

Report on behalf of Pete Moore, Director of Finance and Public Protection

Report to:	Councillor Peter Robinson, Executive Councillor for Fire and Rescue, Emergency Planning, Trading Standards, Equality and Diversity
Date:	02 February 2016
Subject:	Bespoke Business Advice provided by Trading Standards on a chargeable basis
Decision Reference:	I010516
Key decision?	Yes

Summary:

This report looks at and recommends the introduction of chargeable advice to Lincolnshire businesses by the County Council's Trading Standards Service.

Recommendation(s):

That the Executive Councillor

1. approves the introduction by Lincolnshire Safer Communities Trading Standards of a new business advice strategy commencing 1st April 2016, giving businesses clear options and access to full and comprehensive bespoke business advice. This is in addition to the Primary Authority regime already in operation.
2. approves the provision of initial signposting advice for up to an hour free of charge to Lincolnshire businesses, thereafter bespoke advice to be charged at £58.00 per hour plus VAT chargeable per 15 minutes for all time taken to prepare and provide advice. Charges to be worked out on a "Cost Recovery Only" basis and a quotation to be provided prior to providing the advice. All advice to be provided in writing to ensure the businesses are able to refer back to it in the future.
3. approves the provision as part of the service to Lincolnshire businesses of advice on laws applicable to them within the Trading Standards remit along with a degree of consultancy type services including checking product label, advice on specific products or systems and advice on problems that arise which will save the business time and expense of engaging consultants or solicitors.

4. approves the provision to start-up businesses will be of 5 hours free advice as they commence trading.

Alternatives Considered:

If Trading Standards are unable to provide Lincolnshire Businesses with the option of accessing bespoke Business Advice on a chargeable basis, current competing resource demands would continue to restrict businesses to only being able to access general basic advice and guidance limited for up to an hour.

Reasons for Recommendation:

The recommendation would enable Trading Standards to provide a greater degree of advice to Lincolnshire businesses, strengthening the preventative element of the service and supporting those businesses.

In consulting on these proposals and making recommendations for scrutiny and executive decision guidelines issues by the Office of The Deputy Prime Minister "General Power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003" have been followed.

1. Background

- 1.1 LCC, Safer Communities, Trading Standards has a range of responsibilities which focus on promoting a fair and safe trading environment for consumers and traders alike. Providing advice to Lincolnshire businesses is an important part of what the service does to ensure compliance with Trading Standards laws and to promote consumer confidence in the goods and services they purchase. Since 2011, when the service received a significant reduction in budget of nearly 50%, it has been unable to provide bespoke, in depth advice to Lincolnshire businesses within the Trading Standards remit.
- 1.2 Businesses in Lincolnshire regularly make requests to Lincolnshire County Council Trading Standards for advice and guidance in relation to consumer protection legislation. Due to resource limitations only basic advice and signposting to other appropriate sources is available. Basic advice is limited to no more than one hour of officer time. From 1st April 2015 to 1st August 2015, 65 Lincolnshire Businesses contacted Lincolnshire Trading Standards and requested advice and guidance. The requests received by the Trading Standards Service from Lincolnshire Businesses increasingly exceed basic advice, frequently businesses request support services of a consultancy type such as checking product labels or advice on specific products or systems. It is not possible to facilitate these request' it is therefore proposed to introduce "Pay as you Go" regime that will enable the provision of an in depth business advice service to businesses and recover the cost. Other local authority Trading Standards services have already introduced charging for business advice and guidance and consideration has been given to the models operated by these

other local authorities along with the need to deliver efficiencies in 2015-2016 financial year and beyond.

1.3 This service will be in addition to the Primary Authority regime already in operation for businesses as defined by the Regulatory Enforcement and Sanctions Act 2008 and the Enterprise and Regulatory Reform Act 2013.

1.4 A consultation and engagement exercise was carried out during summer 2015. Despite best attempts to advertise the consultation both through stakeholders and the County Council's website a limited number of responses were received. Feedback is now being continually sort from current users of the service. As part of the consultation the Lincolnshire Chamber of Commerce suggested the need to offer start-up businesses an extended period of free advice. Having considered this suggestion it is now propose to give start-up businesses up to 5 hours free advice.

Equality Act 2010

1.5 The Council's duty under the Equality Act 2010 needs to be taken into account by the Executive Councillor when coming to a decision.

1.6 The Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 section 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149(7).

