



## Trading Standards Joint Advisory Board

**Thursday 22 November 2018 at 6.00 pm**  
Committee Room 6 - Harrow Civic Centre, Station Road,  
Harrow, HA1 2XY

### Membership:

<b>Members</b> Councillors:	<b>Representing</b>	<b>First alternates</b> Councillors:	<b>Second alternates</b> Councillors:
Dar Long Kennelly Ferry Mithani Murphy-Strachan		Assad Osborn Parmar Daly S Choudhary Chohan	

#### For further information contact:

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**The press and public are welcome to attend this meeting**

## **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
<b>1 Election of Chair</b>	
<b>2 Declarations of personal and prejudicial interests</b>	
Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
<b>3 Minutes of the previous meeting</b>	1 - 6
<b>4 Matters arising</b>	
<b>5 Deputations (if any)</b>	
<b>6 Trading Standards Annual Report 2017-2018</b>	7 - 32
This report presents the Trading Standards annual report for the year 2017/2018, 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 the report	
<b>7 Energy Performance</b>	33 - 38
This report informs Joint Advisory Board Members of the statutory requirement for Trading Standards to delegate to another authority, the enforcement provisions of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended by the Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015 (the regulations).	
<b>8 Regulators' Code</b>	39 - 72
This report seeks members comments of an updated Enforcement Policy (the policy) and a set of Service Standards (the standards) as required by the Regulators' Code. Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators' Code when exercising regulatory functions.	
I have attached 2 appendices to the report	

## 9 Any other urgent business

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



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.



## **MINUTES OF THE TRADING STANDARDS JOINT ADVISORY BOARD Thursday 8 March 2018 at 7.00 pm**

PRESENT: Councillors Jones MBE (London Borough of Brent), Long (London Borough of Brent), Mithani (London Borough of Harrow), Parmar (London Borough of Harrow) and Marikar ((substitute for Councillor Ferry, London Borough of Harrow)

Apologies for absence were received from: Councillors Perrin (London Borough of Brent) and Ferry (London Borough of Harrow)

Officers in Attendance were: Mr. Chris Whyte, Operational Director of Environment Service and Mr. Simon Legg (Senior Regulatory Service Manger)

### **1. Election of Chair**

RESOLVED:-

That Councillor Long be elected as Chair for the meeting.

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

None.

### **3. Welcome**

The Board welcomed Chris Whyte, Operational Director of Environment Service, to the meeting.

### **4. Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 23 November 2017 be approved as an accurate record of the meeting.

### **5. Matters arising**

#### *Harrow's Use of Website*

Mr. Simon Legg (Senior Regulatory Service Manger) reported that that it was still the intention to see if Harrow's website can be linked to the Trading Standards section of the Brent website. Work was being done to update the website to bring it in line with the new Data Protection Rules.

### *Proposal for Providing a POCA/Planning Enforcement Service to Harrow*

Mr. Simon Legg reported that he had had a meeting with the relevant service Director in Harrow to progress the proposal for providing a POCA Planning Enforcement Service to Harrow and although a lot of work was being done nothing concrete had resulted thus far. He undertook to circulate by email to all members and officers of the Board about further details of the meeting to enable Harrow members to find out what was happening with the proposal.

## 6. **Deputations**

None.

## 7. **Trading Standards Work Plan 2018/19**

Members considered a report that provided information concerning Brent & Harrow Trading Standards proposed work plan for 2018/19. The Work Plan aimed to set out some of the priority areas for the coming year and provided a guide to the expected levels of performance by each of the Borough's teams. The plan also offered flexibility to assist meeting unexpected demands and to adapt Service delivery as required, to meet emerging threats or respond to major investigations.

Mr. Simon Legg (Senior Regulatory Service Manager) drew members' attention to how the priority areas were determined on a national, regional and local basis. He continued that local boroughs were not bound by the priority areas set by National Trading Standards Board (NTSB) or the London Trading Standards (LTS) who represent the 33 local authority Trading Standards Services across London but we would support these themes insofar as possible. The priority areas were as follows:

Doorstep Crime and Mass Marketing Fraud  
Fair Trading – focusing on sales of second-hand cars  
Intellectual Property Crime (counterfeiting)  
Product Safety  
Illicit tobacco  
Underage Sales  
Letting agents

He continued that intelligence suggested that illicit tobacco and the focus on letting agents were becoming a larger problem across London. He explained that the rise in the number of businesses supplying illicit tobacco had resulted from the introduction of plain packaging rules for cigarettes and the ban on selling packets of 10 cigarettes. In relation to letting agents, the spotlight remained on this market particularly in London where competitive demand for housing had resulted in some businesses trading unfairly and exploiting clients who were desperate to find housing and accommodation in the capital.

Mr Simon Legg clarified that on a local basis, each Borough had a documented corporate plan setting out what it aimed to accomplish in the future and how this would be achieved. Brent has a 'Borough Plan 2015-2019' and Harrow an 'Ambition Plan 2020'. These plans highlighted the broad subject areas listed as priority areas for each Council which included the following; Better Lives, Better Place, Better Locally, Build a Better Harrow, Be More Business-like and Business Friendly and Protect the Most Vulnerable and Support Families. Each area of work had each

been given consideration including an assessment of the intelligence available and from that, officers were able to focus where resources should be best deployed to achieve the biggest impact. This approach was in line with the IOM (National Trading Standards Intelligence Operating Model) as well as contributing to the relevant Borough objectives. In reference to the assumptions set out within the report, he drew attention to the areas of work identified as high, medium and low priorities. These included advice on credit card charges, consumer credit and illegal lending and misleading description for vehicles which were not roadworthy.

He indicated that work volumes would be kept under continuous review and reported quarterly, to ensure that they were being implemented effectively and progress was being made. He highlighted the lack of resources in both Boroughs (3.5 and 4.25 Enforcement Officers in Harrow and Brent respectively) which made the service more reactive instead of proactive.

In welcoming the Annual report, members asked questions about staffing levels, the link between tobacco and alcohol licensing and control of shisha places in both boroughs. Mr Legg explained that a review was required of the Trading Standards restructure and it was necessary to appoint staff to posts where the position was currently filled by somebody on a temporary basis. In respect of the link between illicit tobacco and licensing, he stated that specific guidance existed that provided for robust review of premises licence. He added that as shisha bars were a threat to both boroughs, officers had placed it on their radar and in Brent, officers had maintained intense focus on shisha bars. In conclusion, members were united in expressing the strengthening of efforts to curb the emergence of shisha bars.

RESOLVED:

That the proposed priority areas as set out within the work plan 2018-2019 report be noted.

## **8. Trading Standards Fees and Charges 2018/19**

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 2018/19. Mr Simon Legg (Senior Regulatory Service Manager) explained that in accordance with Paragraph 13(f) of the Consortium Agreement between the London Borough of Brent and the London Borough of Harrow, Brent's Cabinet agreed a new 'Fees and Charges Policy' in February 2018 which provided delegated authority to permit Strategic Directors to vary fees within set parameters. Where appropriate circumstances provided, the Service had utilised this policy to maximise income and to create an efficient mechanism for agreeing fees without the need to bring reports before Cabinet or other decision making bodies.

During 2018, Brent Council's Civic Enterprise Board suggested a raise of 10% across all fees which were not statutory (which most of the Service fees are).

Trading Standards fees fall into one of three categories, as follows:

## Statutory fees

This was set by statute and its application is nationwide, although some offer discretion to vary the amount up to a maximum value. 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. The following fees fall under this heading:

### *Explosive License Fees*

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 they were typically £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 who receive the income, it was not a responsibility for Trading Standards. There have been no change to the fees for explosive licenses in the last 12 months from the figures reported to the Board last year on 11 May 2017

### *Letting and/or Property Management Penalty Fees*

Other forms of statutory fee charged by the Service are found 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. To bring Brent's fees in line with those charged by Harrow, it was agreed that the penalty notice charge for breaches of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 be set at the maximum of £5,000, reduced by 50% for an early payment made within 14 days. This decision conflicts with the charges imposed under the Consumer Rights Act 2015 where the penalty charge is set at £5,000 with no discount for early payment. It was suggested that the discount for early payment be removed for breaches of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 in order to bring the two charges in line with each other.

It should be noted that both pieces of legislation permit representations to be made by a recipient of a penalty notice detailing any mitigating factors that may apply and the Service can vary the value of the penalty if it considered appropriate.

RPI linked fee (Agreed previously by Brent's Executive)

A **RPI escalator** (Retail Price Index) applies to our Primary Authority partnerships where the Service had created statutory partnerships with businesses who work across the country and who wish to receive assured advice from one regulatory service as opposed to multiple authorities wherever they trade. The proposed increases are as follows:

<b>Service</b>	<b>2017/18</b>	<b>2018/19</b>
Primary Authority – fixed contract (per hour)	£55.89	£58.12
Primary Authority - pay as you go (per hour)	£69.91	£72.67



**Discretionary fees** (Discretion to increase or decrease them)

He drew members' attention to the proposed increases for weights and measures as set out within the report. In respect of *Registration of Premises for Auction*, the current fee of £327 was proposed to be increased to £332, adding that it was rare to get applications for this purpose with none received during 2017/18. The *Fee for Officers Carrying Out Duties at Wembley Events* was currently set at £40 per hour per officer. This fee is managed by Brent Council's Licensing team who take the lead in negotiating any change to the fee so there are no proposals to change this fee contained within this report.

**Financial Investigator's fees**

It is proposed to increase this fee from £36.09 to £37.00 per hour. Whilst this may appear a low rate compared to other officer fees, the main financial benefit from this service is obtained from any subsequent incentivisation scheme payment.

In conclusion, Mr Legg stated that any rise in fees for 2018/19, will generate negligible increase in income as the proposals are only small and the amount of fee based work undertaken is limited.

RESOLVED:

That the proposed increases set out within the report be agreed.

**9. Trading Standards Scrutiny Report Update for Joint Advisory Board**

The Board received a report that provided information regarding the Trading Standards Service's appearance before the Resources & Public Realm Scrutiny Committee on 9 January 2018.

Mr Simon Legg (Senior Regulatory Services Manager) informed members that officers' presentation to the Resources & Public Realm Scrutiny Committee on the following three subject areas were well received; analysis on the role of Trading Standards in 2017, the areas being targeted by the Service and what the public expected of the Trading Standards Service. He added that the Committee members appeared engaged and interested to learn about the wide ranging duties carried out by Trading Standards Staff. The meeting also gave staff an opportunity to highlight some of the Service's achievements on a 1-1 basis with members after which the Resources & Public Realm Scrutiny made the following two recommendations:

The first recommendation was to ensure that the Service's priorities were underpinned by an invest-to-save basis with the view to protecting the borough's most vulnerable residents. The second was to report back with an analysis of these findings. Mr. Legg added that this process was now underway with a document of existing and new areas for income generation presented to Cllr Miller (Lead Member for Stronger Communities) for consideration.

RESOLVED:

That the report be noted.

10. **Any other urgent business**

None.

The meeting closed at 7.55 pm

COUNCILLOR J. LONG  
Chair

**London Boroughs of Brent & Harrow  
Trading Standards Joint Advisory Board  
22 November 2018  
Report from the Senior Service Manager**

**FOR INFORMATION**

**TRADING STANDARDS ANNUAL REPORT 2017/2018**

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

## 1.0 Purpose of the Report

- 1.1 This report presents the Trading Standards annual report for the year 2017/2018.
- 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 Recommendation

- 2.1 That Joint Advisory Board Members take note of the report and provide comment where appropriate.

## 3.0 Detail

- 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 2017/2018 annual report is attached for Members' information and consideration showing some of the work carried out in that financial year.

## 4.0 Financial Implications

- 4.1 The Trading Standards Service for 2017/2018 was provided within its agreed

overall budget of £380,000.

## **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 report has been screened to assess its relevance to equality and was found to have no equality implications.

## **7.0 Human Resources Implications**

7.1 There are no staffing or property implications arising from this report

### **Contact Officer**

Any person wishing to obtain more information should contact Simon Legg, Senior Regulatory Service Manager, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5522, [simon.legg@brent.gov.uk](mailto:simon.legg@brent.gov.uk)

SIMON LEGG  
SENIOR SERVICE MANAGER

### **APPENDIX 1**

1) The 2017/2018 Annual Report



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# Brent & Harrow Trading Standards

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Annual report  
2017-2018

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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 2017 to March 2018.

The Service is managed by Simon Legg with Anu Prashar and Samuel Abdullahi covering the two Team Leader roles for all of the year.

