

<b>Committee:</b> Cabinet	<b>Date:</b> 07 May 2008	<b>Classification:</b> Unrestricted	<b>Report No:</b>	<b>Agenda Item:</b>
<b>Report of:</b>  Corporate Director <b>Stephen Halsey – Communities, Localities and Culture</b>  Originating officer(s) <b>Colin Perrins</b> <b>Head of Trading Standards &amp; Environmental Health (Commercial)</b>		<b>Title:</b>  <b>Mail Forwarding Businesses Registration</b>  <b>Wards Affected:</b>  <b>All</b>		

## 1. **SUMMARY**

- 1.1 The London Local Authorities Act 2007 gave London Boroughs the opportunity to register Mail Forwarding Businesses as a consumer protection measure. This report explains the rationale and process for the adoption of this legislation

## 2. **RECOMMENDATIONS**

Cabinet is recommended to:-

- 2.1 To agree and recommend to Council that the Mail Forwarding Registration functions under section 75 of the London Local Authorities Act 2007 will come into force in the London Borough of Tower Hamlets on the appointed day of 25<sup>th</sup> August 2008;
- 2.2 Subject to the setting of the appointed day, referred to in recommendation 2.1 above, by the Council:
- (i) Authorise the Corporate Director Communities, Localities and Culture to undertake the functions set out in Section 75 of the London Local Authorities Act 2007, relating to mail forwarding registration, on behalf of the Authority; and
- (ii) Authorise the Corporate Director Communities, Localities and Culture to set the fee for mail forwarding registration at £92 with the fee for new applications to rise annually in line with the Retail Price Index.

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### **Local Government Act 1972 (as amended) Section 100D List of "Background Papers" used in the preparation of this report**

Brief description of "back ground papers"

Name and telephone number of holder and address where open to inspection.

London Local Authorities Act 2007

Colin Perrins- Tel 0207 364 6872

### **3. BACKGROUND**

- 3.1 The London Local Authorities Act 2007 received Royal Assent on 19 July 2007. Amongst a number of enabling powers for London Boroughs it introduces new legal controls on mail forwarding businesses where none existed. The controls were lobbied for by the London Boroughs Trading Standards Departments. Under section 75 a number of offences are created and robust powers of enforcement provided. The new requirements for a mail forwarding business are to register with the Council, keep records of persons using mail forwarding and holding services including copies of two pieces of identification, to retain the records for one year after the service has expired and make them available for inspection by the police and authorised officers.
- 3.2 A mail forwarding business is one where a postal address is made available to a person for the receipt of postal packets that are held for collection or forwarded on. Postal addresses made available by mail forwarding businesses in Tower Hamlets are often prestigious and attract users both nationwide and internationally. There are estimated to be close to 80 mail forwarding businesses, within the meaning of the Act, in Tower Hamlets and any one may have anything from fifty to several thousand clients. Clients are wide ranging from individuals through to limited companies.
- 3.3 In the absence of existing legal requirements to keep records, most mail forwarding businesses do not require copies of identification of clients and many keep insufficient or no records at all. Some have a reputation for operating on a 'no questions asked basis.' In seeking information from mail forwarding businesses the level of co-operation afforded to enforcement officers will vary and where no or insufficient records are kept, tracing clients involved in criminal activities will be virtually impossible.
- 3.4 The Tower Hamlets Trading Standards service 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 to avoid detection.
- 3.5 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. In January 2006 Tower Hamlets Trading Standards service introduced a local voluntary scheme designed to encourage co-operation by mail forwarding businesses with law enforcement officers which required the keeping of records of clients including two pieces of identification. The scheme had limited success with uptake not being universal.

- 3.6 The London Local Authorities Act seeks to deal with mail forwarding businesses that make no effort to obtain identification, keep records or co-operate with enforcement officers. It also seeks to close a door currently open to rogue traders who hide behind the façade of a mail forwarding business. The legislation makes provision for the council to have robust and practical criminal powers (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 mail forwarding businesses.
- 3.7 If the Council resolves that section 75 is to be brought into force in Tower Hamlets, it will not be possible to carry on a mail forwarding business in Tower Hamlets unless it is registered with the Council. This will apply to existing and new mail forwarding businesses. 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 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 approved by the Council for the purposes of identifying the person and verifying the address(es) required in a) above.
- 3.8 The types of identification considered to be relevant are listed in Appendix 1. The services of a mail forwarding business are used by all types of person and business the list has been compiled to reflect this. This list will be subject to periodic review and revision by the Head of Trading Standards and Environmental Health (Commercial),
- 3.9 A mail forwarding business is required to keep records for at least a year after the end of an arrangement to hold or forward on postal packets and to keep them available for inspection by the police or any authorised officer at all reasonable times.
- 3.10 The requirement to register and keep records does not apply to holders of licences for postal services e.g. Royal Mail.