1.7 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- 1.8 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 1.9 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.
- 1.10 Compliance with the duties in this section may involve treating some persons more favourably than others.
- 1.11 A reference to conduct that is prohibited by or under this Act includes a reference to:
- (a) A breach of an equality clause or rule
 - (b) A breach of a non-discrimination rule
- 1.12 It is important that the Executive Councillor is aware of the special duties the Council owes to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the Executive Councillor. The duty applies to all decisions taken by public bodies including policy decisions and decisions on individual cases and includes this decision.
- 1.13 To discharge the statutory duty the Executive Councillor must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.
- 1.14 An impact analysis has been undertaken and is attached at Appendix C.
- 1.15 The impact analysis identifies a potential adverse impact relating to people whose first language isn't English. This will be mitigated by the making available of information about the service in different languages and the use of translation and interpreter services in interactions with local businesses

Child Poverty Strategy

- 1.16 The Council is under a duty in the exercise of its functions to have regard to its Child Poverty Strategy. Child poverty is one of the key risk factors that can negatively influence a child's life chances. Children that live in poverty are at greater risk of social exclusion which, in turn, can lead to poor outcomes for the individual and for society as a whole.
- 1.17 In Lincolnshire we consider that poverty is not only a matter of having limited financial resources but that it is also about the ability of families to access the means of lifting themselves out of poverty and of having the aspiration to do so. The following four key strategic themes form the basis of Lincolnshire's Child Poverty strategy: Economic Poverty, Poverty of Access, Poverty of Aspiration and Best Use of Resources.

1.18 The Strategy has been taken into account in this instance and whilst there is no direct effect on child poverty from these proposals, greater consumer confidence has the potential to impact on the strength of the local economy.

Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy

1.19 As with the Child Poverty Strategy, the proposed advice services have the potential to improve the economic wellbeing of the area by ensuring that Lincolnshire businesses get the advice they need to trade lawfully and in ways that give consumers confidence in purchasing from them.

2. Conclusion

Charging cost recovery for some business advice activities will allow Lincolnshire Trading Standards to deliver important services to support businesses, but at the same time allow the continued protection for frontline enforcement services that focus on rogue traders and other non-compliant businesses which undermine the level playing field and affect the safety and confidence of consumers. Cost recovery means that the time and other costs accrued by officers in research and providing bespoke advice to a business do not detract from delivery of consumer and trader protection from unfair trading. At the same time the business requesting the advice is able to move forward with confidence, knowing that they have the support of Trading Standards as far as interpreting legislation around that particular aspect of product design, labelling or marketing is concerned.

3. Legal Comments

The Council has power to charge for discretionary services under section 1 of the Localism Act 2011 and section 93 of the Local Government Act 2003. In both cases the Council is under a duty to secure that, taking one financial year with another, the income from charges does not exceed the costs of provision.

In considering the exercise of the function, regard must be had to the Guidance attached at Appendix A to the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor if it is within the budget.

4. Resource Comments

Accepting the recommendations in this report, will support Trading Standards in the delivery of the savings identified by the service. Any costs incurred in delivering this business advice will be met from their approved budget available.

5. Consultation

Consultation and engagement commenced in June 2015 and has been carried on throughout 2015. Views and opinions were sought on the proposed Bespoke Business Advice provided by Trading Standards on a chargeable basis from the following Stakeholders:

- Lincolnshire Chamber of Commerce
- Federation of Small Business (Lincolnshire)
- Lincolnshire National Farmers Union
- Greater Lincolnshire Local Enterprise Partnership

A survey- "Charging for Business Advice Survey" which was live on the LCC website for 8 weeks from 1st June to 27th July 2015, this was advertised by sending regular tweets and Facebook posts asking for businesses to complete the survey. Paper copies of the Survey were handed out to businesses at the Lincolnshire Show (2 days). Despite this promotion only 9 responses were received which was felt not representative of the views and opinions of over 20,000 Lincolnshire Businesses. Therefore, all businesses who request and receive Business Advice from Lincolnshire Trading Standards, are currently being asked to complete and submit a "Service Feedback Form".

a) Has Local Member Been Consulted?

Not applicable

b) Has Executive Councillor Been Consulted?

Yes. Discussions have been held with Councillor Peter Robinson who has indicated his full support for the proposal.

c) Scrutiny Comments

The Community and Public Safety Scrutiny Committee will consider this report at its meeting on 13 January 2016. Comments from the Committee will be reported to the Executive Councillor.

d) Policy Proofing Actions Required

Not applicable.

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Office of The Deputy Prime Minister "General Power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003"
Appendix B	The Regulators Compliance Code
Appendix C	Impact Analysis

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Emma Milligan, Principal Trading Standards Officer who can be contacted on 01522 5552408 or emma.milligan@lincolnshire.gov.uk

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