During the time of this Annual Report, the Service Manager reported to the Operational Director, Aktar Choudury. The team has since been subject to a departmental reorganisation and is now under the remit of our Operational Director for Environmental Services, Chris Whyte. The team sits within the regulatory hub and within the wider Regeneration and Environment directorate.

The Service had a retirement of a long serving member of staff in April 2017. This meant we continued to operate throughout 2017/18 with reduced levels of staffing as none of the previous vacancies were advertised or filled. This has assisted the department in achieving its required savings.

The Service has a wide range of responsibilities including weights and measures, product safety, trademarks, unfair contract terms and unfair trading practices, price marking and price comparisons, supply of age restricted products, licensing and inspection of explosives storage facilities.

We are a small Service which provides advice and regulatory services that protect both consumers and honest businesses as well as creating safer communities and a fair economic environment that allows new and small firms to both start and thrive. The joint consortium between the London Borough of Brent and the London Borough of Harrow has made the Service more resilient to some of the demands placed upon us during the year and has contributed to some of our successes.

Our work is continually evolving especially in the difficult economic conditions within local government. There has been an increase in internet shopping across local, regional and national barriers, scams designed to take advantage of the vulnerable are becoming more and more sophisticated and criminals are using highly sophisticated methods to launder money. This has meant the job of the Trading Standards Service has become more complex and yet increasingly central to most people's lives. I hope the work in this report evidences our commitment and contribution to making this happen.

## Budget

The Service budget for the preceding 10 years is provided below for comparison purposes. It should be noted that in addition to the general decline in budget, the Service has been required to make further annual savings from these budgets as part of each Borough's austerity measures

Savings were achieved during 2017/18 by holding empty staff posts with six of the 19 positions, being kept vacant all year. In addition, one member of staff was on maternity leave for the majority of the year and no arrangements were made to backfill this post to maximise savings.

Fortunately, the joint consortium arrangements, provide some resilience to this as well as offering the opportunity to share knowledge and expertise between officers acting within the two Borough teams.

Throughout the year, all expenditure was maintained at minimum level whilst at the same time, we took opportunities to exploit our income levels. One such example of this, was the successful award of £18,000 from the National Trading Standards to assist us with the costs of conducting a large investigation.

<b>Date</b>	<b>Budget</b>
2008/09	£1,772,000
2009/10	£1,702,000
2010/11	£1,673,000
2011/12	£1,274,000
2012/13	£1,274,000
2013/14	£1,299,000
2014/15	£ 864,000
2015/16	£ 379,000
2016/17	£ 313,000
2017/18	£ 380,000

There was no change in the contribution to Brent from Harrow for these service costs for 2017/18 which remained at £625,000. However, Harrow was not paid the usual annual contribution of £125,000 to offset the cost of our financial investigations team due to Harrow's lack of use of the service.



## Supporting Business

The Service has continued to contribute towards both Borough's objectives of supporting business growth by delivering effective regulation for the benefit of legitimate businesses. Some examples of us achieving this are summarised below:

### Primary Authority

During 2017/2018, we continued to provide businesses support and advice through the Department of Business, Energy & Industrial Strategy (BEIS) Primary Authority scheme. We provided our Primary Authority businesses a total of 180 hours of advice and support to help assist with their legal compliance and reduce business' costs.

This represents a drop in hours from the previous year of 248 hours. One of the challenges faced by the service is that the more we assist businesses and make them compliant, the less the businesses will approach us for assistance. Whilst this is a good thing, we are continually looking for new members to recruit to the scheme and strive to attract larger contracts to generate a higher number of hours of support which we offer a business.

The charge for this advice during 2017/18 was either £55.89/hr or £69.91/hr depending on the type of contact a business opted for.

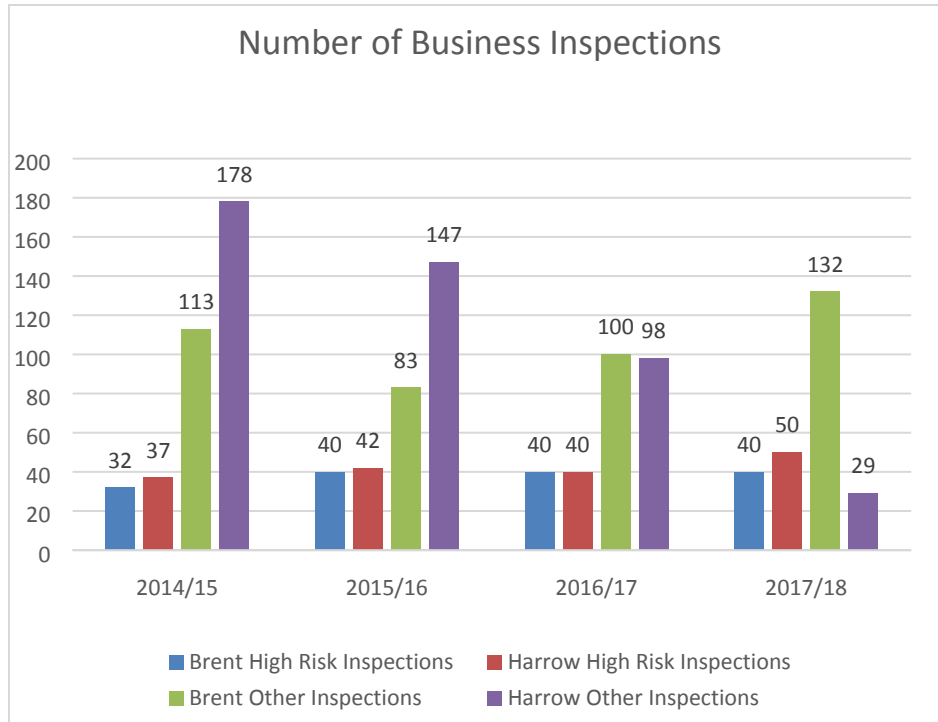
As of the 1 October 2017, Primary Authority expanded to allow more businesses to participate in the scheme so that pre-start-up businesses and a business operating from only one local authority may also join. With this came further changes to the new Primary Authority terms and conditions and a new national database. This meant that officers needed to discuss the changes with our Primary Authority businesses, re-register them and sign on to the new database in order to accept the new terms. It was also necessary to review the data held about the business and information provided to them by us. This exercise needed to be achieved in order for the partnerships to continue otherwise existing Primary Authority partnerships would no longer be recognised by BEIS. I am pleased to report that all of our existing member businesses bar two, renewed their agreements in time. The two who did not renew, were no longer actively using the scheme.

### Inspections

All of our business inspections are conducted 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 intension to carry out an inspection unless a specific exemption exists.

The numbers of inspections and comparisons to previous years, are shown on the table below:

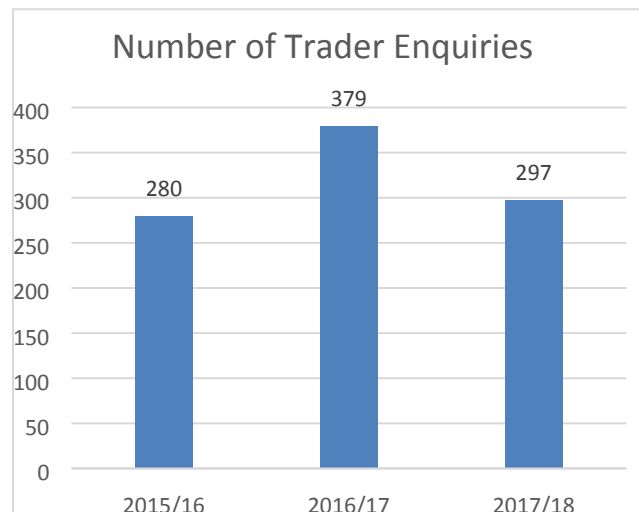


The number of high risk inspections has remained consistent over recent years as we prioritise these to ensure they are done. You will note a spike of 10 high risk visits in Harrow compared to the previous year which is due in part, to an increased number of problem car traders in the borough whereas the number of other inspections in carried out in Harrow dropped, which is directly attributable to the reduced staff numbers. There is no specific reason for the rise in the number of Brent other inspections although it is likely that the increased intelligence about businesses supplying illicit tobacco or alcohol and joint visits carried out with the HMRC, will have contributed to this.

### Trader Enquiries

When we are contacted by local businesses asking for our assistance or if a Primary Authority customer requests us to carry out some work for them, these requests are logged and recorded on our system as ‘Trader Enquiries’.

The table opposite shows there was a fall in the number of these enquires from the previous year which matches the decline in the amount of primary authority advice offered during the year. This has no reflection on the quality of advice given and this was still a rise from 2015/16. We aim to contact all such enquirers within 48hrs of their



enquiry being received (excluding weekend contacts).



## Responsible Trader Scheme

The Service continued to promote our Responsible Trader scheme to all businesses in Brent & Harrow selling age restricted products. The scheme is still free to join and provides businesses with training, advice and marketing materials to use with their staff and customers.

A total of 80 members received audit visits to ensure the scheme's terms and conditions were being adhered to and standards maintained.

## Landlord Forum

In May 2017, officers attended and spoke at the Harrow Landlord Forum. This event was attended by over 200 landlords, managing and letting agents and other property professionals from Brent and Harrow and neighbouring boroughs. Officers gave a short update on recent legislation and refresher on old legislation that are still relevant within their fields.



## Fireworks Licensing

In Harrow, Trading Standards are responsible for the issuance of firework license to retailers. During 2017/18 there were 30 business premises that were licensed to sell fireworks within the borough, 14 of these were major retailers and 16 independent retailers. Four of these premises are licensed to sell fireworks all year round.

# Assisting Consumers

## Responding to Service Requests

Responding to consumer complaints has always been an important role for the Trading Standards Service in delivering its key priorities. Providing relevant and timely advice is fundamental to ensuring that members of the public are informed, more confident and have the ability to resolve their own disputes or enforce their contractual rights in the marketplace.

We continue to work closely with Citizens Advice Consumer Service who provide the first tier of advice to members of the public before sending us daily referrals via a secure computer system when consumers require further help to resolve an issue where there is an allegation of criminal law having been breached.

It remains the case that we do not have the capacity to respond to every complaint that we are referred so a complaints matrix is applied to prioritise those that will investigate further. During 2017/18, we investigated 403 complaints received from members of the public, 228 from Brent residents and 175 from Harrow residents.



## Attending local Crime Reduction Events

The team have attended various events during the year supporting Age UK or other community groups. This offers important educational work and raises awareness of the Council's role protecting members of the public.

Events like this also provide a good opportunity to build relationships with other community groups.

With the growing awareness and increasing number of victims, we have attended five events focusing specifically on fraud and scams. One of these events was hosted by Age UK which brought together a range partners to give presentations to residents, and our officers sitting on a panel of experts answering questions on doorstep crime and

scams.

## Working with NTSB Scams Hub

During the year, the Service formalised its work with the National Trading Standards Board (NTSB) Scams Hub by signing a service level agreement pledging to visit victims of scams. These visits allow us to assess whether the person is a repeat victim and if necessary to alert the appropriate agencies to provide the required support.

Despite attempts to raise awareness of scams, there are still a steady supply of referrals from the Scams Hub detailing local Brent or Harrow victims who had responded to unsolicited literature tempting them to win non-existent prizes.

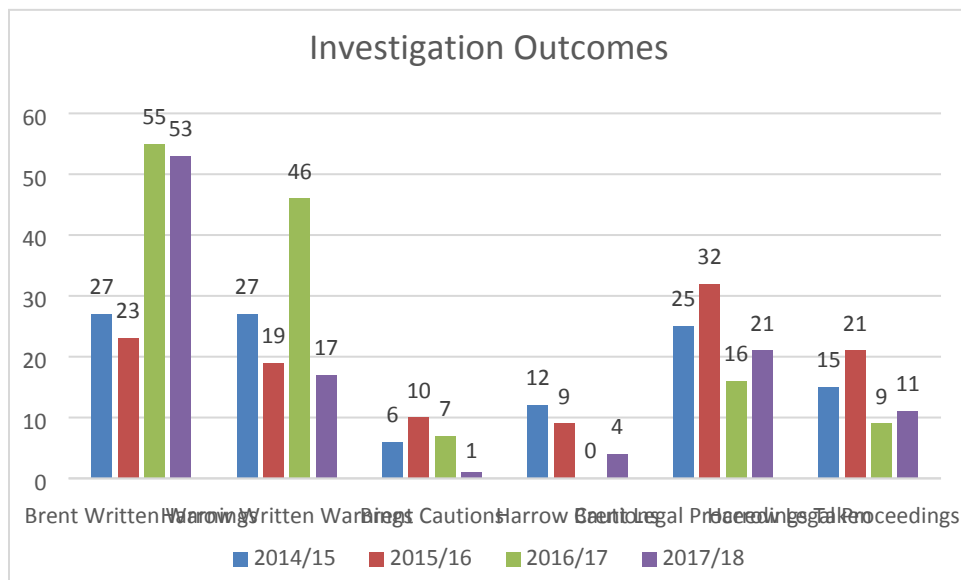
## Investigations

Investigation reports are prepared and submitted by officers following allegations which have led to compelling evidence to prove the commission of a criminal offence(s). The outcome of investigation reports can include:

- No further action
- Re-inspection/advice
- Letter of warning/advice
- Simple Caution if the trader accepts their guilt
- Legal proceedings

During the year, the Brent Team submitted a total of 32 investigation reports and the Harrow Team a total of 16. This represents a reduction of investigations, down from 35 in Brent and 22 in Harrow the previous year.