- 3.11 It is a criminal offence to: fail to comply with the provisions of the section or; to furnish false information for the purposes of either registration/alteration to the register or to a mail forwarding business in relation to particulars they are required to keep; to make a false entry in records kept by a person carrying on a mail forwarding business. The maximum penalty is a fine not exceeding level 5 on summary conviction.
- 3.12 A period of grace has been built into the 2007 Act whereby the requirement not to carry on a mail forwarding business without registration and the duty to keep records does not apply until four weeks after the appointed day.
- 3.13 The appointed day has been set for 25<sup>th</sup> August 2008 so as to allow sufficient time for the publication requirements in the London Local Authorities Act 2007 to be met.

#### **4. Financial Issues**

- 4.1 The Act allows a reasonable fee to be charged for registration, calculated by reference to the cost of dealing with applications for such registration. This fee is thus based on a cost recovery basis only, and therefore no additional income stream for the Council will be generated.
- 4.2 The fee is a one off fee as no provision is made in the legislation for renewal or charging for changes to registration details. Currently the estimated number of potential applicants is 80, and there are no known figures regarding the rate of new applicants entering the market place.
- 4.3 The cost of dealing with applications for registration has been calculated at £92, the detailed breakdown of which is shown in Appendix 2.
- 4.4 As these are estimated figures it is considered that a fee of £92 per application is appropriate in the circumstances.
- 4.5 As with other licences and registrations with discretionary fees it is suggested the fee is raised by the RPI every year, starting in April 2009. this will be in line with the procedure for other charges, which are annually reviewed in April each year.
- 4.6 Given the anticipated number of registrations in, the fee income will offset additional administration costs of registration and enforcement. No additional resources are being requested to apply and enforce the Act. Therefore the impact is cost neutral.

#### **5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 There are no specific implications for the Council from this proposal, since the cost of administration will be fully recovered from the fee income.

## **6 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 6.1 The regulation of Mail Forwarding Businesses is governed by Section 75 London Local Authorities Act 2007 which section only comes into effect in any particular borough when the relevant London Borough Council has set an 'appointed day'.
- 6.2 The Act provides a procedure for so doing which includes advance notice and publication prior to the date set as the appointed day. The resolution to fix an appointed day must be made by the Full Council
- 6.3 The timetable for implementation of the regulation of Mail Forwarding Businesses has taken account of the need for the matter to be determined by Council and for the statutory procedural requirements to be met which will enable the appointed day to be fixed as 25 August 2008.

## **7. EQUAL OPPORTUNITIES IMPLICATIONS**

- 7.1 There are no equal opportunities implications.

## **8. ANTI-POVERTY IMPLICATIONS**

- 8.1 As with other Consumer Protection areas the disadvantaged are disproportionately affected when they lose out to unfair trading practices

## **9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 9.1 There are no SAGE issues

## **10. RISK MANAGEMENT IMPLICATIONS**

- 10.1 There is a reputational risk to the Council if the Legislation is not implemented. Rogue traders do use mail forwarding businesses. Should a rogue trader, as has happened before, use a Tower Hamlets mail forwarding business, it would fall to Trading Standards to deal with the complaints from aggrieved. If the rogue trader proves to be untraceable because of inadequate or non-existent identity checks, then the Council could suffer criticism for not implementing legislation within its purview requiring proper identification.

## 11. **APPENDICES**

Appendix 1 – Identification Proposals

Appendix 2 - Cost Analysis

## **Appendix 1: Acceptable Identification**

One document from each list below is required.

### **1. Photo identification**

- Passport
- Driving Licence (with photocard)
- National Identity Card
- HM Forces Identity Card
- A current student card
- Connexions card
- Employment identification card
- Freedom travel pass
- Disabled drivers blue pass

### **2. Non photo identification provided both name and address is shown.**

- Gas or Electricity bill
- Telephone bill
- Water bill
- Mortgage Statement
- Council Tax bill
- Bank / Building Society statement (includes credit card and store card bill)
- TV licence
- Valid insurance certificate
- Pay slip
- P45/P60 statement
- Financial statement (e.g. pension, endowment)
- Current benefit book
- Letter from Benefits Agency
- HM Revenue and Customs Notice of Coding
- Student hall of residence agreement or other proof of accommodation

**Appendix 2:**

**Table showing estimated costs of Registration for Mail Forwarding Service for each Registration**

<b>Staff Member</b>	<b>Time (Hrs)</b>	<b>Cost £</b>
Admin Officer	1.16	23.64
Trading Standards Officer	0.67	19.26
Principal Trading Standards Officer	0.17	5.46
Direct Disbursements- postage, supplies, etc		5.00
Other running costs, management, and directorate & corporate support costs		38.64
<b>Total</b>		<b>92.00</b>