

PRIMARY AUTHORITY - SUPPORT FOR LOCAL BUSINESSES - ENVIRONMENTAL HEALTH PARTNERSHIP

Direct and Trading Advisory Committee - 14 March 2017

Report of Chief Officer Environmental and Operational Services

Status: For Decision

Also considered by: Cabinet - 20 April 2017

Key Decision: Yes

This report supports the Key Aim of: A dynamic and sustainable economy

Portfolio Holder Cllr. Matthew Dickens

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Recommendation to Direct and Trading Advisory Committee:

To consider and note the recommendation to Cabinet.

Recommendation to Cabinet: That

- (a) Cabinet note the current situation regarding the operation of the national Primary Authority Scheme.
- (b) Cabinet agree that the Environmental Health Partnership take on Primary Authority partnerships with businesses and recover operating costs for that partnership work.
- (c) Cabinet agree that the Environmental Health Partnership work with Kent County Council Trading Standards in their operation of the Primary Authority scheme, as their preferred sub contracted EH advisors.

Reason for recommendation: To update Members on the current operation of the Department for Business, Energy & Industrial Strategy - Regulatory Delivery's national Primary Authority Scheme. (Previously known as the Local Better Regulation Delivery Office).

The Environmental Health Partnership would like to create Primary Authority Partnerships with businesses, initially in Kent, but potentially UK wide. The businesses are required to fund the service provided by the Primary Authority Partner, and so an income is generated.

The EH partnership has been asked to partner with Kent Trading Standards on their existing Primary Authority Partnerships. Approval by Members is required before arrangements are formalised.

Introduction and Background

- 1 This report considers an opportunity to support local businesses using the “Primary Authority” (PA) scheme by means of a partnership approach involving the Environmental Health Partnership and Kent Trading Standards.

The Primary Authority Scheme

- 2 In October 2008 the Government set up the Local Better Regulation Office (LBRO). The role of the LBRO was to improve the local authority regulation of environmental health, trading standards, fire safety and licensing in line with the statutory principles of good regulation. These principles are that regulation should be transparent, accountable, proportionate, consistent, and targeted.
- 3 LBRO was also tasked with operating the PA scheme which was established by the Regulatory Enforcement and Sanctions Act 2008 (the Act) to allow businesses to form a partnership with a statutory basis with a single local authority.

Benefits of the PA Scheme for Businesses

- 4 The scheme addresses the fact that businesses that trade across council boundaries can be subject to differing requirements from the many different local authorities that may regulate them. This undermines consistency and increases unnecessary burdens for business.
- 5 PA represents an important support service to locally based business and the local economy both for existing businesses, new starters or those considering locating in the area. Since 1st April 2012, when LBRO ceased to exist, responsibility for the scheme now rests with the Secretary of State for Business, Energy and Industrial Strategy. Regulatory Delivery (RD) operates the scheme on behalf of the Secretary of State.

How the PA Scheme Operates

- 6 When a council becomes a primary authority for a specific business under this scheme it can:
 - Give advice and guidance to the business for which it is PA in relation to the functions covered by their partnership; and
 - Give advice and guidance to other local authorities as to how they should exercise the functions covered by the partnership in relation to the business; and

- Enable the PA to develop an inspection plan which recommends to other local authorities in the UK, how they should exercise inspections in relation to the business.
- 7 PA allows a business to form a partnership with a single local authority or group of local authorities and this partnership has a statutory basis.
 - 8 At the time of reporting, nationally there are 15756 businesses in 17024 Partnerships with 181 different local authorities. There are 7 PA partnerships in place in Kent, 6 with Trading Standards and one with Kent and Medway Fire and Rescue.

What this means for Sevenoaks

- 9 The Council has an obligation under the Regulators Compliance Code to provide businesses with advice and guidance about their legal obligations in respect of environmental health and licensing legislation.
- 10 Where businesses ask for bespoke advice and support services, they may wish to enter into formal Primary Authority Partnership with the Council. The Regulatory Enforcement and Sanctions Act enables the Council to recover the costs associated in providing these services from the business.
- 11 In offering the Primary Authority option to businesses locally, Sevenoaks is demonstrating its willingness to work constructively with a business to improve its compliance, and is taking on responsibility for leading and shaping the regulation of that business across its operations across the UK. The Council effectively represent the business nationally on matters of compliance.
- 12 The EH Partnership can provide tailored, assured regulatory advice to the business and can guide the way that other local authorities regulate the business.

Working in Partnership with Kent Trading Standards

- 13 Local authorities have been slow to take up this scheme and offer their services as they have concerns about the resource required.
- 14 Kent Trading Standards have approached the EH Partnership and asked if we would be interested in a Primary Authority Partnership. Kent Trading Standards would administer the Primary Authority, and EH would be subcontracted to provide assured advice on EH legislation compliance as requested.
- 15 A Service Level Agreement is now being drawn up by Kent Trading Standards for the EH Partnership. If Member's are supportive, this will be actioned.
- 16 Initially, the joint PA partnership would concentrate on Food Hygiene partnerships aimed at small to medium businesses with a significant presence in the Kent. However we are also able to offer a partnership to any

business irrespective of whether we are the enforcing authority. Trade associations can also be included.

- 17 Kent Trading Standards would be the Lead authority and EH would act as Food safety advisors. EH would invoice Trading Standards Business Engagement Team for time and resource used to advise a business under a Primary Authority Scheme.

Summary

- 18 The Primary Authority scheme was introduced by Government as a proactive method of regulators working with businesses to minimise regulatory burdens for both.
- 19 A formal agreement is set up between the local authorities and the business. The local authority becomes the Primary Authority.
- 20 This scheme is usually taken up by larger businesses that supply, produce or have retail outlets in more than one authority.
- 21 The Primary Authority acts as compliance advisor to the business and also acts as a central point of contact for regulators dealing with that business anywhere across the UK.
- 22 The EH Partnership would like to offer the opportunity to our local food production businesses to form Primary Authority partnerships.
- 23 The EP Partnership would also like the opportunity to work with Kent Trading Standards as advisors in Primary Authority partnerships that they are in the process of creating.

Key Implications

Financial

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

Legal Implications and Risk Assessment Statement

Section 1 of the Localism Act 2011 gives local authorities the power to charge for a service which is not a statutory function.

LBRO was also tasked with operating the PA scheme which was established by the Regulatory Enforcement and Sanctions Act 2008 (the Act) to allow businesses to form a partnership with a statutory basis with a single local authority.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to

the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

This report provides Members with an overview of the Primary Authority Scheme and how the Environmental Health team are partnering with Kent Trading Standards in order to implement the scheme.

Background Papers: Regulatory Delivery: Primary Authority and Growth

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432793/pa-overview.pdf

Richard Wilson
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