The table below shows the number of formal actions taken last year alongside previous years for comparison. *The figure showing the legal proceedings can appear higher because in some cases, we may prosecute the company and its director. This would show as two examples of legal proceedings although it is only one business or case.*



Traders were fined a total of £26,783, up from £20,785 in 2016/17 but down from £37,675 in 2015/16 and £39,630 in 2014/15. In 2017/18 there were four defendants that received suspended sentences totalling 168 weeks and 800 hours of unpaid work

A total of £56,661 was awarded to us in prosecution costs. This was up £15,081 awarded in 2016/17 and up from £28,560 in 2015/16. This was due to several cases from the previous year being concluded in the Crown Court.

The highest fine was £5,000 against a company convicted of selling counterfeit sew on badges online. This is comparable with the highest fine awarded the previous year which was for an online company selling counterfeit clothing who were fined £5,000.

The lowest fine was £300 imposed against a company director who illegally sold tobacco products which did not display the required statutory health warnings.

## Underage sales

Our mystery shopping exercises continued throughout the year on the lookout for the small number of traders who think it is ok to sell age-restricted goods to children.

The following table shows the results of our test-purchasing in 2017/18, with an overall comparison to the previous year indicating an increase in the number of businesses selling age restricted goods. Both boroughs have shown an increase in illegal sales, which highlights why it is important to continue with our mystery shopping exercise.

Product	Test purchases (no.)		Sales (no.)		Failure rate (%)	
	Brent 2017/18	Harrow 2017/18	Brent 2017/18	Harrow 2017/18	Brent 2017/18	Harrow 2017/18
Alcohol	69	18	4	3	5.8	16.7
Tobacco	15	41	0	0	0	0
Knife	21	34	3	4	14.3	11.8
Fireworks	3	27	0	0	0	0
Spray Paint	7	0	7	0	100	0
E-Cigarettes	1	0	1	0	100	0
Video	0	0	0	0	0	0
Lottery	0	0	0	0	0	0
<b>Total 2017/18</b>	<b>115</b>	<b>93</b>	<b>15</b>	<b>7</b>	<b>13</b>	<b>7.5</b>
Total 2016/17	125	136	5	2	4	1.5

## Rogue Cold Callers

During the year 7 'rapid responses' were provided to victims of rogue trading. Victims typically are taken in by the rogue's sales pitch which often starts with an agreement to complete works at a very reasonable price. Once the rogues start work, the price immediately rises due to 'unforeseen problems' or works are carried out which were not agreed. Often these works leave the homeowners property in such a state, they feel it necessary to commit to it continuing in order to put things back and repair the damage.



Our intervention in these call outs saved the victims an estimated £45,340 based on the sum being demanded by the rogues. Had we not intervened when we did, there is no doubt that this figure could have potentially risen much higher.



A callout in May 2017 took officers to a house in Harrow where the homeowner had already paid £10,000 for work on his driveway and patio to a cold caller. The trader wanted another £32,000 to finish the work. In another callout in Harrow, the victim had paid £10,000 for unnecessary roofing work. When officers arrived at the home the traders ran off.

In another case the victim was quoted £60 for their driveway to be cleaned. The trader then told the victim that her roof needed repair and quoted £5,000 and they would need the money for materials. The victim withdrew £4,300 which the trader gave back after Trading Standards involvement.

It is reassuring to see that the Police are now starting to become more involved with this type of crime and we work with them on many of these callouts. This is largely due to the 'banking protocol' that was introduced last the year. The protocol is an initiative is hosted between the banks, Trading Standards and Police aimed at identifying customers who are in the process of being defrauded and implementing safeguarding procedures to prevent their repeat victimisation and further loss of funds. The protocol provides a method for bank staff to contact the Police when they have concerns about a customer withdrawing a large sum of cash which guarantees an immediate Police response.

This initiative has meant the Police are responding to many more rogue trader type of complaints than they have done previously, reducing the need for us to provide our repaid response service and reducing the chance of the rogue traders being able to make off if they are still at the homeowner's premises.

Partnership working is also important as several of our partners have referred complaints to us of rogue trader activities when they have visited their client's homes.

Both boroughs supported the national Operation Liberal during the year. This is a joint national Trading Standards, and Police initiative that runs annually to combat rogue builders and doorstep criminals. We conducted patrols with the Police and HMRC who were interested to identify whether people working as builders are paying their taxes correctly.

## Work with the Safety at Ports and Borders Team



The Service receives referrals from the Safety at Ports and Border Teams about consumer goods which have come into the UK that are potentially unsafe and non-compliant that could cause harm to consumers, including electrical goods, cosmetics and toys. In one such case, officers from the Brent team were informed of an



importation of radio controlled toy, battery operated cars that were imported by a company in Brent. These goods were found to be unsafe and officers worked with the company to ensure that these cars did not entered the supply chain.

## Letting Agents

The Consumer Rights Act 2015 creates a legal requirement for letting agents to display details of fees they charge on their premises and websites. It is the responsibility of the Trading Standards Service by virtue of our function as the 'Local Weights and Measures Authority' to enforce the provisions of this legislation. The purpose of the legislation is to increase transparency of fees and highlight avenues for dispute resolution for tenants and landlords. Failure to adhere to these requirements can result in a financial penalty of £5k per omission where Trading Standards evidence, on the balance of probabilities that someone who is engaged in letting or property management work has failed to comply with these requirements.

Last year, we commenced a project to tackle the high level of non-compliance identified among letting and property management businesses. A comprehensive advisory letter concerning the requirement for letting agents to publicise fees and other information was sent to 161 agents.

Officers started to follow up the letters with visits and have reported that a significant number of agents continue to flout the law. Towards the end of the year, the Service issued two notices of intent, a statutory procedure ahead of issuing a business a penalty charge notice. More will follow in this work in next year's annual report.

## Financial Investigations

The Proceeds of Crime Act 2002 (POCA) is a powerful piece of legislation in relation to confiscating money that have been acquired as a result of crime. The Act can be used to recover benefit made from all sorts of criminal conduct including benefit fraud, planning and environmental infringements and breaches of consumer protection laws.

The team dealing with proceeds of crime work is headed by Anu Prashar and two Financial Investigators, Lee Wenzel and Alpa Shah

Since using POCA the team has secured 77 confiscation orders worth £7,899,717.00.

When a confiscation order is paid, the money is divided in accordance with the Home Office Asset Recovery Incentivisation Scheme (ARIS), which means that 50% will go to the Government. The remaining 50% is divided between the prosecuting authority (18.75%), the investigating authority (18.75%) and the court service (12.5%).

During the financial year 2017/2018 we received £258,349.45 from the Home Office as part of this incentivisation scheme.

Below are details of some of the confiscation orders that the team secured this year.

In June 2017 a restraint order was obtained under POCA for an ongoing case relating to a house in multiple occupation which was overcrowded with safety breaches. This restraint order was secured to prevent assets being dissipated prior to the conclusion of confiscation proceedings under POCA.

An order was made against a convicted counterfeiter in July 2017 at Harrow Crown Court for £19,604.03. The trader had sold illegal printer cartridges and memory cards.

In July 2017, an order was made against a landlord for £116,140.39 for a planning breach which continued for a number of years in his own back garden in Brent. He had constructed a rear extension to form two self-contained flats. The rental income was calculated from tenancy agreements and council tax information and credits flowing through his bank accounts. The order has been paid in full.

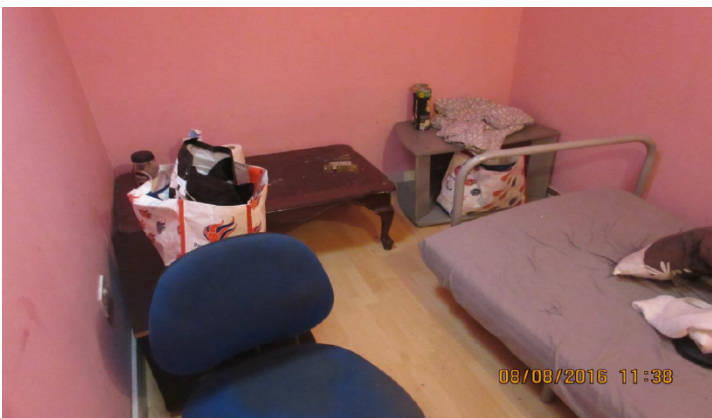


The next case concerned a property management company in August 2017, who were ordered to pay £300,650.77. The order followed a conviction for a planning infringement which saw a property in Brent which had been converted from a hotel into 26 self-contained dwellings without planning permission. The picture shows the poor standard of accommodation offered. I am pleased to report the order has since been fully paid.

A POCA order was made against a landlord during September 2017 for £52,000.00 and has now been paid in full. This related to the breach of an enforcement notice for turning a warehouse into a place of worship, without planning permission.

During October 2017 a POCA order was made against a company for £145,000.00. This related to another planning infringement whereby a property in Brent had been converted into 5 self-contained dwellings without planning permission. This order has subsequently been paid in full.

In January 2018, we secured order on behalf of another authority who use our services against a landlord, for £95,920. The case concerned the construction of the roof extension which was larger than the planning permission allowed. The space was then converted to two self-contained flats. The order has since been paid in full.



Another case in January 2018, saw us secure an order against a landlord in Brent. The case was unusual as it concerned the conversion of business units in an industrial estate. Part of the ground floor was being used as a workshop for mechanical repairs, the first floor the units were being used as self-contained flats. The planning officer found tenants occupying bunk beds, kitchen

facilities, bathrooms and eight bedrooms in total. The landlord was ordered to pay £20,000 with a default sentence of one year being set. The landlord was granted a three month extension to the original three months granted, but he has still failed to pay his order. The matter is now in the hands of the Enforcement Court at Westminster Magistrates. Below is a photo of one of the rooms which shows the inadequate space the tenants had in some of the units.

We continue to work with and see more cases being referred from other London Councils who have requested our financial investigation services. We intend to further promote the service we provide in the hope of securing more financial investigations and using our expertise to assist other local authorities using this powerful legislation.

## **Brent Team Investigations**

April 2017 started with the sentencing of a counterfeiter selling illicit football programmes in Wembley. He had already been found guilty in January after a six day Crown Court trial. The defendant tried to argue his publication was a newspaper and the way he had used the trade marks, did not breach the legislation, yet we argued he publications were clearly misleading to the football fans attending the Wembley even. The Court sentenced him to 14 months in prison, suspended for two years and he was ordered to wear an electronic tag and comply with a curfew from 8pm to 7am for six months.

We continue to revisit traders who have been subject to previous formal actions to ensure that they are not reoffending. Towards the end of April 2017, one such trader who had been subject to previous formal action, was found with illegal cigarettes which did not display the correct health warnings. He was fined £2,850 given the and payment of costs totalling £1,000.

In another case where the trader had been previously convicted of possessing illicit tobacco, the court issued a six week custodial sentence for each charge to run concurrently suspended for 12 months. The court had previously given the defendant a fine of £660 and ordered to carry out 100hrs of community service for his second offence of selling banned oral tobacco products and cigarettes without adequate health warnings and counterfeit cigarette lighters.

In third, similar case, the shop owner was fined £1,500 and ordered to pay costs of £844. This type of work was very prevalent during 2017/18 as it followed the funding provided the previous year by Public Health to reduce the availability of illicit tobacco.

As detailed on page 11 above, we investigate sales of age restricted products. In one such case, a known offending business, sold an eleven inch carving knife to two 15-year-old children. The trader had even previously sold a knife to our volunteers before. The trader was fined £2,700 and ordered to pay costs of £941.

