service to help with financial investigations. Formalities of the secondment were due to be agreed and post holder was expected to be in place in due course.

Rogue Letting Agents

The Board heard that the issue of ensuring letting agents were properly registered in a redress scheme and that Trading Standards received authority to enforce the relevant legislation on behalf of LB Harrow, was being taken forward in consultation with Cllr Parmar (Lead Member for Environment, LB Harrow) as the relevant portfolio holder and a report was being prepared for Harrow's Cabinet

Energy performance

The Board was informed that the subject of energy performance in buildings and reciprocal enforcement arrangements as required by the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended, would be addressed within a wider Cabinet report prepared by Harrow's Commissioning Officer.

Press releases

The Board was advised of a significant increase in press releases from Harrow, with a double page article arranged in next issue of Harrow magazine and a further press released expected in due course following an outcome of a court case. The Board expressed their gratitude to Richard Le-Brun (Head of Community and Public Protection, LB Harrow) for his work and influence resolving this matter.

6. Deputations (if any)

None.

7. Trading Standards Work Plan for 2019/20

The Board considered a report that provided information on Brent & Harrow Trading Standards Work Plan for 2019/20, outlining the activities and priorities for the next year. The plan factored in additional flexibility by way of its time assigned to project work, to assist adapting the service delivery as required to addressing emerging issues. Further, the plan incorporates flexibility in its outcomes should office time be diverted to major investigations for example.

Whilst the overall delivery of Trading Standards remained the same, Members were informed that the work would now be overseen by Simon Legg who had been appointed as Head of Regulatory Services at Brent Council and a new Senior Service Manager will be appointed for the Service. Further changes to the staff structure and merging of the existing Brent regulatory teams were also anticipated, with an update on these to be provided when appropriate.

Mr Samuel Abdullahi (Senior Enforcement Officer, LB Brent) drew members' attention to how the priority areas were determined. He explained that the Work Plan took into account both national priorities as determined by the National Trading Standards Board and local ones, in line with the borough's corporate plan. Key priorities for the year included a number of areas such as tackling doorstep crime, cold calling, product safety, mass marketing fraud and large scale intellectual property crime as well as further visits and investigations of most complained about businesses to ensure compliance.

Responding to questions on how priorities were set and what the implications of the differences between national and local level was, officers advised that these were based on national intelligence operating model which was adopted by most local authorities providing valuable insight into identifying where demands and issues were. However, the priorities were prescriptive and local authorities were under no obligations to follow them. Officers acknowledged that regional differences were not uncommon thus leading to some variance between national and London specific issues. Members were assured that there was scope factored within the work plan for cases where priorities differed significantly to be devoted to specific projects to investigate the matters further.

Mr Abdullahi continued by pointing out that a key assumption made in drawing up the plan was that majority of the work would be reactive rather than proactive, due to limited staff resources, thus allowing the Trading Standards Team to focus primarily on the statutory responsibilities. Any service requests which fell outside of this scope would be risk assessed before further investigation be commissioned. The intention was to balance the priorities by focusing on statutory functions with the caveat that proactive work could be carried on as and when required. Provisions for both Brent and Harrow were in place to host three projects per year which would provide an opportunity to address any pending themes.

Members' attention was drawn to page 11 from the agenda pack which outlined the projected performance and work volumes of Brent and Harrow Trading Standards teams. In noting the variable nature of trading standards duties, officers stated that the list provided a helpful indication of the workload and assisted in managing the performance of the service by looking at a range of areas such as overall complaints and service request, compliance, partnership working and complaints requests, project based work. Work was being calculated based on a long standing consortium agreement using work units which allowed for more accurate reporting on work done. In conclusion of this section, the Board was informed that Trading Standards would be completing the year end Association of Chief trading standards officers performance indicators, which sought to gather trading standards intelligence on a voluntary basis. Officers indicated that work would be under constant review and reported quarterly to ensure it was being implemented effectively and progress was being made.

