

IMPLEMENTATION OF NEW PROVISIONS OF THE COPYRIGHT, DESIGNS AND PATENTS ACT 1988 - CREATION OF A POST FOR AN ASSISTANT TRADING STANDARDS OFFICER

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks Members agreement to create an additional post of Assistant Trading Standards Officer (Scale 4-6, £22,293 - £27,866 including on costs) in the Regeneration Department. The post-holder will implement additional statutory responsibilities concerning copyright falling to the Trading Standards Division and will be funded by the allocation of additional funds by Specific Grant in 2007/08 and subsequently through Revenue Support Grant.

2.0 BACKGROUND

- 2.1 In December 2005, the Chancellor of the Exchequer set up the Gowers Review into the UK Intellectual Property Framework. The Chancellor recognised that Intellectual Property is a critical component of the UK's present and future success in the global economy. The UK's economic competitiveness is increasingly driven by knowledge-based industries, especially in manufacturing, science-based sectors and the creative industries. The Review examined the instruments of Intellectual Property such as patents, copyright, designs and trademarks, to ensure that they are balanced, coherent and flexible, and how protection to legitimate business is enforced.
- 2.2 Copyright exists in products such as films, computer games and music. Copyright may be held by a composer or the company producing and marketing the finished product. Modern recording technology has led to widespread abuses of copyright law with illegal copies of legitimate material being sold by itinerant traders, and through the Internet. These abuses adversely impact upon the design, manufacture and sale of legitimate goods. In July 2006 retailers of legitimate DVDs within the Borough wrote to the Leader of the Council pointing out the harm that this activity causes to their businesses.
- 2.3 The UK Intellectual Property Office (formerly the Patent Office) produces on behalf of the Government an annual enforcement report. It is planned that local authorities will have to submit an annual return detailing their activity in this area and how the identified funds have been used.
- 2.4 The Rogers Review into regulatory priorities has identified product counterfeiting as an element of Fair Trading, a national enforcement priority.

3.0 ENFORCEMENT

- 3.1 The Gowers Review was published on 6th December 2006 and recommended that provisions be introduced to place a duty on local weights and measures authorities to enforce criminal offences contained in the Copyright, Designs and Patents Act 1988. The Government accepted the proposals. The statutory responsibility commenced on the 6th April 2007.

- 3.2 The following new criminal offences are created:
- To make, distribute or sell in the course of a business an article which infringes the copyright of another.
 - To make, distribute or sell in the course of a business an article, such as a bootleg or pirate copy of a concert, which infringes the copyright of another.
- 3.3 The burden of proof requires the prosecution to prove that a suspect knew the goods in question were in breach of copyright. The offences are punishable by up to 10 years imprisonment and are arrestable. This type of offence also enables forfeiture of illegal gains to be sought under the Proceeds of Crime Act 2002. The Act also includes powers of search to enable officers to enter premises and seize as evidence goods or equipment used in their manufacture. Those committing this type of acquisitive offence are often engaged in other criminal activity such as benefit fraud or money laundering.
- 3.4 The Trading Standards Division will work closely with representatives of the creative industries and local business to identify and take action against those breaching the legislation.
- 3.5 There will be a requirement to report enforcement activity funded by the additional monies from Central Government, annually to the Intellectual Property Office.

4.0 FINANCIAL AND STAFFING IMPLICATIONS

- 4.1 The investigation of these offences is complex and time consuming and, in recognition of the additional demands required by the Copyright, Designs and Patents Act 1988, the Department of Trade and Industry, with the Local Government Association, highlighted the requirement for additional national funding of £4.1 million.
- 4.2 For 2007/08 a specific grant for the purpose of trading standards enforcement of copyright counterfeiting and piracy has been paid under the Local Government Act 2003 and Wirral received £27,691. The additional costs of £175 will have to be met from existing Regeneration Department staffing budgets. From 2008/09 whilst there is no specific grant funding will be contained within the Revenue Support Grant, agreement has been reached with the Director of Finance that future years funding will be provided to ensure new statutory responsibilities continue to be fulfilled.

5.0 EQUAL OPPORTUNITY IMPLICATIONS

- 5.1 There are none arising directly from this report.

6.0 LOCAL AGENDA 21 IMPLICATIONS

- 6.1 There are none arising directly from this report.

7.0 LOCAL MEMBER SUPPORT IMPLICATIONS

- 7.1 Implementation of the Copyright, Designs and Patents Act will have a beneficial effect on legitimate traders throughout the whole of Wirral.

8.0 HUMAN RIGHTS IMPLICATIONS

8.1 Any investigations conducted under the Copyright, Designs and Patents Act will be conducted in accordance with the Human Rights Act and the Council's Enforcement policy.

9.0 COMMUNITY SAFETY IMPLICATIONS

9.1 Effective enforcement of the Copyright, Designs and Patents Act will isolate offenders and increase the confidence of legitimate traders who provide employment and generate tax revenue.

10.0 PLANNING IMPLICATIONS

10.1 There are none arising directly from this report.

11.0 RECOMMENDATIONS

11.1 That Cabinet note the implications of The Copyright, Designs and Patents Act 1988 and refer the matter to Employment and Appointments Committee for consideration of the establishment of an Assistant Trading Standards Officer.

11.2 That Employment and Appointments Committee agree to the establishment of a post of Assistant Trading Standards Officer Scale (Scale 4-6, £22,293 - £27,866 including on costs).

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