

Item No.	Classification: Open	Date: September 28 2009	Decision Taker: Executive Member for Community Safety
Report title:		Trading Standards Service Plan 2009 – 2010	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment and Housing	

RECOMMENDATIONS

1. That the Executive Member notes the Trading Standards Service's performance against the Service Plan for 2008 – 2009 and new National Performance Indicators.
2. That approval is given to the trading standards service plan for the year 2009 – 2010 as set out in Appendix 1.
3. That the Executive Member notes the activities within the plan that fulfil the authority's statutory duties:
 - Under the Children and Young Persons (Protection from Tobacco) Act, to consider and carry out an appropriate programme of enforcement action relating to underage sales of tobacco products and related provisions; and
 - To enforce the requirements of the Anti-social Behaviour Act 2003 with regard to the illegal underage sale of aerosol spray paints.

BACKGROUND INFORMATION

4. Trading Standards is responsible for protecting consumers and businesses by ensuring a fair and safe trading environment within Southwark. Key areas of work include product safety, weights and measures, underage sales and unfair trading practices. The Services also administers four 'Good Trader Award' schemes and has introduced the SPA card, London's first Borough-led proof of age card.
5. Last year's service plan was agreed in September 2008. A summary of key achievements from 2008 – 2009 are set out in section 16 onwards of this report.
6. This report sets out at Appendix 1 Southwark's trading standards service plan for 2009 – 2010 and identifies how the Service delivers on themes of the Corporate Plan 2008 – 2011 and the links that trading standards activities have with the aims and priorities of Southwark 2016; the community strategy.
7. From 1 April 2008, CLG introduced a new set of 198 National Indicators (NIS), which are now the only indicators on which central government will performance manage local government. This replaces all other existing sets of indicators, including the Best Value Performance Indicators (BVPIs) and the Trading Standards National Performance Framework (NPF), by which trading standards services nationally were required to report to the Department of Trade and Industry, now the Department for Business Innovation and Skills (BIS).

8. The new indicators most directly relevant to Trading Standards performance are NI 182 - satisfaction of business with local authority regulation services and NI 183 - impact of local authority regulatory services on the fair trading environment.
9. Previously, trading standards performance measures and supporting contextual information were introduced to assist service review and improvement. The measures and contextual information aimed to provide Local Authorities with the opportunity to benchmark their performance and make valid comparisons with like authorities, encouraging continuous improvement.
10. BIS has specified that there are no other data reporting requirements for 2008 – 2009 and responsibility for the reporting requirements of section 70 of the Weights and Measures Act 1985 have now referred back to the National Measurement Office (formerly the National Weights and Measures Laboratory). This will not impact on Service provision.
11. An intelligence-led approach to trading standards' enforcement (ILE) was adopted by the Council in January 2009, to meet the demands of NI 183 and the increasing demands that are being placed on reduced trading standards resources. ILE places less emphasis on random trader inspections and the investigation of minor regulatory breaches. This enables targeted enforcement action at trading activities that intelligence indicates cause, or have the potential to cause, significant concern.

KEY ISSUES FOR CONSIDERATION

12. **NI 182** results for 2008-09 have been calculated at 79% business satisfaction with the Council's regulatory services, i.e. trading standards, environmental health and licensing. This was measured by surveying businesses that have been inspected or investigated, to measure whether they felt that they were treated fairly and whether the contact was helpful.
13. **NI 183** initial calculations indicate a figure of 0.49. However, the Office of Fair Trading (OFT) is expected to issue clarifying guidance on measuring the figure which may impact on final calculations. The lower the figure the better the performance.
14. NI 183 is designed to measure the impact of trading standards services on the fair trading environment. The measure uses the database of Consumer Direct, a national consumer helpline, to identify and count Southwark's most complained about traders, known as 'category X traders'. When these category X traders are dealt with by means of certain defined 'judicial disposal' methods, they are removed from the count. The 2008 – 2009 result is not intended to be used as a direct performance measure as it is a temporal indicator. The aim is to discover year on year differences in the numbers of such businesses not being tackled.

Key achievements for 2008 – 2009

15. Appendix A of the service plan contains the end of year review excluding underage sales. Appendix B contains the underage sales review and Appendix C contains the Alcohol Control Review. A summary is given below.

16. Enforcement activities: there was a 17% decrease in total enforcement activities (1,948) compared to 2007 – 2008 (2,355). This however must be viewed in light of a 23% reduction in staff numbers over the year (3 posts), a seven month absence of one officer and a move away from routine inspections in favour of intelligence-led enforcement.
17. Enforcement actions: there was a 19% decrease in the number of formal and informal enforcement actions being taken. 168 actions were recorded in 2008 – 2009 compared to 208 in 2007 – 2008.
18. Underage sales test purchasing: the Service undertook an intensive program of test purchasing with a total of 384 separate exercises carried out. This put Southwark top amongst London authorities and equates to an increase in activity of 55% over the previous year when 247 were carried out. Compliance rates also increased from 72% to 88%. Southwark is the only London authority to have carried out underage test purchasing of petrol in partnership with the London Fire Brigade, which has contributed to arson reduction objectives.
19. Underage knife sales: the service undertook specific work with local retailers on underage knife sales including the highest rate of test purchasing activity in London. This saw a 24% improvement in compliance over last year. In addition we have continued to work in innovative ways with partners to tackle the issues such as hosting a business breakfast seminar, introducing knife Charter Plus and holding Knife Charter road shows. We also took part in the strategic planning of the Home Office's Operation Blunt 2 initiative as well as jointly heading up a cross border project on the online underage sale of knives on behalf of London Trading Standards Authorities The service was recognised for this work by being short listed for the MJ Awards Public Protection Category.
20. Service requests: trading standards received and responded to 1,093 enquiries including those referred from consumer direct compared with 1,101 in 2007 – 2008. The Service also received notification of a further 4,376 consumer enquiries and 1,852 of these related to Southwark-based businesses, which have been dealt with by Consumer Direct staff. All notifications are reviewed and monitored and the information used to identify problem traders or trends in trading problems in accordance with our intelligence-led model.
21. A grant of £70,000 was awarded to the service in 2008 – 2009 to carry out additional enforcement action in the key areas of tobacco control, knife and alcohol enforcement. Some other minor funding streams were identified for various enforcement and communication projects. Outcomes for these priorities and all other highlights and end of year successes have been documented in the various appendices to the service plan listed below:
 - Appendix A, the end of year review 2008 – 2009
 - Appendix B, the underage sales review 2008 – 2009
 - Appendix C, the alcohol control review 2008 – 2009