In June 2017, we concluded an investigation dating back to November 2015 against a Travel Agents based in Brent. The Court heard how more than 30 holiday goers were led to believe they had booked flights only to end up out of pocket and devastated when they found that these flights had not been booked at all. The defendant pleaded guilty and was sentenced to 12 months in custody.



In July 2017, we concluded the case of an on-line trader selling counterfeit printer toners, mobile phone accessories and memory cards. Over 3,000 items were seized from the counterfeiter's home, car and storage unit. A calculation of the loss to the industry was estimated as £226,541. The court gave him a six months sentence suspended for 12 months and ordered to complete 180 hours of unpaid work. He was also ordered to pay costs of £12,500 and a confiscation order of £19,674 forfeiting his criminal profits after pleading guilty to the possession and sale of

counterfeit items at Harrow Crown Court.

In September 2017, an eBay business operator who was featured on BBC's Fake Britain for selling counterfeit headlights, was fined £3,500 and ordered to pay costs of £5,500.

In November 2017, another counterfeiter was sentenced to 12 month sentence, reduced to 46 weeks suspended for two years, and 250 hours of unpaid work. He was also ordered to pay £12,000 in costs and a victim surcharge of £100 for his crimes. The counterfeiter was selling counterfeit automotive goods on-line. During the search of the counterfeiter's home, 19,500 branded items were seized and sent to their respective trademark owners for testing, where they were found to be counterfeit. This represented a potential loss to industry would have been more than £100,000.

Three cases were referred to the Advertising Standards Authority due to their misleading claims that that consumers had won a prize and promotional claims on nictone products. All the complaints were upheld.

## Harrow Team Investigations



In August 2017, an online Harrow based company selling counterfeit products was fined £5,000 and its director was given an 18 months suspended sentence following an investigation by the team. An online test purchase was conducted for some of its products which was subsequently confirmed as counterfeit by the experts. A warrant was executed at his home address and warehouse in Harrow and over 30,000 counterfeit items estimated to be worth over £125,000 were

seized.

During a day of action in Harrow, officers seized over 1,000 toys and games from a business in Harrow. The toys were found to be counterfeits and were potentially dangerous. The owner of the business when interviewed claimed to have inherited most of the products when she

purchased the business but then also admitted to buying more of the products from a total stranger few months earlier who walked into her shop. The owner of the business was fined £2,000 in September 2017.

A rogue trader who used aggressive practices to get his customer to hand him over £3,000 in advance, for work that he failed to complete. Within days of receiving the money in his hands he promptly disappeared and did not complete the work that should have taken him a week. 6 offences were laid in court, the rogue trader pleaded guilty to two of the four offences and he was subsequently found guilty in November 2017 for the remaining. The rogue trader was fined £3,288 in total, ordered to pay £3,000 compensation to the victims, £2740 costs and a victim surcharge of £66.

# Performance

## Complaints of Dissatisfaction about the Service

During 2017/18, there were six complaints of dissatisfaction received about the Service, which coincidentally was the same as the previous year. Four of these were informally dealt with, one was a corporate Stage 1 complaint whereas the other progressed to a Stage 2 complaint. None of the complaints were upheld.

These complaints are summarised below:

1. The Stage 1 complaint was from a landlord who was claiming a letting agent had amongst other things, falsified his signature on a tenancy agreement, was not passing on the full rent, they owed him money and the agent was not correctly registered in a redress scheme. This was a complex complaint which had no Trading Standards remit as it was mostly a civil matter. The only criminal allegation was the lack of redress scheme membership but in Harrow, this legislation was delegated to their Residential Licensing team and not to Trading Standards. Nevertheless, as the agent was known to us, we did try to mediate between the parties to remedy the dispute but whilst doing so, we made it clear to the complainant, that this was not a Trading Standards matter. The complaint was not upheld as it was evidenced that our officers had acted appropriately. Dissatisfied with this response, the complainant complained again, as he was unhappy with the way the Stage 1 enquiry was conducted. Following a thorough review of the case, **complaint was not upheld** in any part.
2. The Stage 2 complaint was regarding our decision not to investigate a consumers allegation that a national supermarket's £3.00 meal deal was misleading as the drink he had tried to purchase was not included in the offer. An officer made contact with the consumer but after reviewing the evidence and considering the facts of the case, decided not to take the matter any further. A review of the case was carried out and the officers course of action was agreed to be appropriate in the circumstances. The **complaint was not upheld**.
3. A consumer was unhappy that we would not assist with a civil claim to obtain a refund or replacement lock from a locksmith. Again, officers had tried to mediate between the two parties carrying out extensive communication, even though the matter was civil. The matter was concluded with there being no wrong doing on behalf of the Trading Standards Service although it was observed that on occasions, some of the communications between parties could have been responded to in a timely manner. This **complaint was not upheld**.



4. This matter was concerning our decision not to investigate a complaint about building works. The reason for reaching this decision was because the complainant had carried out remedial work before we got involved, therefore all evidence was lost and would have been too difficult for us to prove the allegations. This **complaint was not upheld**.
5. The complainant lived in Haringey and whilst the business was located in our area of jurisdiction, the alleged offence relating to non-delivery of herbal diet pills, took place out of area. Accordingly, there were no powers available to us to investigate and it was not clear that a criminal offence had actually taken place. The complainant was unhappy that we would not investigate the matter for her. This **complaint was not upheld** and as it happens, during the course of this enquiry, we were able to get the business to send the delivery again and offer a refund for the items they did not have in stock.
6. The final complaint also concerned substandard building works. The officers had visited the complainant with a representative from Harrow Council's Building Control to look at the work and review the builders paperwork. Our findings were the same as the Police's who had also reviewed the alleged offending which was that this was a civil dispute concerning alleged substandard workmanship and potential breaches of contract. As Trading Standards have no statutory duty or powers to intervene with civil disputes we had decided not to investigate any further. This **complaint was not upheld**.

### Compliments about the Service

As usual, despite the above complaints about our service, it is always heartening to hear of all the positive comments made about our officers. I have highlighted some of the comments received showing appreciation for the work we have carried out:

*'I would much appreciate it if you were able to pass on our thanks and congratulate [the officer] for his wonderful work, wonderfully done. Perhaps you could also mention it to his boss, as good work is often the result of good leadership'*. This followed a case where we prevented an 89 year old from being deceived out of £16,000 for unnecessary rooking work.

*'I would also like to express my grateful thanks to the smashing people that I met in Brent TS and for their tremendous dedication involved in securing this great outcome'*. Received from a brand owner after a large seizure of goods.

*'Without your remarkable work with helping us solve this issue, we would not have not got anywhere and would have potentially lost a large sum of money. Once again we both appreciate the hard work and your efforts in helping the general public solve such complicated issues, without your support we would have lost this horrific case and a great deal of life savings'*. Received after assisting a consumer with a dispute he had with a main card dealer.



*'I cannot believe it after all these months of not hearing a single word, this morning [we] received a partial order and a partial refund is due back to my bank account. I'm certain this would not have happened without your intervention the turnaround is astounding and all we can do is voice our heartfelt thanks and appreciation. You're stars!'* Sent to the Chief Executive after we resolved an online dispute over delivery of goods.

*'A big shout out to our wonderful Financial Investigator, who showed her amazingness once again and fought our corner. Great job'*. Received from a Prosecutor following a confiscation hearing.

*'The event on the scams and fraud awareness was a tremendous help in highlighting the issues and both [officers] were brilliant. Thank you for supporting the event and I do hope we can look to developing more awareness activities next year'*. Received from a charity following an event we partnered with them.

*'Our Primary Authority partnership has given us a clearer understanding on the laws involved in our field of business.....I am absolutely delighted that the service exists.....I feel that the Trading Standards officers appointed to our business helped us create a better structure in our company model which has given us a smoother sales process leading to happier customers'*. Received from a satisfied Primary Authority business.

*'Your team were thoroughly professional in working with us'*. A quote from the HMRC

*'Your presentation was excellent and attracted a lot of interest. Please pass on our gratitude'*. Received from a trade association who following a presentation we carried out at a conference.

## **Freedom of Information Requests**

The Service received 13 requests for information under the Freedom of Information Act 2000, down 5 from the previous year. They were all responded to within the statutory timescale.

The most popular subject for these requests related to letting agents with 3 separate enquires being made. 2 enquires were about specific businesses, 2 request were regarding tobacco legislation and sales. Other singular requests covered the subject areas of imported puppies, skin lightening creams, underage sales of knives, car clocking, our budget and energy performance investigations.

## **Training and Qualifications**

A total of 535.5 hours of training was provided to officers, which equates to approximately 74 days. 270 of these were for three officers who commenced their professional qualification in July 2017 and each had to sit 3 exams in November which two of the officers passed all three exams with a distinction and a couple of merits between them.

The remaining 265.5 hours were for training that were delivered at little or no cost at all. These training were mainly delivered or arranged by London Trading Standards (LTS), Chartered Trading Standards Institute (CTSI) and Brent. Four officers successfully had their training accredited as 20 or more CPPD hours by the Chartered Trading Standards Institute.

## Publicity

19 press releases promoting the work of the Service were produced during the year, 13 from Brent and 4 from Harrow. The press releases were mainly from the cases which were heard in court. The year started with a sentencing of counterfeit football programmes. This was also reported in the Sunday Mirror and included a quote from Brent's Cabinet member. The Sunday Mirror also carried an article on the travel agent who received 12 months custodial sentence for false airline flight tickets, which was featured in an episode of Fake Britain. Fake Britain also showed the searches of trader's homes who sold fake headphones in one case and fake headlight bulbs in another case.

Many of our press releases give information which is useful to our consumers and businesses, such as selling acid and scam awareness. These are usually picked up by the local media.

## Trading Standards Week of Action

In September 2017, London Trading Standards (LTS) introduced a week long campaign to promote and raise awareness about the wide range of work carried out by Trading Standards service. The main areas for priorities were;

- Day 1: Sale of knives to minors under the age of 18
- Day 2: Letting agencies; checking compliance with information requirements
- Day 3: Scams and Doorstep Sales; how to avoid falling prey to scammers
- Day 4: Support for businesses; helping businesses thrive and support local economy
- Day 5: Product Safety: Highlighting how everyday products can pose risks

As part of the campaign LTS sent out several press releases prior to and during the week. This service also participated and was active to ensure the week was a success. The press team assisted by sending out tweets every day promoting the priority of the day and highlight what trading standards are doing locally within the boroughs. A total of 13 tweets were sent out during the week which in its entirety had 16,581 impressions and 412 engagements .

The number of "impressions" means the number of unique people directly reached with/who actually saw our tweet. The number of "engagements" is the total number of times a user interacted with a Tweet. Clicks anywhere on the Tweet, including retweets, replies, follows, likes, links, cards, hashtags, embedded media, username, profile photo, or Tweet expansion..



**Brent Council** @Brent\_Council  
Our Trading Standards officers are out today speaking to businesses about selling knives to anyone under 18 <http://ow.ly/HGAW30foMnT>  
#LTSweek  
[pic.twitter.com/Sht1B1f9gR](http://pic.twitter.com/Sht1B1f9gR)

**Brent Council** @Brent\_Council  
There's no room for rogue traders in Brent and our TS team are working hard to protect consumers in the borough: <http://ow.ly/qme730fvYi8>

**Brent Council** @Brent\_Council  
It's London Trading Standards week & our officers are out bright and early ensuring customers & reputable businesses are protected #LTSweek



**Brent Council** @Brent\_Council  
Test purchase by Trading Standards with the Police saw this knife sold to a 14 yr old . They are now being investigated #LTSweek  
#saferBrent  
[pic.twitter.com/5Nm7png2rF](http://pic.twitter.com/5Nm7png2rF)

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**London Boroughs of Brent & Harrow  
Trading Standards Joint Advisory Board  
22 November 2018  
Report from the Senior Service Manager**

**FOR INFORMATION**

**REPORT REGARDING THE ENERGY PERFORMANCE OF BUILDINGS  
REGULATIONS**

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

## 1.0 Purpose of the Report

- 1.1 This report informs Joint Advisory Board Members of the statutory requirement for Trading Standards to delegate to another authority, the enforcement provisions of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended by the Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015 (the regulations).
- 1.2 This delegation would apply to another local authority, in relation to certain buildings owned by either the London Borough of Brent or the London Borough of Harrow where we would be required to potentially enforce the regulations against ourselves.
- 1.3 It is proposed that the London Borough of Brent will take responsibility for enforcement of the regulations in relation to buildings owned by the London Borough of Harrow and a reciprocal arrangement will exist whereby the London Borough of Harrow, will take responsibility for enforcement of the regulations in relation to buildings owned by the London Borough of Brent.

