

Communities Committee

Item No.

Report title:	Trading Standards Service Plan including Food & Feed Law Enforcement Plan (FFLEP) and Enforcement of Age Restricted Sales Plan (EARSF)
Date of meeting:	16 March 2016
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Strategic impact Building a safe, fair and legal marketplace for Norfolk; helping businesses succeed and safeguarding communities. The Trading Standards Service Plan is included within the Council's Policy Framework, under the Council's Constitution, and requires adoption by Full Council. The Service Plan and associated policies and plans set out the service priorities for 2016/17, taking account of the 3-year service budget set in February 2016. The purpose of this report is to present recommendations to Committee on the proposed policies and priorities for 2016/2017 for consideration and comment prior to making recommendations on adoption of the plan to Full Council.	

Executive summary

This report introduces the Trading Standards Service Plan 2016-17 (Appendix 1) including:

- Annex I: The Enforcement of Age Restricted Sales Plan (Appendix 2) and
- Annex II: The Food and Feed Law Enforcement Plan (Appendix 3).

All three need to be adopted by Full Council.

It also introduces the revised Trading Standards' Business Services Policy (Appendix 4), which has been amended to reflect the Service's move to implement charges for bespoke business advice, including the introduction of Primary Authority Partnerships. This move is to address the need to generate an additional £20,240 per annum income with effect from 2016/17, as agreed during the February 2014 budget round.

Recommendations:

Members are asked to:

- 1) Review the Trading Standards Service Plan including Annexes I and II and recommend adoption of the plan to Full Council.**
- 2) Approve the Business Services Policy and its adoption by the Trading Standards Service.**

1. Proposal

- 1.1. Trading Standards' core function is to build a safe, fair and legal marketplace for Norfolk, helping businesses to succeed and safeguarding communities by:
 - protecting them from detrimental trading practices and rogue traders,
 - enforcing the laws which provide the basis for fair competition, business success and access to world markets and consumer protection, and

- providing businesses with compliance advice and metrological services.

The impact on consumers and business is significant and our approach is critical to ensure confidence in the trading environment.

Trading Standards has an important role in protecting the integrity of the food chain from farmed animal welfare and disease control to food safety and standards. The Service also ensures goods are safe and trading is fair and tackles underage and illicit sales of alcohol and tobacco. Activities in these areas can also contribute to Public Health priorities.

The Service investigates criminal offences and civil breaches and takes legal action where necessary to protect individuals, in particular the vulnerable, as well as wider public legitimate interests. Trading Standards therefore has an important social and economic role in the community, contributing to the health, safety and prosperity of Norfolk.

- 1.2. The Trading Standards Service plan has been developed using analysis of information (intelligence) that reflects the issues and problems Norfolk people and businesses face, ensuring that our service is unique and focused on the needs of the County. This includes providing part of the 'national shield' addressing both national issues that affect Norfolk and the impact of local businesses nationally and globally.

The service plan includes our 'golden thread' (page 6) which summarises our strategic control strategy and focus for protecting the public and legitimate business. The plan is supplemented with some functional specific plans which describe how we will address statutory responsibilities relating to underage sales (Annex I), food and animal feed safety and standards (Annex II), and farmed animal health, welfare and disease control (Annex III). These specific plans include information required by Government on the monitoring of our discharge of these functions.

- 1.3. **Members are asked to review the Trading Standards Service Plan including Annexes I and II and recommend adoption of the plan to Full Council.**
- 1.4. With effect from 1 April 2016, the Service is required to generate an additional £20,240 of income as part of the budget settlement agreed by Full Council in February 2014.

During the 2015/16 Service year, options for income generation have been explored and it is proposed that the Service will:

- Introduce charges for bespoke business advice, on a cost recovery basis,
- Introduce Primary Authority Partnerships, and
- Discontinue our Home Authority Scheme,

during the 2016/17 service year.

The Trading Standards' Business Services Policy (Appendix 4) has been revised to reflect these changes. The appended version includes highlighted text to identify the additions to and deletions from the previous version for ease of reference.