Priorities for 2009 – 2010

22. The service plan documents key national and local changes for the year ahead and identifies priority areas of work in line with Council priorities.

23. Service level agreements have been agreed in respect of grant funding from the Southwark Working Neighbourhood Fund 2009 – 2010 to reduce the number of illegal sales of knives, tobacco and alcohol to young people by carrying out test purchasing operations and other related enforcement activity, education programmes and publicity.
24. The service continues to benefit from having an accredited financial investigator, who is authorised to initiate investigations under the Proceeds of Crime Act (POCA). This work has already resulted in the confiscation of criminal assets following a successful prosecution and we aim to build on this initial success. His services have also been made available to other areas of work within the Council.

Community Impact Statement

25. There is a potential for different groups to be differentially affected by the Service's enforcement responsibilities in that small and medium sized enterprises (SMEs) are more likely to attract a higher risk rating than larger businesses. This is because larger businesses are more likely to employ or contract advisers to control their risks. In Southwark, there is a significant proportion of black and minority ethnic (BME) businesses that fall within the SME definition and there is a risk that they will receive closer scrutiny from the Service than larger companies. Balanced against that risk is that their customers and staff are likely to be from BME backgrounds and the Service exists to protect their health, safety and economic welfare.
26. Regulatory services are delivered to all of Southwark's diverse communities. Through the enforcement of such functions as trading standards' consistent and proportionate enforcement of the criminal law, and the provision of advice and education, in particular to BME businesses, the service is actively contributing to community cohesion through improvements to the community health, safety and wellbeing.
27. The Service has completed an equality impact assessment. Priority recommendations have been agreed and an action plan produced. The key objectives of the action plan are to improve the Service's profile and communication methods and to increase the cultural awareness of staff. The aim of these objectives is to promote the service, remove any barriers to those trying to access the service and to encourage community engagement, and to provide appropriate training to staff to enable us to maintain and renew our diversity focus.
28. The service works directly with specific groups of traders to help them to provide a safe, good quality trading environment that complies with legislative requirements, rather than jumping straight to prosecution and other formal actions. The service has developed partnerships with businesses to assist with compliance and best practice, such as the knives charter, tobacconists' award scheme and builders' award scheme.
29. The trading standards service has undertaken project work to ensure the safety of cosmetics used by some of the BME community as well as projects targeted at combating gun and knife crime.

Resource Implications

30. There are no specific additional resource implications arising out of this report. The costs of delivering the trading standards service plan will be met from the existing environmental health & trading standards service revenue budget, supported by additional grant funding.
31. This year £40,000 of additional funding has been made available for underage sales (alcohol and knives), and some minor additional funding is expected from the Department of Health for tobacco control. Staffing reductions and the current freezing of vacant posts will affect the ability to achieve targets. This reduction in resources comes at a time when there are ever increasing demands from Council priorities as well as national priorities. Work will be prioritised to deal with those businesses and activities that cause the most harm and other funding streams sought.

Strategic Director of Communities, Law & Governance (KH/140709)

32. Legal services have confirmed that there are no specific legal issues arising out of this report.
33. Performance against each of the national indicators will be published annually by the Audit Commission, as part of Comprehensive Area Assessment (CAA).
34. The Children and Young Persons (Protection from Tobacco) Act 1991 places a duty on the authority to consider, at least once a year, the extent to which it is appropriate to carry out a programme of enforcement action relating to section 7 of the Children and Young Persons Act 1933 (sales of tobacco to persons under 18) and also Section 3 and 4 of the 1991 Act (unpackaged cigarettes and display of warning statements in retail premises and on vending machines) and to carry out any such programme accordingly.
35. The Anti-social Behaviour Act 2003 (as amended by the Clean Neighbourhoods and Environment Act 2005) places a duty on the weights and measures authority to consider, at least once a year, the extent to which it is appropriate for the authority to carry out a programme of enforcement action in relation to section 54 of the 2003 Act and to carry out any such programme accordingly.
36. The Weights and Measures Act 1985 requires local weights and measures, authorities to report annually to the Secretary of State on the operation of arrangements made to carry out its functions and purposes under that Act.

Senior Finance Manager (Env/ET/170709)

37. Current funding for the delivery of the trading standards service plan for 2009-10 includes a health and trading standards budget of £1,378K and £40K allocated from the Working Neighbourhoods Fund. To ensure that the delivery of this plan is contained within current environmental health and trading standards budgetary resources and that no underlying budgetary issues occur, careful expenditure monitoring and plan prioritisation according to available resources are required.

APPENDICES

No.	Title
Appendix 1	Trading Standards Service Plan 2009 – 2010 and appendices A,B & C

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing		
Report Author	Jonathan Toy, Head of Community Safety		
Version	Final		
Dated	September 2009		
Key Decision?	Yes	If yes, date appeared on forward plan	July 2009
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director for Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Executive Member	Yes	Yes	
Date final report sent to Constitutional Officer	28 th September 2009		