## 2.0 Recommendations

- 2.1 That Joint Advisory Board Members:

- 2.1.1 Consider the contents of the report and note this as a new area of Trading Standards duties.
- 2.1.2 Note the intention to seek delegation of authority with the London Borough of Brent, to the Strategic Director of Regeneration & Environment in consultation with the relevant Portfolio Holder, to enter reciprocal arrangements with other local authorities for the purposes of satisfying the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended.
- 2.1.3 Note the intention to seek delegation of authority with the London Borough of Harrow to the Divisional Director of Commissioning & Commercial Services in consultation with the relevant Portfolio Holder, to enter reciprocal arrangements with other local authorities for the purposes of satisfying the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended.

### **3.0 Detail**

- 3.1 The regulations require energy performance certificates (EPCs), which indicate the energy efficiency of buildings, to be produced when a property is built, significantly altered or sold or let.
- 3.2 An EPC must be displayed in commercial premises larger than 500m<sup>2</sup> which are visited frequently by the public if it has one. There is no need to specifically obtain one for this purpose.
- 3.3 Buildings measuring over 250m<sup>2</sup> occupied by public authorities and visited frequently by the public, must display a Display Energy Certificate (DEC) showing the energy usage of that building in the previous year.
- 3.4 The EPC shows the energy efficiency of a property and includes recommendations on how it can be improved. The DEC includes information about the running costs of the building.
- 3.5 When a building has an air conditioning system installed which requires 12kW or more power, the person who has control of the system, must retain reports detailing improvements that could be made or recommendations for replacement which need to be kept for inspection.
- 3.6 The Energy Performance of Buildings (England and Wales) Regulations 2012, were subsequently amended by the Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015. This requires each local Weights and Measures Authority (the legal term used in legislation when referring to Trading Standards) to agree in writing, with another local Weights and Measures Authority, for them to be responsible for enforcing these regulations in respect of local authority buildings with the our own respective London Boroughs.

- 3.7 In the absence of such an arrangement, we would find ourselves having to regulate and potentially take enforcement actions, against our own authority.
- 3.8 The Regulations implement the European Energy Performance of Buildings Directive which was intended to increase the energy efficiency of buildings, reduce their carbon emissions and lessen the impact of climate change.
- 3.9 Trading Standards are required to enforce amongst others, the following breaches of the regulations:
- Failure to provide an EPC free of charge, to a prospective buyer or tenant and to the ultimate buyer or tenant of a property.
  - Failure to obtain an EPC a building is put on the market before (subject to timetables within the regulations).
  - Failure for a building larger than 250m<sup>2</sup> occupied by a public authority to hold a valid advisory report highlighting recommendations to improve the energy performance of the building and displays a DEC.
  - Failure for a person who has control of an air conditioning systems with an output greater than 12kW for not having an inspection report available for inspection.
  - Failure to provide the owner of a new building with an EPC no later than 5 days after construction.
- 3.10 Where there has been a breach of the regulations, an officer of a local Weights and Measures Authority, may issue a penalty charge notice to the person or organisation responsible for the breach. The penalty charge amounts are set out with the regulations starting at £200, with the maximum penalty charge being £5,000. Any charge not paid, has to be recovered as a debt owed to the Authority.
- 3.11 Within the regulations are obligations for us to follow when issuing a penalty charge notice which includes the need to consider any representations made by the recipient of such a notice. There is also a right for the recipient to make an appeal to the county court should they be dissatisfied with the notice imposed.
- 3.12 We intend to embark on a staged program of advice and follow up to raise standards and awareness of these regulations, starting with publically owned school buildings. By staging the advice and follow up, we can schedule this work over a 12-18 month period thereby reducing the burden of trying to regulate and bring every building into compliance over a shorter period of time.
- 3.13 This method also brings publically owned buildings into compliance before we start to regulate noncompliance in the private sector.
- 3.14 It should be noted that there has been only one complaint received by the Service on the subject of energy performance since 1 April 2016. Accordingly, whilst this

is a statutory duty, it will be treated as a very low priority area of our work as there is no extra resource available to us for the purposes of carrying out these duties.

- 3.15 The London Borough of Brent is able to carry out its own DEC assessments and even sells this service as a commercial activity as part of the Civic Enterprise. We will work with the Council's Energy Analyst and Projects Officer who is part of the Finance directorate, to identify noncompliant buildings and encourage the relevant person to engage his services to produce the required reports.
- 3.16 At the time of writing this report, we have scheduled a meeting with the London Borough of Harrow's Energy Manager, to engage and make them aware of our role enforcing this legislation.
- 3.17 At present, there are few London authorities who have entered such reciprocal arrangements so it may be the case that either the London Borough of Brent or the London Borough of Harrow, are approached by other authorities requesting to enter such arrangements.
- 3.18 It is for this reason, we propose seeking delegated authority for the Strategic Director of Regeneration & Environment in the London Borough of Brent and for the Divisional Director of Commissioning & Commercial Services within the London Borough of Harrow to enter such arrangements as necessary.
- 3.19 Each local weights and measures authority must report on their enforcement of these regulations each financial year to the Secretary of State. The statutory returns are coordinated by the Ministry of Housing, Communities and Local Government.

#### **4.0 Financial Implications**

- 4.1 The resource required to train staff, implement procedures, prepare advisory materials and to commence a program of staged compliance checks, will be met from within Trading Standards base budgets.
- 4.2 Any penalty fines received as a result of formal action will be used to offset the overall cost of the enforcement activity for the team involved. When a recipient of a penalty charge does not pay, steps will need to be taken to enforce the debt which will incur additional costs from the relevant team's budget. These will need assessing on a case by case basis.

#### **5.0 Legal Implications**

- 5.1 It is a statutory duty for the local authority to carry out the function of an 'Enforcement Authority'. Regulation 34 of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended, states (1) Every local



weights and measures authority is an enforcement authority for the purpose of this Part.

- 5.2 Regulation 34A of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended, addresses obligations which arise in relation local authority buildings. This provision specifically deals with circumstances where the parent local authority of an enforcement authority is subject to a statutory duty under one or more of the provisions of the 2012 Regulations.
- 5.3 In cases where the scenario in 5.2 above applies, regulation 34A sets out the responsibility of the local weights and measures authority in those circumstances to transfer enforcement responsibility to another local authority. In other words, an enforcement authority is relieved of the responsibility of taking enforcement action against its own authority. Regulation 34A (2) stipulates that this transfer of enforcement responsibilities is done by way of written agreement between the relevant enforcement authorities.
- 5.4 The reciprocal arrangements proposed in this report in respect of the two boroughs (the London Borough of Brent and the London Borough of Harrow), concurs with the provisions of section 34A of 2012 Regulations.
- 5.5 It is necessary to notify the Ministry of Housing, Communities and Local Government of any transfer agreements made with other local authorities as soon as reasonably practicable thereafter.

## **6.0 Equality Implications**

- 6.1 The proposals in this report have been screened to assess their relevance to equality. The contents concerns statutory responsibilities and were found to have no equality implications.

## **7.0 Human Resources Implications**

- 7.1 There will be some staffing implications proving training on the regulations and officer resource will be required to commence the compliance checks. However, as detailed within this report, it is intended that this area of work will be a low priority for us and as such, can be managed within our base budget.

## **Background Papers**

The Department for Communities and Local Government 'Improving the energy efficiency of our buildings. Local Weights and Measures Authority guidance for the enforcement of the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012 (as amended)', can be accessed via the following web link;

<https://www.gov.uk/government/publications/local-weights-and-measures-guidance-for-energy-certificates-and-air-conditioning-inspections-for-buildings>

**Contact Officer**

Any person wishing to obtain more information should contact Simon Legg, Senior Regulatory Service Manager, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5522, [simon.legg@brent.gov.uk](mailto:simon.legg@brent.gov.uk)

SIMON LEGG  
SENIOR SERVICE MANAGER

**London Boroughs of Brent & Harrow  
Trading Standards Joint Advisory Board  
22 November 2018  
Report from the Senior Service Manager**

**FOR INFORMATION**

**REPORT REGRADING A PROPOSED ENFORCEMENT POLICY AND SERVICE STANDARDS AS REQUIRED BY THE REGULATORS' CODE**

<b>Wards Affected:</b>	N/A
<b>Key or Non-Key Decision:</b>	N/A
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	2
<b>Background Papers:</b>	Regulators' Code
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Simon Legg Senior Service Manager Simon.legg@brent.gov.uk 0208 937 5522

## 1.0 Purpose of the Report

- 1.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators' Code when exercising regulatory functions.
- 1.2 This report seeks members comments of an updated Enforcement Policy (the policy) and a set of Service Standards (the standards) as required by the Regulators' Code.
- 1.3 The policy and the standards will apply to the activities of the Trading Standards consortium. It updates the sanctions available to us when taking enforcement action and meets our compliance requirements of the Regulators Code.

## 2.0 Recommendations

- 2.1 That Joint Advisory Board Members:
  - 2.1.1 Consider the contents of the Enforcement Policy (see Appendix 1) and make appropriate comments.
  - 2.1.2 Consider the contents of the Service Standards (see Appendix 2) subject to and make appropriate comments.
  - 2.1.3 Note the intension to seek delegation of authority to the London Borough of Brent's Strategic Director of Regeneration & Environment in consultation with the relevant

Cabinet Member, to update the Enforcement Policy and the Service Standards as required by the Regulators Code.

### **3.0 Detail**

- 3.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators Code<sup>1</sup> when exercising regulatory functions. The Regulators Code (the Code) was published by the Department for Business, Innovation and Skills Better Regulation Delivery Office in 2014 when it became statutory and is now the responsibility of the Office for Product Safety and Standards.
- 3.2 The Code reflects Government's commitment to reducing regulatory burdens for business by providing a clear set of principles on how local authorities should interact with those they are regulating. At the same time, it recognises businesses need clear regulatory information, guidance and advice that they can rely on in order to invest and grow.
- 3.3 The regulatory functions that fall within the scope of the Code are specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (as amended)<sup>2</sup>, in accordance with Section 24 of the Legislative and Regulatory Reform Act 2006. Trading Standards duties are included within this.
- 3.4 The key principles of the Code are that regulators should:
- Carry out their activities in a way that supports those they regulate to comply and grow
  - Provide simple and straightforward ways to engage with those they regulate
  - Base their regulatory activities on risk
  - Share information about compliance and risk
  - Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities
  - Ensure their approach to their regulatory activities is transparent.
- 3.5 The policy and the standards are attached as Appendix 1 and Appendix 2 to this report. Please note that Brent Council's Design Team, will apply the corporate style to both documents once the content of each is agreed and finalised.
- 3.6 The policy and the standards provide guidance to officers which should be followed when conducting regulatory activities so their actions are transparent, accountable, proportionate, consistent and targeted only when needed. The Council must have regard to the Code when developing policies and principles that guide its regulatory activities.
- 3.7 It should help businesses and regulated persons, to understand our methods for achieving compliance and the criteria followed when considering the most appropriate response to a breach of legislation.

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<sup>1</sup> <https://www.gov.uk/government/publications/regulators-code>

<sup>2</sup> <https://www.legislation.gov.uk/ukSI/2007/3544/contents/made>

- 3.8 Whilst there is no legal requirement for this, the policy and standards follow a format provided by the Better Regulation Delivery Office in a 'Local Authority Tool Kit', whenever possible, retaining the same headings and format to ensure the documents cover all the Code's requirements and to provide some uniformity and consistency with those used by other local authorities.
- 3.9 The service standards have been drafted to mirror as closely as possible, those found in Brent Council's Customer Promise which commands good quality and easily accessible council services and information.
- 3.10 Harrow Members may wish to note that the London Borough of Harrow has an Enforcement Policy which was agreed by Harrow's Cabinet on 14 September 2017. As the London Borough of Brent acts as the host authority for the shared Trading Standards consortium, it will be the policy and standards subject to this report, which officers will follow.
- 3.11 This report recommends that authority to update the policy and the standards is delegated to the Strategic Director of Regeneration & Environment to allow for changes to be made following the required consultation with those we regulate. In addition, this will enable timely updates following any changes to our enforcement approach, procedures, priority setting process, statutory guidance or any other similar requirements.
- 3.12 It is important that the policy and the standards are easily accessible to those who we regulate once they are approved. The Code requires the policy and the standards to be clearly visible on our website and they should be well signposted.
- 3.13 In accordance with the Code, details of any fees and charges that we apply, must also be published on our website and these are to be kept up to date.
- 3.14 In addition, the Council is required to publish details of performance against the policy including feedback from satisfaction surveys and data relating to complaints about them and appeals against their decisions.

