



LONDON BOROUGH OF BRENT

MINUTES OF THE TRADING STANDARDS JOINT ADVISORY BOARD Thursday 11 May 2017 at 7.00 pm

PRESENT: Councillors Jones (London Borough of Brent), Long (London Borough of Brent), Ferry (London Borough of Harrow), Mithani (London Borough of Harrow) and Parmar (London Borough of Harrow)

Apologies for absence were received from the following officers: Richard Le-Brun (Environmental Services Manager , Harrow) and Venetia Reid- Baptiste (Harrow).

Officers in Attendance were:

Aktar Choudhury	Operational Director, Regeneration	(Brent)
Simon Legg	Regulatory Services Manager	(Brent)
Anu Prashar	Senior Prosecutor	(Brent)
Joe Kwateng	Governance and Civic Services	(Brent)

1. **Election of Chair**

RESOLVED:-

That Councillor Long be elected Chair of the Board for the meeting.

2. **Declarations of personal and prejudicial interests**

None.

3. **Minutes of the previous meeting - 24 October 2016**

RESOLVED:-

that the minutes of the previous meeting held on 24 October 2016 be approved as an accurate record of the meeting.

4. **Matters arising**

Illicit tobacco sales

Simon Legg (Regulatory Services Manager, Brent) pointed out that the Home Office guidance issued under the Licensing Act 2003 specifically states that the sale or storage of smuggled tobacco and alcohol from licensed premises, should be treated as a serious matter. Whenever possible, the Trading Standards Service takes action with the Council's Licensing teams to review or vary retailers license conditions when such products are found.

He added that variations of conditions are only effective provided adequate resources were available to monitor the additional conditions are being complied with.

Test purchase and underage sales

Members heard that test purchases were conducted with undercover purchasers. The Trading Standards Service had to observe a Code of Practice for test purchases. This states that a test purchase can only be made where there is evidence of it being necessary. Simon Legg added that in the case of major retailers, unless there was specific information, it was assumed that they followed their controls and procedures for preventing such sales. Some major retailers had extra precautions in place made under their Primary Authority agreement. Consequently, premises of major retailers were infrequently visited. He continued that Trading Standards Service of both Brent and Harrow exchanged information and worked in close partnership with the officers in the licensing teams.

5. **Deputations**

None.

6. **Trading Standards Fees and Charges 2017/18**

Members received a report that provided them with information concerning the proposed level of fees and charges to be made by the Brent & Harrow Trading Standards Service during 2017/18.

Simon Legg (Regulatory Services Manager) clarified that there were 3 types of fees as follows:

Statutory fees which were set nationwide by Government and accordingly, local authorities had no discretion to vary them. The fees apply to explosive (firework) licenses charged by the Harrow team but in Brent, this function was carried out by the Licensing Team. The fees were set by the Health and Safety Executive who applied a small rise in them from 6 April 2016. The increase in fees had typically been between £1-10.00 as set out in the report.

Another form of statutory fee was the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, reported to the Board's meeting in October 2016. Although the legislation allowed that a monetary penalty of up to £5,000 can be imposed in some circumstances where a breach had taken place, but gave the local authority the option to determine what level it wished to set the fee. A proposal to reduce the fee by 50% for an early payment made within 14 days, subject to any mitigating factors that the terms of the Order required the Council to consider, was agreed by Cabinet in April 2017.

A **RPI escalator** applies to Primary Authority partnerships where the Service had partnered with businesses who work across the whole of the UK and who had chosen to receive their advice and guidance from one regulatory service as opposed to multiple authorities wherever they trade. Section 31 Regulatory Enforcement and Sanctions Act 2008 provides that a local authority is entitled to charge a business on a 'cost recovery' basis, for primary authority services supplied

through the partnership. Brent's Executive agreed a report titled "*Introduction of a Charge Based Regulatory Advice Service for Businesses*" in June 2013, to increase the rates charged for primary authority advice, on an annual basis on 1st April each year by the annual change in the Retail Price Index (RPI) for January of the year concerned. The Office of National Statistics assessed a variant of RPI called RPIJ and using this, at January 2017, the 12 month rise was 1.8%. Simon Legg drew members' attention to the table in the report that showed the proposed increase to the hourly rates charged for primary authority service.