- 1.5. **Members are asked to approve the Business Services Policy and its adoption by the Trading Standards Service.**

2. Evidence

- 2.1. The Trading Standards Service Plan (Appendix 1) includes, and attention is drawn to:
- Annex I: The Enforcement of Age Restricted Sales Plan (Appendix 2)
 - Annex II: The Food and Feed Law Enforcement Plan (Appendix 3)
- 2.1.1. The Enforcement of Age Restricted Sales Plan enables the County Council to discharge its statutory duty to annually consider and review its enforcement of the Children and Young Persons (Protection from Tobacco) Act 1991.
- 2.1.2. The Food and Feed Law Enforcement Plan is a statutory plan required by the Food Standards Agency; which incorporates work that is intended to protect the food supply chain, covering both food production and control of animal feed used for animals intended for human consumption.
- 2.2. With effect from 1 April 2016, the Service is required to generate an additional £20,240 of income as part of the budget settlement agreed by Full Council in February 2014.
- 2.2.1. During 2015/16, officers have undertaken research and analysis in relation to the introduction of chargeable business advice, building on the initial scoping work conducted in 2014/15. This has included liaison with a number of other local authority Trading Standards Services which have established chargeable business advice models. It has also included liaison with companies that have approached the Service with regard to Primary Authority Partnerships.
- 2.2.2. As a result of this research and analysis, it is proposed that the Service adopts the following policy in relation to business advice:

Free Business Advice

We will provide advice to businesses at no charge in the following circumstances:

- Start-Up Businesses: We will provide advice on and signpost to all the relevant legislation that applies to a Norfolk based start-up business. If more detailed advice or support, including interpretation of the legislation, is required then the section below dealing with charges for business advice will apply.
- Current businesses: We will provide signpost advice and information to ensure existing businesses in Norfolk are aware of the applicable trading standards legislation. Where a non-compliance is apparent with a Norfolk based business, either through our contact with the business or through a referral from a partner authority, we will also make sure that the business is aware of the action to be taken to address the non-compliance.

Charges for business advice

Charges for business advice will be applicable in the following circumstances:

- Bespoke Advice. If a business requires more detailed or interpretative advice on trading standards law then we will provide the advice on a cost recovery basis at a pro-rata hourly fee.
- Primary Authority: We will charge for providing services on a cost recovery basis under a Primary Authority Partnership

- 2.2.3. The Primary Authority Scheme was launched by central government in 2009; with the introduction of the Regulatory Enforcement and Sanctions Act 2008 and subsequent Orders made under it. The scheme provides businesses with the

opportunity to form a statutory partnership with a local authority. The authority then provides advice on regulatory matters that is assured under the scheme and that other local authorities must take into account when carrying out inspections and dealing with noncompliance.

The main advantage to businesses, over the voluntary Home Authority Scheme, is that advice given under the primary authority partnership applies throughout England and Wales regardless of where outlets are based and, if implemented, must be respected by all local regulators. Any enforcement action by regulators that is inconsistent with this advice can be blocked by the primary authority.

The Scheme is administered by the Better Regulation Delivery Office (BRDO). The Office provides advice and guidance on the scheme to local authorities, maintains a register of Primary Authority Partnerships and provides a dispute resolution service.

2.2.4. The advantages of adopting the business advice policy are:

- It enables the Service to charge for services rendered, and recover some of the costs of business advice provision.
- It may lead to an increase of specialist knowledge of officers in areas of law to meet the demand of advice requests made under primary authority partnerships. This knowledge is a resource for the Service and could be used for the benefit of non primary authority matters.
- It allows for the formation of deeper relationships with local businesses with, for example, officers having an increased understanding of the commercial pressures those businesses face.
- Once the culture of charging for services is introduced it may enable the Service to develop other commercial services (such as bespoke due diligence training/auditing to enable businesses to export).