#### **4.0 Financial Implications**

- 4.1 The staffing resource to implement the processes and procedures, will be met from within the Trading Standards base budget.
- 4.2 There will also be a nominal cost associated with the final publishing and making these documents available on the website. This will be met from existing budgets.

#### **5.0 Legal Implications**

- 5.1 Section 22 of the Legislative and Regulatory Reform Act 2006 states:

(1) A Minister of the Crown may issue and from time to time revise, a code of practice in relation to the exercise of regulatory functions.

- (2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.
- (3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

## 5.2 The Regulators' Code states:

Paragraph 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them

and.

Paragraph 6.2 d) their enforcement policy, explaining how they respond to non-compliance;

5.3 The purpose of the Enforcement Policy and Service Standards subject to this report, is to satisfy our statutory obligations as set out above.

5.4 Failure to adopt an Enforcement Policy and Service Standards may leave us open to legal challenge and create reputational risk or damage should any regulatory activity fail as a result of not having these documents in place and ensuring staff follow the contents of them.

## 6.0 Equality Implications

6.1 The proposals in this report are a statutory requirement. They have been screened to assess their relevance to equality and were found to have no equality implications. The policy and the standards aim to provide a transparent and consistent approach to the way we conduct our regulatory activities, the consequences of which support fairness and equality.

## 7.0 Human Resources Implications

7.1 There will be some staffing implications taking staff away from their frontline duties to provide training on the new policy and the standards if approved, implementing them and in the longer term, providing managerial oversight but it is expected that these will be minimal and can be managed within our base budget.

## Background Papers.

A copy of the Regulators Code can be accessed from the following web link;  
<https://www.gov.uk/government/publications/regulators-code>

Further information including frequently asked questions and answers, are available from the Guidance for Regulators Information Point (GRIP) website found at the following web

link;

[https://www.regulatorsdevelopment.info/grip/local\\_authorities](https://www.regulatorsdevelopment.info/grip/local_authorities)

### **Contact Officer**

Any person wishing to obtain more information should contact Simon Legg, Senior Regulatory Service Manager, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5522, [simon.legg@brent.gov.uk](mailto:simon.legg@brent.gov.uk)

SIMON LEGG  
SENIOR SERVICE MANAGER

### **APPENDIX 1**

- 1) The Enforcement Policy
  
- 2) The Service Standards

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# LONDON BOROUGH OF BRENT ENFORCEMENT POLICY



**Brent**



# London Borough of Brent Enforcement Policy

## Contents

1. Introduction
2. What is this policy for?
3. When does this policy apply?
4. Our approach to dealing with non-compliance
5. Conduct of investigations
6. Decisions on enforcement action
7. Review of this policy
8. Comments and complaints

### 1. Introduction

This policy details the London Borough of Brent's (LBB) approach dealing with any non-compliance with applicable legislation enforced by council regulatory teams in compliance with Section 21 Legislative and Regulatory Reform Act 2006 (LRRRA).

The regulatory teams enforce a wide range of legislation that aims to protect the rights and interests of the inhabitants and businesses within LBB.

This Enforcement Policy sets out the principles and procedures LBB's staff are to follow when considering and taking enforcement decisions/actions, in order to ensure that all decisions made are consistent, fair, proportionate and necessary.

This Policy is intended to be used and applied to all officers who engage in a regulatory function (except those in Private Housing see comment in Section 3) and is approved by Brent Council's Cabinet.

Copies of this policy are available on request from any of the Council's regulatory teams or it can be obtained from our website<sup>1</sup>. Our regulatory teams adhere to clearly published service standards<sup>2</sup> in accordance with the Regulators' Code which can also be obtained upon request or are available on our website.

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<sup>1</sup> Copies of the Policy can be found at [www.brent.gov.uk](http://www.brent.gov.uk)

<sup>2</sup> Our Regulatory Service Standards can be found at [\(inset hyperlink\)](#)

We will wherever possible, avoid placing unnecessary regulatory burdens on those who we seek to regulate.

When creating this policy, we have referenced the following legislation or Codes that have influenced its contents and the LBB shall have regard to these accordingly:

### **Good Enforcement Practices**

In agreeing this policy, LBB demonstrates that it is fully committed to the five principles of good regulation (referenced below), as required by Part 2 of the Regulatory Reform Act 2006 and the Department of Business Innovation and Skills Regulators' Code (the Code) dated April 2014.

When possible we will always seek to focus and prioritise our regulatory functions in line with the Council's Borough Plan (or equivalent), and take into consideration regional and national intelligence, risk assessments and/or trends.

When making decisions on our regulatory functions, we shall always have consideration to the impact and effect our intervention/s will have. This not only satisfies the need of the code, but also ensures that we utilise our resources in the best possible way and where effective outcomes can be achieved.

#### **(i) Proportionality**

We will ensure that enforcement action is proportionate to the perceived risks and seriousness of the alleged offending. Any sanctions which may be applied, are done so in a method applicable to both the current level and potential future escalation of those risks in the given circumstances. Whenever possible, we will take account of the individual circumstances of each case when considering action.

#### **(ii) Accountability**

We will ensure that our activities will be open to public scrutiny with clear and accessible policies and operate a fair and efficient complaints procedure. All complaints made about service quality will be recorded and tracked against the Council's formal complaints procedure, details of which can be found in section 8 of this policy.

#### **(iii) Consistency**

We will carry out our duties in a fair and consistent manner. This means that where possible, we will adopt the same approach across LBB regulators. The previous history of those subject to regulation will be taken into account when deciding how compliance should be achieved and/or what form of sanction should be imposed. If circumstances permit, consideration will also be given in line with any national or statutory guidelines. If arrangements are in place to

promote consistency, including liaison with other local authorities and agencies, particularly where we may share an enforcement role, these will be adhered to.

#### **(iv) Transparency**

We are committed in applicable circumstances and as far as practicably possible, to provide open and transparent sources of advice, guidance and information. In the first instance, this will be made available in an electronic format but where required, can be given in hard or via other accessible means.

We seek to provide all advice, guidance and information in a format that is easily understood using plain English.

Information such as our fees and charges will be published in advance of agreeing with any person to become liable for them.

We will take steps to ensure that those we regulate are always aware of what is a statutory requirement necessary to comply with the law, what is considered as best practice if applicable or what we consider as being optional not compulsory for a business or individual to follow.

#### **(v) Targeted**

We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities or where repeated occurrences of lower risk activities, create a higher risk area of concern. Enforcement activity will only be targeted in instances where action is needed.

#### **Regulators' Code (Better Regulation Delivery Office, 2014)**

LBB has had regard to the Regulators' Code in the preparation of this policy and when considering our operational procedures. The Code permits us in certain instances, if we conclude that a provision in the Code is either not relevant or is outweighed by another provision, to depart from it. If this situation arises, we will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

#### **Human Rights Act 1998**

LBB is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

#### **Data Protection Act 2018**

Where there is a need for LBB to share enforcement information with other agencies or external partners, we will follow the provisions of the Data Protection Act 2018.

## **Regulatory Enforcement and Sanctions Act 2008**

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the 'Primary Authority' scheme. We will comply with the requirements of this Act when we are considering enforcement action against any business or organisation that has a primary authority relationship and will have regard to guidance issued by the Secretary of State.

## **The Code for Crown Prosecutors**

When deciding whether to prosecute the LBB has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. This Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test'.

### **i. Evidential Test**

There must be sufficient admissible evidence to provide a realistic prospect of conviction against each defendant on each charge. The defence case, including any available statutory defence, must be considered including how it is likely to affect the prosecution case. A case which does not pass the evidential test, must not proceed however serious or sensitive the case may be.

A realistic prospect of conviction is an objective test based solely upon the assessment of the evidence and any other information the defence might put forward. It means that an objective, impartial and reasonable jury or bench of Magistrates, having heard the case and been properly directed, would be more likely than not, to convict the defendant of the charge[s] alleged. If and only if, the case passes this test must the prosecutor apply the 'public interest test'.

### **ii. Public Interest Test**

If the evidential test is satisfied, Managers and/or Prosecutors, must go onto consider whether the public interest test is satisfied in order to offer the offender a simple caution or to prosecute.

Each case must be considered on its own facts and merits and usually, the test would be applied after an investigation is complete or there is sufficient evidence to prove a prima facie offence. However, there will be some cases where a decision can be made at an early stage that an offender will not be cautioned or prosecuted in cases where the benefit amounts to a small amount or the

mischief has taken place over a short period of time and any sentence awarded would be minimal.

There may be occasions where the public interest test points are against prosecution, such as low value or minor offending. The Council will still consider in particular circumstances, whether a prosecution should go ahead and if applicable, let a court consider those factors when any sentence is passed.

In order for the public interest test to be met, at least one criteria from each of the following three sections below must apply:

1. The seriousness of the contravention or breach. This takes account of:
  - The detriment caused to others including the environment. For example, the level of nuisance, distress, injury caused or financial loss incurred
  - Impact resulting from the breach upon the LBBs resources
  - The risk of injury to the health of others. For example where conditions are so unsafe an accident is likely to happen at any time
  - The number of people that were or could have been affected by the breach
  - The degree of culpability, such as negligence or wilful intent that appears to be involved in committing the breach
  - The accumulation or repetition of less serious offences
  - Failure to comply with a statutory notice within the timescale given
  - Financial loss to others as a result of the breach
  
2. The likelihood of achieving compliance. This will take into account the following factors which are not exhaustive and will depend on the facts of each case:
  - The level of compliance received from the person in the past
  - The person's ability to comply. For example. Their level of understanding may not be sufficient to enable them to comply
  - The lack of willingness of the person to comply with any action proposed by the Council
  
3. Other factors which takes account of:
  - Persistently disregarding warnings that involve a potentially serious breach
  - Failure to comply with a statutory notice

- Seriously endangering the health, safety or well-being of others e.g. where it caused or could have caused a serious injury or illness
- Where applicable, the views of the victim regarding the impact the offence has had and the level of the victim's vulnerability
- A deliberate or willful failure to comply with a legal duty
- Deliberate or grossly careless breaches that caused or were likely to cause prejudice to health, economic advantage or environmental damage
- Purposeful obstruction of a Council officer from carrying out their duties
- Failure to satisfy the relevant statutory defence/s

## 2. What is this policy for?

This document satisfies the LBBs requirements under paragraph 6 of the Regulator's Code which requires us to ensure transparency in our approach to regulatory activities. It is the local authority's policy in respect of our approach to dealing with businesses or regulated people who do not comply with legislation and is address to:

- a) those affected by its activities; and
- b) officers of the local authority

Officers who undertake enforcement activities covered by this policy are appropriately trained and authorised to discharge enforcement powers on behalf of the local authority and will act in accordance with this policy at all times.

This policy sets out the principles and procedures all LBB staff who are authorised to carry out regulatory functions are to follow when considering and taking enforcement decisions/actions, in order to ensure that these are made consistently, fairly, proportionately and necessarily.

Line Managers will have the responsibility to ensure their officers act in accordance with the Council's regulatory service standards and with the contents of this policy.

## 3. When does this policy apply?

This policy covers all enforcement activities without exception, undertaken by LBB in the following service areas:

**Environmental  
Improvement**

**Environmental  
Enforcement**

**Food Safety**

**Health and Safety**

**Licensing**

**Noise and Nuisance  
Control**

**Public Safety**

**Trading Standards**

**Planning Enforcement**

The policy does not apply to the activities of Private Sector Housing who follow a separate document titled 'Private Housing Services Enforcement Policy, Guidance for Private Housing Services Enforcement Officers' dated July 2017<sup>3</sup>.

For the purposes of Planning Enforcement, this policy should be read as the 'Enforcement Plan' as set out in paragraph 58 of the National Planning Framework 2018 or any successor policy issued by Government.

For the purposes of Food Safety, this policy is intended to satisfy applicable criteria as set out in 'The Framework Agreement on Official Feed and Food Controls by Local Authorities' produced by the Food Standards Agency.

For the purposes of Health & Safety, this policy is intended to satisfy the applicable criteria as set out in the 'Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) guidance' in terms of any reference to a local authority's enforcement policy.