The remaining fees the Council has **discretion to determine annually**, with any change in the fee being set each year according to prevailing circumstances. He continued that in order to attract work, the service needed to remain competitive with fees charged by other local authorities or private businesses in some circumstances. The prevailing rate of RPIJ, i.e. 1.8% has been used to determine the suggested fees for 2017/18. In relation to fees for weights and measures work, the local authority can charge 'such reasonable fees as we determine' for carrying out our duties under the Act (only S11(5) and S49(4) of the Weights and Measures Act 1985). To assist setting these fees, officers recommended following annual guidance issued by the Association of Chief Trading Standards Officers (ACTSO).

Simon Legg explained that the authority was currently in discussion regarding increasing the hourly rate for officers working at Wembley Stadium events up to £40 per hour. These discussions formed part of the S106 Town and Country Planning Act 1990 (as amended) agreement, designed to mitigate the impact. He updated members that Brent Planning Committee had approved an application to increase full capacity events at the stadium each year.

RESOLVED:-

That the report on Trading Standards fees and charges 2017/18 be noted with no comment on the proposed fee increases.

7. **Brent & Harrow Trading Standards Proceeds Of Crime Update**

Members considered a report that updated the Joint Advisory Board on work carried out by the Financial Investigation Team since its establishment in 2012 and on the future implications and concerns of work carried out under the Proceeds of Crime Act 2002. Simon Legg explained that the Proceeds of Crime Act 2002 (POCA) was a piece of legislation used in relation to confiscating money that had been acquired as a result of crime. The Act also provided Accredited Financial Investigators (AFI) with a robust set of powers for investigating, restraining and confiscating assets as recovering the proceeds of crime remained one of the government's top priorities for law enforcement.

In 2012 Brent and Harrow Trading Standards Service established a dedicated Financial Investigation Team to take advantage of the opportunities offered by POCA to ensure that criminals did not financially benefit from wrongdoing and that confiscated proceeds of crime could be used towards the cost of carrying out investigations.

The Government introduced an incentivisation scheme to encourage authorities to use POCA. The scheme, administered by the Home Office, allowed local authorities

to retain a percentage of all successful confiscation orders obtained, when they were paid. He drew members' attention to the relevant table in the report from which it was noted that since April 2011 the team had secured 60 confiscation orders resulting in a total £2,053,376.43 payment from the Home Office under the incentivisation scheme and that Brent and Harrow Trading Standards had received £662,168.68.

Members heard that from April 2011 to December 2016 the team received 271 referrals. These included 73 from Brent & Harrow Trading Standards, 68 from services within Brent Council, 13 referrals from services within Harrow Council and 44 referrals from other London Boroughs. Although some referrals were still under investigation, many would lead to successful confiscation orders. Following each referral, a financial investigation was commenced in order to establish the benefit made from crime and where appropriate, cases were progressed through the Court system using the confiscation regimes set in place by POCA

Anu Prashar (Senior Prosecutor) drew members' attention to examples of successful cases which included the following: Confiscation proceedings to recover the rental income made as a result of renting nine unauthorised self-contained dwellings from a single dwelling. This resulted in an order under POCA for £494,314.30 for which Brent Council received 37.5% amounting to £185,367.86.

In one Brent planning case a confiscation order was made against a property developer for £1,438,180.59 following the conversion of a property into 12 dwellings without planning permission. Following an Enforcement Notice in relation to the property which was ignored, a confiscation order was the subject of an appeal and was later reduced to £544,358.00 and resulted in Brent Council receiving 37.5% of this order, £204,134.25.

In July 2015 a confiscation order was made at Harrow Crown Court against a seller of counterfeit headphones for £43,642. The order has since been paid in full and Brent and Harrow Trading Standards received £16,365.75.