In welcoming the Work Plan 2019/20, members asked questions about specific trading standards issues. With regards to quality of tobacco used in vaping products and issue with illegal unregulated market sale supplies, Mr Abdullahi stated that this was a growing problem as legitimate supply of tobacco and shisha was expensive forcing many businesses to buy illegitimate products. He advised that there is a lot of legislation on the matter and added that some funding had been received from the Department of Health to do further research on the vaping products issue over the next few months.

In terms of completed licensing reviews, Simon Legg stated that there were many regulated activities licensed by both Harrow and Brent Councils and that Trading Standards mostly used licensing reviews for alcohol and in particular in terms of selling alcohol to under aged people. Members were assured that regular test purchasing was being carried out and a range of sanctions was available for those found to be incompliant such as such as issuing warnings, prosecutions and reviewing licenses.

In response to a question on issues with business names, officers stated that the legal requirement for businesses was to prominently display who the legal owner of a given premise and where/how to contact them. While helpful in terms of monitoring business ownership, it was not a consistent practice with a number of incompliant small to medium traders. In addition, financial penalties were set at such a rate that they did not always justify adequate enforcement measures.

Responding to a question on whether the landlord licensing scheme had affected the way letting agents were investigated, Mr Legg advised there was not a lot of trading standards related legislation to protect the rights of tenants where they are getting overcharged rent by a landlord. Furthermore, Trading Standards focus was predominantly on letting agents rather than landlords which fell within the remit of Housing management team. However, the Board noted that there had been an increase in joint working due to the number of commonalities between the two teams and progress in addressing these issues was being made.

The discussion concluded with Samuel Abdullahi informing Board Members of a new piece of legislation which was due to be released on 1st June 2019 relating to tenants fees and holding of deposits. Further publicity programme in the lead up to the legislation was expected to be released in the near future. Current information on the website would be cross-referenced on housing website.

RESOLVED

- i. That the report on Trading Standards Work Plan for 2019/20 be noted

8. Trading Standards Fees and Charges 2019/20

Members received a report that provided them with information concerning the proposed level of fees and charges to be made by Brent and Harrow Trading Standards during 2019/20. In accordance with paragraph 13(f) of the Consortium Agreement between the London Borough of Brent and the London Borough of Harrow, Brent's Full Council had agreed the fees and charges policy in February

2019, which included delegated authority to permit Strategic Directors to vary the fees within set parameters if this was required.

Trading Standard fees fell into one of the following three categories as follows:

Statutory:

Statutory fees were set nationwide by the government, with some discretion available to local authorities to set fees locally up to a maximum value.

Explosive License fees

The fees to process explosive license, 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 set at £54 to renew a short term license rising to £500 for an all year-round license. In Brent this function is carried out by the Licensing Team, rather than Trading Standards, who receive the income. There had been no changes to the fees for explosive licenses since those reported to the Board on 11 May 2017.

Letting and Property management Penalty Fees

A relatively new type of fee, under the Redress Schemes for Lettings Agency Work and Property Management Work Order 2014 and Consumer Rights Act 2015, giving Trading Standards the power to impose maximum financial penalties to landlords.

It was noted that the legislation permitted that representations be made by recipients of such penalties detailing any mitigating factors and the Service may vary the value of penalty if considered appropriate. The Board heard that over the last 12 months, 6 penalty fees had already been issued, 4 of which accepted and 2 appealed.