2.2.5. The disadvantages of adopting the business advice policy are:

- It will involve a change of message on a business engagement point of view. We have historically concentrated heavily on the promotion of the Service on the basis of the advice, assistance and support that we can offer for free to businesses. The Service may receive complaints from former home authority companies who will be faced with a charge for the receipt of advice. The Service will work with these companies to explain the advantages of the Primary Authority as opposed to the Home Authority schemes. It has not been possible to consult with these companies in advance of this proposal due to the commercial sensitivities involved.
- The Service will have to appropriate resources in the form of suitable officers to service the demands, particularly those arising from Primary Authority Partnerships. These demands will, for the most part, be reactive and will fluctuate. It is unknown at present whether these demands will exceed those imposed by our current provision. However the dynamic of a primary authority partnership differs significantly from a home authority relationship and will involve a change in culture and mind-set for officers. It may be the case that some officers will be unsuited to this role.
- It may be the case, especially in the beginning, that cost recovery cannot be achieved, as the Service will have to over resource with officers in order to meet any agreed turnaround times for demands for advice.
- The majority of businesses within Norfolk are Small and Medium sized Enterprises (SMEs). The Service recognises that by imparting advice to ensure compliance is achieved from the outset it can have a positive impact upon the economic prosperity of such businesses, which form the

backbone of the Norfolk economy. However, with the introduction of charges it may well be that such businesses are deterred from seeking advice from the Service. The policy attempts to address this concern in part through the provision of free business advice, as described under section 2.2.3 above.

3. Financial Implications

- 3.1. The financial implications of service delivery aligned to the Trading Standards Service Plan 2016-17 and associated policies and plans accord with the budget settlements agreed at Full Council in February 2014 and 2016.
- 3.2. During 2015/16, the Service considered alternative options to generate the additional £20,240 per annum income with effect from 1 April 2016. One option was the further development of our Calibration, Verification & Testing Services (CVTS). However this option has not been pursued because:
- the CVTS income set for 2016/17 is already subject to inflationary increases of £4K, and
 - as the team is working at capacity, it would be necessary to appoint an additional member of staff at a cost of £34.5K and generate additional income of £54.75K to clear the required income.

4. Issues, risks and innovation

The key issues that need to be taken into account are:

- 4.1. **Staff**
Sufficient suitably qualified, competent and skilled officers are required to undertake enforcement activities, including the use of statutory powers. The Trading Standards Service operates a workforce and career development plan to maintain a complement of qualified officers. Skills and competency are assessed during annual staff appraisals and a programme of Diploma in Consumer Affairs and Trading Standards (DCATS) qualification and continuous professional development is implemented to ensure the maintenance of essential knowledge and skills.
- 4.2. **Legal implications including the Crime and Disorder Act 1998, human rights implications and health & safety**
Statutory duties are addressed in the Trading Standards Service Plan 2016-17 and associated plans.

The Trading Standards Service is principally concerned with preventing or reducing crime and disorder. Enforcement activities are determined via our intelligence-led approach and enforcement action is undertaken in accordance with the CES Enforcement Policy.

Enforcement activities occasionally necessitate the use of covert surveillance or access to communications data, as regulated by the Regulation of Investigatory Powers Act 2000 (RIPA). The Service complies with the Act and the County Council's RIPA policy when considering the necessity and proportionality of such activities.

The Service follows the County Council's Health & Safety – Our Commitments policy and associated corporate policies. Service-specific activities such as metrological inspections or potentially confrontational situations are managed through a comprehensive set of risk assessments, which are reviewed on an

annual basis as part of our Health & Safety Action Plan.

4.3. **Risks**

Two key risks in relation to staffing within the Service:

- Single points of knowledge, and
- Lack of capacity to respond to major incidents

were identified during 2015/16 and actions to mitigate both risks are currently being monitored and managed via the Communities Committee Risk Register.

Other risks associated with service delivery aligned to the Trading Standards Service Plan 2016-17 and associated policies and plans are considered during service planning and the more detailed control strategy planning that underpins it. Identified risks are managed as part of the Service risk management process.

The risks associated with the introduction of chargeable business advice have been highlighted at Section 2.2.6 above. The risk that the required income of £20,240 per annum will not be achieved has been identified and will be monitored and managed via a performance measure, reported to CES DMT on a monthly basis.

5. **Background**

- 5.1. Background Paper - Annex III: Animal Health & Welfare Service Delivery Plan 2015-16

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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