Simon Legg then highlighted the need for additional resources to be made available to the Trading Standards Service if it were to establish a proactive service which focused specifically on POCA investigations. He then referenced a quote from a supplier for a tool kit to carry out the mundane task of recording financial information such as bank account statements. The estimated cost was £5,150 for the first year including set up and training and then an annual licence fee of £4,115. He added that the availability of the tool kit would greatly enhance investigations and thus generate more income to the service. He recommended investing in such a system during the forthcoming financial year if the Service were to remain competitive and maintain its reputation as a leading authority in POCA investigation.

In welcoming the report, members endorsed the recommendation for the service to invest in a tool kit for recording mundane information at a cost of £5,150 and an annual licence fee of £4,115.

RESOLVED:-

That Brent and Harrow Trading Standards Service accept the quote from a supplier for a tool kit for recording mundane information at a cost of £5,150 and an annual licence fee of £4,115.

8. **Trading Standards Work Plan for 2017/18**

Members considered a report that provided information concerning Brent & Harrow Trading Standards Work Plan during 2017/18. Simon Legg (Regulatory Service Manager) informed members that the team was entering 2017/18 with several vacant posts and that a priority at the beginning of the year would be to recruit new, enthusiastic staff to the team to complement the existing officer's skills to ensure the team maintained 19 FTE staff. He continued that the Service had the benefit of an investigator funded by National Trading Standards Board, Tri Region Investigation Team and continued to employ two Financial Investigators who conduct investigations generated not only from within our own Councils, but also on behalf on various other external agencies. Their duties and outputs produced, are measured differently and are outside the scope of this work plan.

Simon Legg set out the assumptions made in determining the work plan for the coming year as follows;

- Most of our work would now be reactive (complaint-driven) rather than proactive except for pre-planned project work.
- All complaints received for investigation would be risk-assessed via our matrix and would only be investigated if the relevant threshold was reached.
- The Service would always respond to reasonable requests from local businesses seeking advice and support up to the agreed number of hours and/or steer business towards primary authority advice.
- Priority would be given to commercial activities which generated an income .
- Demand would be managed and where possible by signposting service users to other resources and encouraging greater use of on-line advice and information.
- Promotion of our work as much as possible to act as an educational resource or deterrent warning when applicable

He drew members' attention to the list of high priorities set out in the report highlighting the following:

Most complained about traders

Niche and illicit tobacco products including Shisha bars

Estate Agents and Lettings Agents.

He also drew members' attention to the work volumes for 2017/18 for both Brent and Harrow Trading Standards and added that the work volumes would be kept under continuous review and reported quarterly, to ensure that they were being implemented effectively and progress being made. Members heard about the following projects planned for the year:

Alcohol substitution in partnership with Licensing, Police, Health and Safety and funded by Diageo.

Estate and Letting agents boards which were being displayed longer than necessary instead of being removed 14 days after completion. This project was in partnership with Planning Enforcement Team and Private Sector Housing.

Skin line products subject to a funding bid being administered by London Trading Standards
Possible enforcement of overweight vehicles using local roads where a weight limit applied, in partnership with the Police.

Simon Legg then outlined the departmental service plan and the key performance indicators as set out in the report. He continued that the Service would focus work in relation to knives and would share information with Community Safety Team to allow officers to build a clearer picture of the sources of knives as well as to make traders more responsible as to who they sold to. In response to a member's request to focus on electric blanket, Simon Legg stated that there was not sufficient demand to justify prioritising that in view of constraints on available sources.

RESOLVED:-

That the report on Trading Standards work plan for 2017/18 be noted and members were in agreement with the volumes and areas of work in which the Service should focus over the coming year.

9. **Date of next meeting**

Members agreed to the request for postponement of the meeting in June 2017. The next meeting was provisionally calendared for 23 November 2017

10. **Any other urgent business**

None.

The meeting closed at 8.25 pm

J. LONG
Chair