

From: **Mike Hill, Cabinet Member for Community Services**
Barbara Cooper, Corporate Director for Growth, Environment and Transport

To: **Growth, Economic Development and Communities Cabinet Committee – 17 May**

Subject: **Decision No: 16/00048- Trading Standards – Business Charging Policy**

Classification: **Unrestricted**

Future pathway of paper: **Cabinet Member Decision**

Summary: This report outlines the opportunity to generate income for the provision of non- statutory advice to businesses by the Trading Standards Service and seeks endorsement of the proposed decision of the cabinet member to implement the preferred scheme

Recommendations:

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Community Services on the proposed decision to:

1. agree the introduction of a charging policy for the provision of advice to businesses by the Trading Standards team.
2. agree a charging policy in line with option 3; the first hour free for tailored advice to a maximum of one hour (for the lifetime of the business) and £70 per hour thereafter
3. agree that the service will provide fully chargeable advice to businesses located outside of the County of Kent
4. Further explore opportunities to work collaboratively with other authorities and to delegate the decision to undertake such arrangements where appropriate to the Head of Trading Services in consultation with the Cabinet Member for Community Services

1. Introduction

- 1.1 Historically Kent Trading Standards has offered free consumer protection legal advice to businesses based in Kent.

- 1.2 Those firms with their head office in Kent and providing goods and services outside the County benefited from a formal 'Home Authority' relationship, whereby Kent Trading Standards would provide advice to the business and co-ordinate with Trading Standards from around the country to lead on the relationship with that business for all consumer protection matters. This system was duplicated around the country. There was no charge for this and businesses would receive the level of support their local Trading Standards service could 'afford' to give them.
- 1.3 The introduction of the Regulatory Enforcement and Sanctions Act 2008 (RES Act) provided a statutory basis for Trading Standards and other enforcement bodies (e.g. Environmental Health) to enter into a legally recognised partnership with a local authority to receive assured advice on complying most efficiently with regulation, known as a Primary Authority Partnership (PAP).
- 1.4 Businesses were not restricted as with the Home Authority relationship and could "shop around", choosing which Trading Standards service they wished to do business with.
- 1.5 The Act allows a local authority to charge the business for this work on a cost recovery basis in relation to the functions of the PAP. Kent Trading Standards adopted this approach at least two years ago and is now charging on a cost recovery basis £70+ VAT per hour.
- 1.6 Following the restructure of the Trading Standards Service in September 2015, a new team dedicated to providing businesses advice was created. This reflected the outcomes in the Facing the Challenge document, transforming customer service and using their expertise to maximise income by providing paid-for bespoke advice to local businesses.
- 1.7 There is, however, currently a dichotomy whereby businesses that have entered into a Primary Authority relationship are charged for business advice they receive, whereas those that have not, are able to receive tailored advice free of charge. This paper requests that this policy is changed to create a level playing field and fairer charging policy for proactively requested advice.
- 1.8 Furthermore several Trading Standards services in the South East, including London Boroughs either do not or are unable (due to lack of staff) to provide comprehensive advice to their local businesses. These businesses may be willing to pay for that advice from another Trading Standards service, providing opportunities to market these paid services to this wider audience and thereby increasing income opportunities.

2. Financial Implications

- 2.1 Adopting this policy will allow for income generation, as the cost of providing business advice will be recovered on a cost recovery basis.

- 2.2 There are financial implications for businesses who have previously benefitted from receiving free tailored advice from Trading Standards if this policy is approved as they will be expected to pay for the service.
- 2.3 However the proposal will include the provision of free sign posting advice along with an initial hour of free tailored advice for the lifetime of the business.
- 2.4 Beyond this, businesses will be charged for advice they seek from Trading Standards. The rate of charging however is significantly less than a similar advisory service available from a solicitor and is benchmarked as being within the range of charges by other Trading Standards Services in the South East.

3. Corporate objectives

- 3.1 The policy if amended will help to achieve the strategic outcomes in the Councils 5 year vision statement 'Increasing Opportunities, Improving Outcomes' that 'All Kent's communities benefit from economic growth and lower levels of deprivation'.
- 3.2 In order to thrive, businesses need access to good quality, value for money regulatory advice to ensure they are trading within the law, and to assist businesses at start up and expansion.

4. Trading Standards Business Charging Policy- The Proposal

Provision of Business Advice

- 4.1 The Trading Standards restructure in September 2015 established a Business Advice Services team. This amounts to 5.6 FTEs. The team's remit is to manage Primary Authority partnerships and provide advice to business in its widest sense e.g. individual business advice, training seminars and guidance leaflets.
- 4.2 Kent Trading Standards currently provide free business advice to those businesses who do not want a formal Primary Authority Partnership. As the dedicated business support team function develops, a policy change is required to allow Trading Standards to charge for all business advice above and beyond basic compliance advice.
- 4.3 By offering this additional paid for service, businesses will be able to request bespoke advice tailored to their needs to help them comply with the law and grow their business. Cost recovery under Primary Authority is currently set at £70+VAT per hour. The proposal is that the same rate is charged for business advice outside of Primary Authority.
- 4.4 This proposal, based on demand for business advice from Trading Standards in 2015/16 has the potential to generate in the region of £50,000. This sum if realised would fund a full time Trading Standards Officer post.