#### **4. Our approach to dealing with non-compliance**

In deciding what action to take in regards to a non-compliance, we will try to achieve one or more of the following outcomes:

- Change the behaviour of the offender to achieve future compliance
- Eliminate any financial gain or benefit from non-compliance
- Deter future non-compliance
- Restore the harm caused by non-compliance
- Make safe any non-compliance' involving a breach of safety legislation
- Restore any property or asset privately or publicly owned which had been damaged or removed, back to its original condition
- Refer in suitable cases, breaches to another enforcement body

Where a breach of minor legislation is identified, the most common outcome, although not exclusively, is for advice to be given to the business or individual concerned with the expectation that corrective action will be taken within a set period of time. This may be at a very early stage or after some further investigation. However we are committed to dealing firmly with those that deliberately or persistently fail to comply with legislation. In addition, we will

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<sup>3</sup> This policy can be found at <http://democracy.brent.gov.uk/ieDecisionDetails.aspx?Id=3879>



take firm action where minor offending may contribute towards a more significant issue and instances when serious breaches have taken place.

The action that the LLB chooses to take will depend on the particular circumstances and the approach of the business or regulated person to dealing with the breach.

Businesses and individuals are able to request advice from us regarding compliance and how this can be best achieved. Those requesting regulatory advice regarding a non-compliance<sup>4</sup>, can do so without triggering enforcement action, where they show a willingness to resolve the issue. The LBB encourages those we regulate to contact us for advice although in some instances, a cap on the amount free advice available from the Council is applied to effectively manage our resources.

Our staff are committed to clearly explain any non-compliance and any advice given, actions required or decisions taken, with reasons for these. Where possible, written explanations will be provided such as during inspection visits. There will be an opportunity for dialogue and/or appeal in appropriate circumstances between the offender and the LBB in relation to this except where we need to take immediate enforcement action to respond to or prevent serious or imminent risk.

If formal action is likely to be considered as an option, that dialogue may be need to be by way of a formal recorded interview in accordance with the Police and Criminal Evidence Act 1984.

The Council delegates the powers it has to enforce various pieces of legislation so that individual staff members with the appropriate levels of competence and where required qualification, have specific authority to act. Staff members carry identification and confirmation of their authorisation. Full details of LBB's scheme of delegation can be found in our [Constitution](#)<sup>4</sup> document.

Investigations are overseen by relevant line managers. Any formal action must be sanctioned by a manager with appropriate authority to do so.

We will refer matters to other authorities or enforcement bodies where we believe they are the most appropriate to deal with a matter. We will also accept referrals from others where we are the most appropriate enforcement body to deal with something effectively.

Where we carry our enforcement activities on behalf of another authority, we shall also have regard to their policies. If the situation should arise where their policies contradict those contained within this policy, the officer shall notify their line manager for further guidance, where subject to the term in question, a decision will be made as to how to proceed. It would be expected in most situations, that this policy has supremacy.

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<sup>4</sup> <http://democracy.brent.gov.uk/ieListMeetings.aspx?Committeeld=584&info=1&MD=Constitution>

The LBB will manage enforcement in relation to its own establishments and activities in the same manner as others we regulate and will declare any interest we hold accordingly.

Our enforcement will be fair and objective with everybody being treated equally and fairly regardless of their age, disability, gender identity and expression, marital status, nationality, race, religion or belief, sex, sexual orientation or health and income status. The LBB has an [Equalities](#)<sup>5</sup> policy promoting equality, diversity and cohesion in everything we do.

### **Publicising Enforcement Action**

In some instances, where a business or individual receives an enforcement action, the Council will seek to publicise this. Consideration will be given to each case individually although this would normally be in the following circumstances:-

- The offence is widespread in the area and coverage will assist in securing compliance by others
- To draw attention to particular serious hazards
- Coverage is otherwise in the public interest
- A press release will generally be issued following a conviction where it is considered that publicity will bring others into compliance or will help to maintain compliance with those statutory requirements

### **Sharing information with other regulators**

If there is a shared enforcement role with other agencies, e.g. the National Trading Standards Board, Food Standards Agency, Fire and Rescue Service or the Police, we will consider co-ordinating with these agencies, to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness.

Where any business has a 'Primary Authority' relationship established with a local authority regulatory service, our officers will communicate with that service at the earliest opportunity.

### **Explanation of the action taken of non-compliances**

We will be proportionate, when considering what is the most appropriate sanction for any non-compliance and we will consider such factors as the harm caused or the risk of harm, the size, capacity and nature of the business or relevant factors of the regulated person.

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<sup>5</sup> <https://www.brent.gov.uk/media/.../Brent%20Equality%20Policy%20April%202015.p...>

We will provide the individual/business with an opportunity to discuss with us the advice given, actions required or decisions taken in relation to non-compliance, except where we need to take immediate enforcement action to respond to or prevent serious or imminent risk.

When advice or guidance has been provided following the identification of non-compliance, further checks might be required by an officer to ensure the issue has been suitably rectified.

It is not possible for the Council to investigate every allegation of non-compliance it receives. Therefore, some regulatory teams may operate a risk assessment scheme to determine whether individual allegations require investigation. Copies of any such assessment criteria, are available upon request.

## **5. Conduct of Investigations**

### **Explanation of the processes for investigating alleged breaches**

All investigations will be carried out having regard to the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to LBB:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting and with any associated guidance or codes of practice.

### **Officer's Powers**

For the vast majority of legislation we enforce, officers are given particular powers to carry out certain activities including for example test purchasing; sampling; inspection of premises, goods equipment or documents and powers of entry to gain access to land and premises, by force, with a warrant if required.

In certain circumstances where offences are suspected or evidence is required, legislation gives our officers powers to seize goods and documents or to suspend good for onward supply.

Powers extend to the seizure of cash, obtaining production or monitoring orders or restraining assets. Powers vary depending on the legislation being used and those listed in this section, do not create an exhaustive list.

Where any items are seized other than waste, officers will supply written confirmation or a photograph, of anything taken at the time or if not practical as soon as possible afterwards if requested by the owner of the items.

Where any seized items are subject to any form of testing, the results of that testing will be made available to the person who had ownership of the goods.

Our officers do not hold any powers to arrest individuals. However, there is a possibility of arrest where our officers are working with partners who do hold such powers.

### **Obstructing an Officer**

For many pieces of legislation that we enforce, there are usually provisions where a person commits an offence of obstructing officers involved in enforcement activities and this can include failure to give appropriate assistance. If individuals or businesses obstruct authorised officers in the course of their duties, the LBB will view this very seriously. It is possible anybody obstructing an authorised officer will be prosecuted for obstruction offences if these persist once the person has been advised (orally or in writing) that they are committing the offence.

### **Formal Interviews**

Where a person, company or other legal entity is suspected of breaching legal requirements and formal action remains under consideration, wherever possible and appropriate, they will be formally interviewed in accordance with the Police and Criminal Evidence Act 1984 (PACE). This will usually, but not exclusively, be audio recorded and the regulated person or business will be given the opportunity to demonstrate if a statutory defence is available to them; have the opportunity to give an explanation or make any additional comments about the alleged breach/es.

The regulated person or business can have a legal representative with them although in most cases, this will have to be arranged by the interviewee. The record of interview is admissible as evidence in any subsequent prosecution. We will use the information provided by suspects in the PACE interview to help us consider if we will pursue prosecution.

### **Statutory Time Limits for Investigations**

For the majority of the legislation that we enforce, there are time limits specified in the legislation within which we must commence prosecution proceedings by the laying of information before the court. For summary only cases, there is usually a 6 month time limit, although this can be varied by statute.

For either way or on indictment only offences (e.g. Fraud Act 2006, Health and Safety at Work etc. Act 1974 and Trade Marks Act 1994) there is usually no

time limit imposed for bringing prosecution proceedings, but again this can be varied by statute. However, where there is no time limit we will endeavour not to delay bringing such proceedings. Unless the investigation is particularly large or complex in its nature, where possible, we will seek to determine the outcome of these cases within 12 months of the LBB being made aware of the offence although this is always subject to the priorities and resources available to the team concerned.

### **Case Review**

In accordance with our legal duty we will continue to keep prosecution cases under review. As prosecutors we will take account of any change in circumstances that occurs as the case develops, including what becomes known of the defence case. If circumstances change during the course of the prosecution, we will review our decision as to whether to continue with the prosecution. The decision and the reasons for continuing or not will be recorded.

### **Case Progression**

We will keep witnesses informed of the progress of investigations and prosecutions. The same applies where appropriate, to keeping alleged offenders informed particularly on occasions when they have not appointed legal representation. We commit to adhering to all timescales set by a Court as part of a case management processes whenever possible.

## **6. Decisions on Enforcement Action**

### **Enforcement Actions available to LBB in Respect of Criminal and Civil Breaches**

#### **A. Compliance Advice, Guidance and Support**

LBB uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

We recognise that where a business has entered into a partnership with a primary authority, the primary authority will provide compliance advice and support. We will take such advice into account when considering the most appropriate enforcement action for us to take. We may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, we recognise that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

## **B. Voluntary Undertakings**

We may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. We will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

Voluntary undertakings may take various forms which may include a commitment from the regulated person or business to change the way things are done in the future or to correct things that have taken place in the past. Voluntary undertakings may include an agreed timescale for actions to take place. Failure to observe and undertaking within the agreed timescale, may mean that a sanction is escalated to an alternative more formal option.

## **C. Statutory (Legal) Notices**

In respect of many breaches, the LBB has powers to issue statutory notices. These include: 'Stop Notices', 'Suspension Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

There are instances where breaches of laws are so severe that a premises, usually commercial but in some circumstances residential, require immediate closure in order to protect the health and safety of occupiers, customers, or neighbours. Depending on the laws concerned, an Order is usually required from a Court prior to a closure notice becoming effective. There are however instances where a closure notice will have immediate effect, pending the decision of an application to a Court. Owners and/or occupiers of premises will be advised at all stages of any procedure, and we will ensure that such closure notices are a final resort, having explored all other avenues to remove the immediate danger.

## **D. Financial Penalties**

The LBB has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, we may commence criminal proceedings and/or take other enforcement action in respect of the breach or to enforce payment.

If a fixed penalty is paid in respect of a breach we will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

We are only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at the LBB's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

#### **E. Injunctive Actions, Enforcement Orders etc.**

In some circumstances we may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

LBB is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, we will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

#### **F. Simple Caution**

LBB has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, we are likely to consider prosecution.

A simple caution could appear on the offender's criminal record. It is likely to influence how LBB and others will deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment, and these can be taken account of by immigration agencies and border controls for some countries.

Simple Cautions will be used in accordance with Home Office Circular 016/208 and other relevant guidance.

#### **G. Prosecution**

The LBB may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as advice, voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute we have regard to the provisions of [The Code for Crown Prosecutors<sup>6</sup>](#) as issued by the Director of Public Prosecutions.

Prosecution will only be considered where we are satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

Before deciding that prosecution is appropriate, the LBB will consider all relevant circumstances and will have regard to the public interest criteria set out above.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches, a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

If successful we will also apply to the court for an offender to pay for the costs of investigation and bringing the prosecution to court. This is usually granted by courts in full or part.

## **H. Confiscation Proceedings and/or Other Financial Investigation**

We will make applications under the Proceeds of Crime Act 2002 to restrain and/or confiscate the assets of an offender where applicable. The purpose of any such proceedings is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof.

## **I. Refusal/Suspension/Revocation of Licences**

The LBB issues a number of licences and permits. We also have a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, we may take previous breaches and enforcement action into account.

### **Explanation of how decisions are made on enforcement action**

In making decisions about the most appropriate enforcement action to take, we are mindful of the principles set out in the Macrory Review of Regulatory Penalties 2006 concerning sanctions and penalties. These principles are:

- a) aim to change the behaviour of the offender;
- b) aim to eliminate any financial gain or benefit from non-compliance;
- c) be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- d) be proportionate to the nature of the offence and the harm caused;

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<sup>6</sup> <https://www.cps.gov.uk/publication/code-crown-prosecutors>



- e) aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
- f) aim to deter future non-compliance.

When deciding on the enforcement action to be taken, we will consider the risk and seriousness posed by the offending.

In making enforcement decisions about offences under health and safety legislation, we will have regard to the HSE's Enforcement Management Model.

Where the LBB is required to consult with another organisation before taking action, we shall ensure that this is undertaken. Examples include the statutory requirements under Primary Authority scheme or notifying the Competitions and Markets Authority of intended proceedings in accordance with the Enterprise Act 2002 and/or the Consumer Rights Act 2015.

All enforcement decisions, except a decision relating to the provision of advice, will be documented along with the justification for making the decision.

### **Explanation of How Enforcement Decisions are Communicated to Those Affected**

We will provide a timely explanation in writing where appropriate, details of an enforcement decision including of any rights to representation or rights to appeal and practical information on the process involved.

Any alleged offending will be clearly set out so the recipient can understand what it is they are being accused of. When court summonses are issued, they will be supported by appropriate admissible evidence.