Primary Authority

A type of fee where under Section 31 Regulatory enforcement and Sanctions Act 2018, statutory authorities and businesses could pay for a Trading Standards assured advice, offering greater flexibility for those businesses which operate on more than one area. Following a report in June 2013 Brent Executive had agreed that an increase be applied to the rates charged for primary authority services annually by the change in the Retail Price Index of the year concerned – according to the Office of National Statistics the increase from January 2019 was set at 2.5%. The proposed increases for 2018/19 are as follows:

Service	2018/19	2019/20
Primary Authority – fixed contract (per hour)	£58.18	£60.00
Primary Authority - pay as you go (per hour)	£72.77	75.00

Weights and Measurers Fees

A type of fee in line with guidance issued by the Association of Chief Trading Standards Officers, which allows local authorities to charge for carrying out duties under the Weights and Measures Act 1985. The fees, outlined in the report, were mostly reactive measures and were applied when there was a suspicion of unregulated activity. An example was given with a recent project on supermarkets scales across Brent which found that a number of scales were not operating within the legal tolerance and that there were no systems in place for checking the accuracy of these devices. It was also clarified that where a service could not be provided privately and was only available as a statutory service, then no VAT would be charged.

A question was raised by a Board Member on lettings fees, specifically where a web based agent did not have an advertised office address. Officers advised that in terms of Trading Standards legislation, the focus was on where the UK websites are viewed not necessarily where the operator was based. Systems were available to Trading Standards to help obtain the exact location of a given agent if necessary using their enforcement powers.

Discretionary:

The Board attention was drawn to the proposals on the *Registration of premises for auction fee* which would see an increase from £327 to £346. In terms of the *Fees for Officers carrying out duties at Wembley Events*, which was managed by the Brent Council's Licensing team currently set at £40 per hour. However, officers suggested that an increase may be required to bring the fees in line with other trading standards officer charges. Finally, Members heard that *Financial investigation fees* which were charged by the trading standards team when carrying out work for other authorities, were proposed to increase from £36.09 to £40 per hour. While the rates were relatively low compared to other officer fees, they would be in addition to a share of any subsequent incentivisation scheme payment. It would also help better manage officers' time and reduce the number of nuisance calls received. It was noted that the hourly fee would not apply to any Brent or Harrow referrals but only to external authorities.

RESOLVED

- i. That the report on Trading Standards Fees and Charges 2019/20 be noted

9. Proposal for Trading Standards to Charge for Business Advice

The Board heard a report outlining proposals to revise the limit of the amount of free advice provided to businesses and introduce charges for non-statutory advice provided by Trading Standards. The proposals were due to be referred to Brent's Cabinet for approval with further liaison planned with the commissioning officer in the London Borough of Harrow to advise them on the changes to the service.

In seeking the Board's views on the proposals, officers advised that whilst providing Trading Standards advice to business was part of the primary authority statutory scheme imposed by the government, the intention of Brent was to introduce a non-statutory scheme for those businesses who want advice which falls outside of the remit of the scheme. Currently businesses were allowed up to 7 hour of free regulatory advice, but the intention was to cap the amount of time and reduce it

down to only 30min per year. A minimum of charge equivalent to half an hour's advice would apply, with the rate applied for business advice set as the prevailing primary authority fee (£75). Whilst some income was likely to be generated as a result of the changes, the main aim of the proposals was to ensure demands on the service were properly managed, as well as better management of expectations from businesses by setting clear boundaries. Officers advised that while the scheme would be a first for London it had been a long going practice in some of the larger counties.

The Board was assured that the intention of the proposals was to provide a quick and simple to use service which avoided any ambiguities between the Council and the business while at the same time allowing the Council to help those who need help the most. Referencing information in the report, it was explained that the proposed fees had been benchmarked against those charged in other authorities and had been set up at a higher rate specifically to prompt businesses to take proper primary authority partnership advice. As part of the proposals a system of positive identification of businesses would need to be established to avoid duplication of advice and to take into account complicated legal set up of some of the companies.

RESOLVED

- i. That the report on proposed charges for Trading Standard's Business Advice be noted
- ii. That the proposals on the Trading Standard's Business Advice charges be recommended for proceeding to Cabinet.

10. Date of next meeting

RESOLVED:-

That the date of the next meeting would be confirmed following the Council's Annual Meeting on 1st May 2019 but is currently proposed to take place on 26 June 2019.

11. Any other urgent business

None.

The meeting closed at 7.17 pm

COUNCILLOR JANICE LONG
Chair