



# EXECUTIVE MEMBER DECISION

**REPORT OF:** Executive Member for Environment

**LEAD OFFICERS:** Director of Environment and Operations

**DATE:** 14<sup>th</sup> January 2019

**PORTFOLIO/S AFFECTED:** Environment

**WARD/S AFFECTED:** All

**SUBJECT: Trading Standards Enforcement – Adoption of the Intelligence Operating Model**

## 1. EXECUTIVE SUMMARY

1.1 In 2011, the Consumer Protection Team adopted the Trading Standards Enforcement Policy which aimed to provide a fair and transparent mechanism for identifying which investigations should be carried out.

1.2 Since then, a national mechanism has been developed by National Trading Standards. It is called the Intelligence Operating Model (IOM).

1.3 The IOM encourages the use of problem oriented policing techniques, and offers several advantages over the current policy in use with Blackburn with Darwen.

1.4 It is therefore recommended that Blackburn with Darwen Borough Council adopts the IOM to manage its trading standards enforcement.

## 2. RECOMMENDATIONS

That the Executive Member:

Approves the adoption of the Intelligence Operating Model for trading standards enforcement.

## 3. BACKGROUND

3.1 Trading standards legislation covers the following types of enforcement:

- Fair Trading
- Product safety
- Under age sales
- Doorstep crime
- Weights and measures
- Food standards
- Animal health

3.2 In total, around 50 acts of parliament fall under the trading standards remit, with many sets of regulations sitting beneath the statutes. In Blackburn with Darwen, trading standards legislation is enforced by the Consumer Protection Team, comprising 4 FTE officers.

3.3 To control demand on the service, to ensure that work was prioritised in a fair and transparent way, and to protect the Council from adverse comment by the Local Government Ombudsman in the event that an individual complainant took offence to the fact that we were unable to investigate an individual offence, in 2011 the team adopted the Trading Standards Enforcement Policy, which set out a scoring mechanism for investigations, and other provisions around prioritisation of officer time.

3.4 This policy proved effective, but in recent years National Trading Standards has issued the Intelligence Operating Model (IOM), which provides an intelligence-driven, problem-oriented policing approach to trading standards enforcement, and is effectively an up-to date and national version of our local policy. National Trading Standards have developed this model as most trading standards services find themselves similarly under-resourced.

3.5 The IOM has now been developed to a point where it is sufficiently flexible for adoption by local services, and increasing numbers of trading standards departments are adopting it; it now represents best practice in managing a trading standards service. Therefore it is recommended that Blackburn with Darwen adopts it for managing its trading standards service.

3.6 The full IOM is produced as Appendix 1, with a Strategic Overview produced as Appendix 2.

#### 4. KEY ISSUES & RISKS

4.1 The IOM sets out a process for how the trading standards profession should use available evidence to assess risks and prioritise resources. It is accepted that there is not enough resource to deal with all statutory functions – hence the need to prioritise in a structured and transparent way - and the IOM is based on the principles of problem-oriented policing; to reduce offending, you work to remove one of the sides of the triangle below.



4.2 The IOM can be applied to all levels of trading standards; it is currently used by National Trading Standards (the national coordinating body) to prioritise central resources; it is used by regional TS groups (in our case, Trading Standards North West) to prioritise the work of the regional enforcement teams; and it can be used by individual local authorities to prioritise their own work (and is increasingly being adopted). It doesn't have to be rigidly applied, and can be adapted for local needs.

4.3 The IOM sets out a three-stage approach to prioritising and delivering enforcement:

- Threat assessment; annually, a full review based on available evidence (e.g. consumer complaints, intelligence and inspection results) is carried out to identify areas of non-compliance in the Borough, and then these concerns are risk-rated based on levels of harm and likelihood of compliance.
- A control strategy is then drawn up, which sets out the intended approach to dealing with the priorities which have been identified through the threat assessment.
- Then throughout the year, and with reference back to the control strategy to ensure that priorities continue to be addressed, the team's workload is managed on a monthly basis through tactical tasking meetings, where projects are issued, managed and reviewed as the year progresses. The process is flexible enough to allow for a quick response to illegal activity where necessary, but refers all decision making back to the control strategy priorities to ensure that those priorities are not diluted as work comes in.

4.7 One of the key features of the IOM is that problems are scored according to various criteria to assess their severity. A copy of the scoring criteria is produced as Appendix 3.

4.8 For a number of years now the Public Protection & Environmental Health Service has used the threat assessment/control strategy methodology for its business planning processes, so adoption of the IOM will not result in major changes there.

4.9 Where the IOM differs from our current processes is in the approach to *dealing with problems*. Currently, *investigations* are scored against a scoring matrix, and the response is typically an investigation for offences, resulting in a prosecution report going to Legal Services. The IOM encourages taking a step back to assess the factors which enable the offence (as in the crime triangle above), and taking steps to tackle them. See example below.

#### **IOM Example – Car Dealers**

Complaints about car dealers are common across all trading standards departments at the moment. An analysis of complaints against car dealers in the Borough has shown that a common factor in this type of complaint is that car dealers often mask their identity and deliberately confuse complainants as to who actually sold the car; where offences are identified, it can be difficult for officers who investigate offences to establish liability, and consumers are not able to sue. The enabling factor in this type of offending is the lack of adequate transparency. Therefore, rather than spending time trying to prosecute for the original offences, officer time is better spent ensuring that traders are adequately identified, so making the trader answerable to consumers who wish to exercise their statutory rights. This makes offending less attractive to the trader.

4.10 There are a number of inherent benefits to adopting the IOM.

- Adopting the problem-oriented policing approach is likely to be more effective in terms of use of limited resources compared with time consuming investigative work.
- There is less risk of straying from identified priorities.
- There will be less focus on prosecutions.
- It is less bureaucratic
- The structured tasking process facilitates performance management, both in terms of officer performance and service-wide performance.

- The focus on intelligence-led processes aligns with the National Trading Standards approach to allocation of funds; for example, significant numbers of entries on the National Trading Standards intelligence database have resulted in NTS allocating funding to Blackburn with Darwen for tobacco operations.
- Local processes will be very similar to regional tasking processes, making it easier to request support from the regional enforcement team.
- It is a nationally recognised way of prioritising resources, making Local Government Ombudsman challenge unlikely.

## 5. POLICY IMPLICATIONS

5.1 Adoption of the IOM aligns with the following Corporate Priorities:

- Creating more jobs and supporting business
- Improving Health and Wellbeing
- Improving Outcomes for Young people
- Safeguarding the most vulnerable people
- Making your money go further

## 6. FINANCIAL IMPLICATIONS

6.1 Adopting the IOM will not have any financial implications.

## 7. LEGAL IMPLICATIONS

7.1 Any enforcement action resulting from IOM tasking will comply with the provisions of the Corporate Enforcement and Prosecution Policy.

## 8. RESOURCE IMPLICATIONS

8.1 Adoption of the IOM will be undertaken within existing resources.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

10.1 Staff have been consulted on the adoption of the IOM.

### **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

### **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>Gary Johnston</b>
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<b>DATE:</b>	14 <sup>th</sup> January 2019
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<b>BACKGROUND PAPER:</b>	Appendix 1: Intelligence Operating Model Appendix 2: Strategic Overview of the Intelligence Operating Model Appendix 3: Scoring Criteria
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