## **7. Review of this policy**

### **Details of when and how the policy will be reviewed**

This policy will be refreshed should any changes in legislation or relevant codes of practice require it to be updated. In addition, it will be reviewed as necessary should its contents be the source of problem or a justified complaint. We welcome any comments on the policy at any time which can be made via the details provided in the section below.

## **8. Comments and Complaints**

### **Details of processes for complaints and appeals**

If persons wish to complain about a regulatory decision or feel that there has been a failure to act in accordance with the [Regulators Code](https://www.gov.uk/government/publications/regulators-code)<sup>7</sup>, in the first instance they are asked to discuss this with the member of staff involved with the action, or if applicable, their line manager.

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<sup>7</sup> <https://www.gov.uk/government/publications/regulators-code>

If they remain dissatisfied, then they can make a Corporate Complaint by following using the Council's formal complaints procedure, details of which can be found by clicking [here](#)<sup>8</sup>.

If an alleged offender is being prosecuted or subject to formal legal action, then the judicial process has its own channels for legally challenging the action or the outcome through a court appeal.

If you wish to complain about this policy, you can do so via the link above.

If you prefer not to use the online form, you can write to us at Complaints Service, The London Borough of Brent, Brent Civic Centre Engineers Way, Wembley HA9 0FJ or email [complaints.service@brent.gov.uk](mailto:complaints.service@brent.gov.uk)

Dated October 2018

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<sup>8</sup> <https://www.brent.gov.uk/your-council/complaints/making-a-general-complaint/>

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# WHAT YOU CAN EXPECT FROM REGULATORY TEAMS AT THE LONDON BOROUGH OF BRENT



**Brent**



# What you can expect from Regulatory Teams at the London Borough of Brent

## Contents:

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This document explains what service you can expect from a regulatory team at the London Borough of Brent. Whether you run your own business, are an employee of a business or a member of the public, wherever possible, we are committed to providing you with an efficient, courteous and helpful service. This document sets out how we aim to do that and what standards we will meet.

## Areas we regulate

We deliver services in a number of areas:

<b>Environmental Improvement</b>	<b>Environmental Enforcement</b>	<b>Food Safety</b>
<b>Health and Safety</b>	<b>Licensing</b>	<b>Noise and Nuisance Control</b>
<b>Planning Enforcement</b>	<b>Public Safety</b>	<b>Trading Standards</b>

## How we deliver our services

The Council's regulatory functions which include the teams listed above, work hard to support local residents and businesses by explaining complex legislation, helping traders implement procedures and controls to achieve compliance, providing advice and guidance, encouraging best practice and where necessary, taking enforcement action to ensure laws are being complied with.

This work plays a fundamental role in creating a level playing field for business to trade so responsible businesses grow and do well and our local community and environment, are protected from the harms caused by those who try to flout the law.

The regulatory teams take a risk-based approach to prioritising their work so the focus is on areas where they expect the greatest non-compliance or where risks pose significant harms.

The regulatory teams seek to:

- Supporting local business prosper and trade confidently, generating a consumer friendly marketplace, protecting and improving the health and wellbeing of local people through high levels of legal compliance and best practice.
- Protecting our environment and neighbourhoods from harm that undermines the quality of life, public health and our environment.

We determine our activities by providing statutory services, assessing the needs of local people and our business community and considering the risks that require addressing. In addition, we have regard to priorities sent in the Council's Borough Plan or equivalent and seek to deliver outcomes that will feed into these objectives and any given priorities.

Whenever possible, we use local, regional or national intelligence to determine current or emerging threats and we share information with other regulators to support this process. Local hotspots and common areas of concern, are identified to the Enforcement Practitioners Group who task actions and coordinate a response to problem areas. These methods of working, ensure our resources are targeted appropriately, in the light of these local needs and of national priorities.

Council departments prepare annual Service Plans which set out a number of key performance areas and objectives. A copy these plans can be made available upon request. Performance against key areas is monitored by the Council's Performance and Improvement Team.

We carry out all our activities in a way that supports those we regulate to comply and grow:

- We ensure that information, guidance and advice is available to help you to meet legal requirements (see [Helping you to get it right](#)).
- We carry out inspections and other activities to check compliance with legal requirements and we target these checks where we believe they are most needed (see [Inspections and other compliance visits](#)).
- We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary (see [Responding to non-compliance](#)).
- We provide a range of services to businesses, including assured Primary Authority advice, weights and measures testing, energy performance assessments, staff training, pest control, licences, registrations and issue statutory certificates (see [Requests for our service](#)).

Our services will be delivered in accordance with the requirements of the [Regulators' Code](#).

## **Working with you**

In all your contact with us you can expect and will receive, an efficient and professional service. Our officers will:

- Answer all telephone calls and/or respond to voicemails and messages within 1 working day

- Acknowledge written enquires within five working days and respond to them within 10 working days or any other agreed or statutory timescale
- Acknowledge emails within 2 working days and respond to them within 10 working days or any other agreed or statutory timescale
- Respond to all stage 1 complaints within 20 working day and stage 2 complaints within 30 working days
- Ensure you do not have to wait for more than 30 minutes to be seen by an officer when visiting the Civic Centre during working hours before your enquiry can be handled
- Be appropriately trained, courteous and polite
- Always identify themselves by name in dealings with you and provide you with their contact details
- Within their area of regulation, seek to gain an understanding of how your business operates and help with your enquiry, complaint or suggestion and keep you informed of progress on any outstanding issues whenever you ask us.

We acknowledge that you may also receive advice and inspections from other organisations or regulators. Where possible, we will do our best to work with them to ensure that you receive the best service.

### **Helping you to get it right**

We want to work with you to help your business to achieve compliance, growth and be successful. It is important that you feel able to come to us for help and advice when you need it before problems might escalate. Where we believe you have genuinely made a mistake and seek our advice and act promptly on that advice, we will not take enforcement action unless there are exceptional circumstances.

We make information and guidance on meeting legal requirements available from various sources including leaflets, via subscription to Brent Business Newsletter, on our website under the 'My Business' tab, on the Brent for Business website or via links to other external websites and of course, you can always speak to our officers.

Where you need advice that is tailored to your particular needs and circumstances we will:

- Discuss with you what is required to achieve compliance
- Provide advice that supports compliance and that can be relied on
- Give clear advice that can be easily understood and implemented
- Distinguish legal requirements from suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing when requested

- Acknowledge good practice and compliance.

Primary Authority enables businesses to form a legal partnership with one local authority, which then provides assured and tailored advice on complying with the law that other local regulators must respect. We are able to offer assured advice under the Primary Authority Scheme spanning the disciplines of Trading Standards, Food Safety, Health & Safety and Licensing (not including alcohol or gambling).

The Primary Authority Scheme is made under the [Regulatory Enforcement and Sanctions Act 2008](#) supporting the Government's drive to reduce burdens on business. There is a fee to pay for this advice, charged as per the Council's annual fees and charges policy. We will always advise you of the fee for a Primary Authority partnership before entering any contract with you.

### **Inspections and other compliance visits**

We monitor and support compliance in a number of different ways including through inspections, sampling visits, test purchases, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won't visit without a reason.

We will give you prior notice that we intend to visit unless we have specific reason to believe that an unannounced visit is more appropriate.

When we visit you our officers will:

- Explain the reason and purpose of the visit
- Carry their identification at all times and present it on request
- Exercise discretion in front of any member of the public, your customers and staff
- Have regard to your approach to compliance and use this information to inform future interactions with you
- Provide information, guidance and advice to support you in meeting your statutory obligations, if required
- Provide a written record of the visit upon request

In some circumstances, a fee may be payable for a visit. We will always advise you when any charges are to be made in relation to visits and if required, provide an explanation of these fees.

### **Responding to non-compliance**

Where we identify any failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy, a copy of which can be found on the Council's website or upon request.

We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary

Where we require you to take action to remedy any failings we will:

- Explain the nature of the non-compliance
- Discuss what is required to achieve compliance, taking into account your circumstances
- Clearly explain any advice, actions required or decisions that we have taken
- Agree timescales when possible, that are acceptable to both you and us, in relation to any actions required
- When requested, advise you of how to appeal against any advice provided, actions required or decisions taken. Any statutory rights to appeal will be given in writing
- Explain what will happen next
- Keep in touch with you if applicable, until the matter is resolved
- Follow any statutory guidance or procedures.

### **Requests for our services**

We clearly explain the services that we offer, including providing details of any fees and charges that apply before conducting that service:

In responding to requests for our services, including those asking for advice and when responding to complaints about breaches of the law, we will:

- Acknowledge your request within the timescale set out in the 'working with you' section above (although subject to the type of request you have made and its complexity, we may have to exercise our judgment based on any risk posed, to determine the most appropriate response time).
- Tell you when you can expect a substantive response
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress at appropriate stages during our involvement
- Inform you of the outcome as appropriate
- If applicable, direct you to other organisations or sources of information who may be able to assist.



## How to contact us

You can contact us by:

Telephone: 020 8937 1234  
Email: trading.standards@brent.gov.uk  
Ens.foodsafety@brent.gov.uk  
business.licence@brent.gov.uk  
waste.enforcement@brent.gov.uk  
planningenforcement@brent.gov.uk  
Web: www.brent.gov.uk  
Post: Brent Civic Centre, Engineers Way, Wembley HA9 0FJ  
In person: At the above address Monday to Friday 9am to 5pm (Excluding public holidays). Meetings outside of these hours are often available upon request or in appropriate circumstances, we are happy to come to you.

We will seek to work with you in the most appropriate way to meet your individual needs. Translation and/or interpretation services can be made available in appropriate circumstances.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. You may contact the relevant team or case officer for an update on the progress of your enquiry. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will not usually respond to anonymous complaints unless we judge it appropriate to do so.

It is not possible for the Council to respond or investigate every request that it receives. Individual teams will manage their resources to ensure the highest priority issues will be addressed which may mean that lower priority matters do not receive the same level of response.

Personal data will be managed in accordance with the London Borough of Brent's Data Protection Policy. For more information or to obtain copy of the policy, please contact the Council's Data Protection Officer at [dpo@brent.gov.uk](mailto:dpo@brent.gov.uk)

## Our Team

We have dedicated teams of officers lead by a Service Manager and/or Team Leader, with the skills and experience to deliver our services. Where necessary, officers hold appropriate professional qualifications and we have arrangements in place to ensure the ongoing professional competency of our staff.

We hold membership and/or attend regional coordinating group meetings such as those hosted by Association of London Environmental Health Managers (ALEHM), Association of Chief Trading Standards Officers (ACTSO), Local Authority Noise Action Forum, London Food Group, London Trading Standards (LTS) and the West London Air Quality Cluster Group where we can access specialist knowledge, share best practice and benchmark with other neighbouring authorities.

## **Working with others**

The Council's regulatory teams are linked closely to an area based working model to improve the services we provide to local businesses and residents. Regulatory teams are empowered to work together, sharing best practice, aligning work programmes and operate to achieve better compliance across a range of statutory areas.

Intelligence on particular problems and/or hot-spots is gathered and shared with our Enforcement Practitioners Group who are responsible for coordinating action and solving a range of issues.

We have good working relationships with other regulators such as the Police, Her Majesty's Revenue and Customs, the Food Standards Agency, the Regional and National Trading Standards and the Office of Product and Safety Standards enabling us to deliver a more joined up and consistent service. This includes sharing information and data on compliance and risk where the law allows, to help target regulatory resources.

## **Having your say**

### **Complaints and appeals**

Where we take enforcement action, there is often a statutory right to appeal. We will always tell you about this at the appropriate time.

We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. You can contact either the officer who dealt with the matter or their line manager if you prefer, using the addresses provided in the 'How to contact us' section above.

We manage complaints about our service, or about the conduct of our officers, through The London Borough of Brent's Corporate Complaints Policy. Details can be found at <https://www.brent.gov.uk/your-council/complaints/making-a-general-complaint/> Alternatively, you can email the Complaints Service Team at [complaints.service@brent.gov.uk](mailto:complaints.service@brent.gov.uk)

### **Feedback**

We value input from you to help us ensure our service is meeting your needs as best as it can. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. You can provide feedback using any of the addresses in the 'How to contact us' section above.

### **Developing our services with you**

We communicate with the public in a number of different formats which includes via our website, using social media, our written magazine or via electronic business newsletters. We will seek to gather feedback with the local public and/or business communities to ensure that we are delivering our services to meet your needs.

If you have a specific idea you wish to discuss with us to improve our services or if you are interested in finding out more about our work, you are welcome to contact us at any of the addresses in the 'How to contact us' section above.

**Dated:** November 2018

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