- 4.5 The proposed change in charging policy will not prevent Trading Standards providing free business advice to those higher risk businesses caught by an ongoing annual inspection programme, businesses contacted as a result of a complaint, or proactive business education activities aimed at resolving issues in certain sectors. For example, given the potential risk from animal disease and the economic pressure on the sector advice on animal health to farmers typically falls outside any charging regimes.
- 4.6 Trading standards are exploring ways of providing a collaborative and comprehensive commercial business support service with Trading Standards services in East and West Sussex. By building on the Trading Standards service's good reputation and brand built up by Kent Scientific Services there are potential benefits of working together to provide mutual support, service provision resilience and sharing of specialist expertise.
- 4.7 Working together also provides a wider target audience of businesses willing to pay for consumer protection legal advice. Trading Standards would charge for advice provided to businesses based outside of Kent.

Options

- 4.8 **Option 1:** Continue to provide free advice to businesses in Kent. Given that Trading Standards already charge for Primary Authority Partnerships, this does create an uneven playing field for businesses. If Trading Standards continue to provide free advice to businesses, this will limit the amount of advice they can receive within dedicated resources, unless they enter into a formal PAP, which doesn't suit all businesses needs, and is not possible for smaller business working within Kent borders. By missing out on potential income from paid for advice, Trading Standards will have less resources to focus on protecting the most vulnerable consumers, who are unable to help themselves.
- 4.9 **Option 2:** Charge for all business advice at all times at a rate of £70 per hour. This option would increase income and allow businesses to pay for bespoke tailored advice. However, some businesses may require simple basic advice at business start up or diversification which they can ill afford at that time. Charging for all business advice may deter those that need support most at a critical stage of their business.
- 4.10 **Option 3:** Charge for most business advice at a rate of £70 an hour, with the exception of new business start ups, or businesses that have not approached Trading Standards for advice previously, who will receive an hours free advice and free sign posting at any time. This is the preferred option, providing a balance between increasing income and offering a wider range of paid for business supports services, and helping businesses at the start up stage when they are at their most vulnerable to failure.

5. Risks

- 5.1 **Businesses are not willing to pay for Trading Standards advice resulting in lower levels of compliance.** This will be mitigated by providing a service signposting businesses to free advice from sources such as Business Companion website, which is a comprehensive one stop shop for consumer protection run by the Chartered Trading Standards Institute and on behalf of BIS, specifically aimed at SMEs. The risk is further reduced by providing an hour of free advice for the lifetime of the business, once the business has registered with Trading Standards. This will enable Trading Standards Officers to advise on the immediate issues, identify other business needs, signpost where appropriate and identify potential areas for further chargeable development.
- 5.2 It should also be noted that this does not prevent Trading Standards providing free business advice to those higher risk businesses caught by an ongoing annual inspection programme, businesses contacted as a result of a complaint, or proactive business education activities aimed at resolving issues in certain sectors. Furthermore the small minority of traders that refuse to seek advice and guidance are unlikely to do so regardless of Trading Standards Charging policy.
- 5.3 **Demand for Trading Standards advice exceeds the capacity available.** The extra income generated can be utilised to buy in additional resources on a flexible basis.
- 5.4 **Increased liability for providing advice for which a charge has been made.** Professional indemnity insurance is in place which covers the financial risk of claims against the authority for incorrect advice.

6. Legal implications

- 6.1 There are no legal implications of the charging policy change proposal.

7. Equalities implications

- 7.1 There no equalities implications as a result of the charging policy change proposal. An equalities impact assessment has been completed seperately.

8. Conclusions

- 8.1 As the Trading Standards business support function develops, the next step is to align all business advice services and provide a range of paid for options to businesses, with an intial free hours advice at the start up phase.
- 8.2 There is significant opportunity to offer paid-for services to businesses based outside of Kent, who either can not access these services locally, or who would prefer to receive advice from a more commercially aware team within a larger service with a good reputation for customer service and timely advice and guidance.

8.3 By maximising income, Trading Standards can focus resources on protecting the most vulnerable consumers.

9. Recommendations:

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Community Services on the proposed decision to:

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 4. Further explore opportunities to work collaboratively with other authorities and to delegate the decision to undertake such arrangements where appropriate to the Head of Trading Services in consultation with the Cabinet Member for Community Services.
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10. Background Documents

Regulatory Enforcement and Sanctions Act 2008

11. Contact details

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