

ANNUAL ASSEMBLY

15 May 2013

Title: Adoption of Powers under London Local Authorities Act 2007 - Mail Forwarding Businesses	
Report of the Cabinet Member for Crime, Justice and Communities	
Open Report	For Decision Yes
Wards Affected: All	Key Decision: Yes
Report Author: Theo Lamptey, Trading Standards and Licensing	Contact Details: Tel: 0208 227 5655 E-mail: theo.lamptey@lbbd.gov.uk
Accountable Divisional Director: Robin Payne, Divisional Director of Environment	
Accountable Director: Darren Henaghan, Corporate Director of Housing and Environment	
Summary: The report relates to the adoption of section 75 of the London Local Authorities Act 2007 ("the Act"). This is a measure introduced to control mail forwarding businesses which can be a source of fraudulent activities by requiring those businesses in the borough to register with the Council and to pay a registration fee. The adoptive process is set out in the Act and requires a specific resolution of the Council to adopt the measures and to set an appointed date as to when they will take effect. The Cabinet considered this report at its meeting on 16 April 2013 and endorsed the recommendations below.	
Recommendation(s) The Assembly is recommended to resolve: (i) That the Council adopt the provisions of section 75 of the London Local Authorities Act 2007 to require mail forwarding businesses in the Borough to register with the Council from the appointed day; (ii) That the appointed day from which the measures will take effect be 16 June 2013; and (iii) That the fee for the registration of mail forwarding businesses be set at £110 for 2013/14, to be reviewed annually.	
Reason(s) To enable the Council to take action to support the priorities of Better Future and Better Home by ensuring that residents are protected and businesses allowed to trade fairly.	

1. Introduction and Background

- 1.1 Historically mail forwarding businesses were required to register with the Police and keep records under the Official Secrets Act 1920. However this Act was repealed in 2000.
- 1.2 The London Local Authorities Act 2007 introduced the power for London Boroughs to control mail forwarding businesses by requiring registration under section 75 backed by robust powers of enforcement.
- 1.3 If the Council does implement these provisions all current and future mail forwarding business will be required to register with the Council, keep records of persons using mail forwarding and holding services and to keep those records open to inspection by the police and authorised officers. The Act creates offences and makes provision for enforcement of section 75 using powers contained within section 28 of the Trade Descriptions Act 1968.
- 1.4 The Council is required to set a date, known as the Appointed Day, on which the measures under section 75 come into force. This date must be at least one month after the expiry of a notice placed in the London Gazette and a newspaper circulating in the borough.

2. Proposal and Issues

- 2.1 A mail forwarding business is one where a postal address is made available to a person for receipt of postal packages that are held for collection of forwarded on (an accommodation address). Currently in Barking and Dagenham there are no legal requirements for such businesses to record the identity of their users or to keep records etc. The operators of most accommodation addresses are responsible and run their businesses within the law. However it is known that the anonymity provided by an accommodation address enables them to be used by unscrupulous individuals and even on occasions by organised crime.
- 2.2 This report proposes that the provisions are adopted to deal with the issue of accommodation addresses, an increasing issue in the borough where a business sets up a postal address but does not trade in the area. This gives the opportunity for fraudulent activity.
- 2.3 Adoption of this legislation will bring Barking and Dagenham in line with other London boroughs, most of who have already adopted the powers, and will contribute to the overall management of the issues around accommodation addresses across London.
- 2.4 Barking and Dagenham Trading Standards receives a significant number of complaints regarding traders/business clients who use the services of mail forwarding businesses. Often money has been sent in response to various kinds of scams and frauds. The services of mail forwarding business are also used by those involved in serious crime who take advantage of the confidentiality assured by the service and lack of record keeping, thus avoiding detection.

- 2.5 Adopting these powers will stop the opportunity for rogue traders to conceal their identity behind the façade of a mail forwarding business. The legislation enables the Council to have robust and practical criminal powers such as to enter premises and seize goods and documents, with sufficient penalties to act as a deterrent. The requirement to register with the Council will assist in the identification and location of the mail forwarding businesses.
- 2.6 Apart from having to register with the Council, a person carrying on a mail forwarding business will be required to keep a record of:
- a) The full name, address and telephone number of all persons for whom the post is received or who has requested postal packets received to be held or forwarded to them.
 - b) The nature of the business carried out by that person
 - c) Any instructions as to delivery and forwarding of postal packets
 - d) The name and address of person(s) to whom postal packets are to be forwarded, if different from a) above.
 - e) Copies of originals of two documents of identifying the person and verifying the addresses required in a) above.
- 2.7 The types of identification considered by the Divisional Director of Environment to be relevant and acceptable are listed in **Appendix 1**.
- 2.8 It is recommended that a fee is set for registration in line with other London Boroughs and reflecting the actual cost, as set out in **Appendix 2**.

3. Options Appraisal

- 3.1 There are two options available in considering these matters. Firstly to do nothing; secondly to adopt the powers.
- 3.1.1 Option One - The use of accommodation addresses is increasingly common and has the potential for abuse. If the power is not adopted the potential is for criminal activities to continue without controls.
- 3.1.2 Option Two - By adopting the powers the Council can take action to ensure that accommodation addresses are properly regulated.

4. Consultation

- 4.1 These are administrative arrangements and do not require consultation to take place.
- 4.2 The Cabinet was consulted on the proposals at its meeting on 16 April 2013 and has endorsed the recommendations.

5. Financial Implications

Implications completed by: Martin Henwood, Deputy S151 Officer

- 5.1 It is estimated that there are eight Mail forwarding businesses in Barking and Dagenham. The Trading Standards Services uses the Flare Database to record

and maintain records of all business activities within the borough. By implementing the legislation a register of the businesses will be kept within the Flare database. This database will be audited and reviewed on regular bases to ensure compliance with the Council's enforcement policy.

- 5.2 The setting of a registration fee for such premises is in line with the Council's licensing policy and any fee agreed will be reviewed annually in line with all other fees and charges.
- 5.3 An annual fee of £110 is in line with other London Boroughs and reflects costs the Council is likely to incur and be able to recover.

6. Legal Implications

Implications completed by: Paul Feild, Corporate Governance Lawyer

- 6.1 The London Local Authorities Act 2007 contains a number of measures which require a Council to make a specific decision to adopt. The adoptive process is set out in the Act and requires a specific resolution of the Council to adopt the measures and set an appointed date as to when they will take effect.
- 6.2 Notice of the passing of the resolution to adopt the provision, the nature of the measure and the appointed date must be published in a local newspaper and in the London Gazette at least one month before the said appointed date.
- 6.3 Once Section 75 of the London Local Authorities Act 2007 is adopted it will become a criminal offence carrying a potential £5,000 fine to carry on a mail forwarding business that does not comply with the registration requirements or to provide false information for the purpose of acquiring registration.

7. Other Implications

- 7.1 **Customer Impact** - The services of mail forwarding business are used by a wide range of persons and any list compiled must reflect the diversity of the community.

Background Papers Used in the Preparation of the Report:

- London Local Authorities Act 2007

List of appendices:

Appendix 1 – Acceptable Identification

Appendix 2 – Registration Costs