

ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 29

Brighton & Hove City Council

Subject:	Expanding the remit of Trading Standards South East Ltd		
Date of Meeting:	4 July 2008		
Report of:	Director of Environment		
Contact Officer:	Name:	John Peerless	Tel: 29-2486
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Key Decision:	No	Forward Plan No. N/A	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Trading Standards South East (TSSE) is a partnership of 19 local authority Trading Standards services within the South East Region. A limited company was formed by the partnership in October 2004 to act as a vehicle to manage the contract to run a national advice line contact centre on behalf of central government.
- 1.2 This lead to a separation of activities between the TSSE partnership and the company which has been unhelpful, burdensome and has meant there has been duplication of effort. To simplify matters and limit liability, a decision has been taken to move to one organisation, the limited company from 1 April 2008.
- 1.3 The purpose of this report is to seek approval for the continued participation in Trading Standards South East Limited with the expanded remit that includes all regional Trading Standards activity.

2. RECOMMENDATIONS:

- 2.1 Approval is given to allow the Trading Standards Service to continue to contribute fully to company developments and joined-up working and continues to incorporate the Business Plan objectives into the Service's own planning process.
- 2.2 That the nominated Director (currently the Head of Trading Standards is empowered to agree to the development of the role of the company (within the terms of it Memorandum and Articles of Incorporation and the objectives set out in paragraph 3 below) subject to seeking of advice from the Head of Legal Services, and the approval of the relevant Cabinet Member in respect of any contemplated development beyond those activities referred to in paragraph 3 below.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Trading Standards South East Ltd (TSSEL) was originally incorporated in October 2004 for the purpose of managing and delivering the Consumer Direct South East contract. Policy & Resources Committee approved membership of the company in December 2004 and agreed to the Head of Trading Standards becoming a Director.
- 3.2 The Consumer Direct initiative has been successful in engaging local authority trading standards services from across the South East. Eighteen authorities transfer their calls to the centre and all nineteen receive referrals and notifications. The company has proved to be an effective for vehicle for governance acting as the interface between the Office of Fair Trading, local authorities and the sub contractor.
- 3.3 Running alongside TSSEL has been the partnership of the nineteen Local Authority Trading Standards Services. The partnership operates as conduit for the dissemination of best practice, for achieving value for money by pooling resources and knowledge and for accruing greater efficiencies and effectiveness from adopting a co-ordinated approach.
- 3.4 Over the last year options regarding future delivery of regional activity have been considered. The options centred on the retention of the dual system of organisation or incorporation of the management of all matters within the remit of the limited company.
- 3.5 A decision was taken that all partnership activities should come within the remit of the company. This decision provides for a more robust approach to risk management as each authority no longer has unlimited liability as part of an unincorporated partnership.
- 3.6 The fundamental objectives of the partnership will not change. Those objectives are as follows, to provide a regional voice to influence key decisions and national agenda issues, to optimize the effective use of resources to make an improved difference to local service delivery, to support the aims of LACORS in providing national consistency and shared best practice, to ensure the economic well being of local communities. There has never been any intention to supersede the local authority's autonomy to act.
- 3.7 The expansion of the company activity will include:
 - The management of the current Consumer Direct contract and the consideration of bidding for the new contract from 2010.

- The management of the Regional Intelligence Unit currently funded by DBERR.
 - The oversight of the management of the multi regional Scam busters Crime team.
 - The oversight of the Illegal Money lending team run by Birmingham City Council.
 - The coordination of the activities of four local authority financial investigators.
 - The implementation of Tobacco Control project funded by the Department of Health.
 - The coordination and oversight of a number of operational activities such as tackling the sale of alcohol to children, restricting the sale of unsafe products and ensuring compliance with relevant environmental issues.
 - The coordination and management of the Intellectual Property Crime project.
 - The coordination of the Buy with Confidence Approved Trader Scheme and expansion into a national scheme.
 - The management and coordination of the Credit Fitness checks contract with the OFT.
- 3.8 There is a range of other important issues that the Board of Directors will have to give consideration to in the near future. These include the Governance arrangements for all regional projects the above activities, the development of a scrutiny function and ensuring local authority engagement.
- 3.9 A forward plan is being developed to ensure that these and other issues are addressed. A number of these issues will be discussed at a meeting in July. Of particular interest will be the proposals as to how we engage with Member Authorities (and in particular Elected Members) in the future.

4. CONSULTATION

- 4.1 There has been no consultation.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Membership of the organisation has always been by subscription that helps to fund the co-ordination activity. The current subscription fee is approximately £1500. This amount is required to match the funds made available by the Office of Fair Trading and the Local Better Regulation Office.
- 5.2 When making bids for grants from central resources, contributions to regional coordination are built into the bid to minimise the level of match funding required from the local authority and eventually phase out local authority contributions.

- 5.3 The authority will receive additional funding from the FSA for food sampling, the OFT for Credit Fitness checks, Tobacco Control activities funded by DOH and other under age sales activity funded by the Home Office which will help the service achieve it's income target.
- 5.4 Regional activity will only be undertaken when there is sufficient funding available. If grant funding is not available decisions will be made to reduce the overall costs of the coordination activity rather than request further contributions from local authorities.

Finance Officer Consulted: Karen Brookshaw

Date: 16 June 2008

Legal Implications:

- 5.5 Any planned development of the company's activities must be subject to the Memorandum of Association. The objects of the company are quite widely drawn in that 4.2 allow the company "to carry on any other business or activity of any nature whatsoever as may be considered by the Directors to be capable of being conveniently or advantageously carried on in connection or conjunction with the Objects hereinbefore authorised."
- 5.6 The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's human rights would be adversely affected by the recommendations in this report.

Lawyer Consulted: Liz Culbert

Date: 17 June 2008

Equalities Implications:

- 5.7 There are no equalities implications.

Sustainability Implications:

- 5.8 There are no sustainability implications

Crime & Disorder Implications:

- 5.9 Trading Standards crime has become less localised and more regional, national and international in nature. Utilising resources across the region will assist in tackling local issues more effectively.

Risk and Opportunity Management Implications:

- 5.10 Whilst the limited liability rules protect the authority financially, any failure of the venture could impact on its reputation. This potential risk will be minimised by following effective risk management processes.

Corporate / Citywide Implications:

5.11 The main aim of the regional partnership is make effective and efficient use of all the resources available whilst retaining local accountability. This reflects the council's priority 'to provide value for money'.

5.12 Trading Standards aim is to ensure a fair and safe trading environment for everyone. In doing so, they will apply the rules in a fair and consistent manner. This reflects the council's new priority regarding fair enforcement of the law.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 Operating as a limited liability partnership has been explored. Independent legal advice advised against this option stating that the limited company route provided a more robust infrastructure for our purposes with proven test case material. The advice indicated that ultimately a LLP would not safeguard us from the current liabilities that we are exposed to within the partnership.

7. REASONS FOR REPORT RECOMMENDATIONS:

7.1 To ensure representation on the regional Trading Standards partnership via the limited company, Trading Standards South East Limited.

7.2 To build capacity, avoid duplication of effort and enhance operational functionality of the partnership to the benefit of the Brighton & Hove City Trading Standards Service.

7.3 To limit the liability carried by the council.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents in Members' Rooms

1. None

Background Documents

1. Indemnity Insurance. (Available if requested)

