



Derby City Council

COUNCIL CABINET
15 May 2013

ITEM 10

Report of the Cabinet Member for Planning,
Environment and Public Protection

Review of Trading Standards 'Buy With Confidence' scheme

SUMMARY

- 1.1 The report reviews progress with the council's approved trader scheme and considers options for more rigorous scrutiny of applications for membership and renewal of membership.

RECOMMENDATIONS

- 2.1 That Members agree to the proposed changes in the membership application process
- 2.2 That future publicity and promotion of the scheme be targeted at the home improvement and motor trade sectors only, as these are the sectors that the public raise most concerns about and that are most frequently cited for rogue trading
- 2.3 That new applications received for membership or renewal of membership be declined from businesses offering goods or services that failed the community interest test and incur a risk to the council's (or business members') reputation by association.

REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that all applications receive an appropriate level of scrutiny prior to approval
- 3.2 To ensure that membership of the scheme focusses on those business sectors that are the most common source of consumer complaints i.e. the home improvement and motor trades
- 3.3 To protect the reputation of the council and other business members of the scheme

SUPPORTING INFORMATION

- 4.1 Buy With Confidence (BWC) is a nationwide 'approved trader' scheme endorsed by the Office of Fair Trading. Currently, 53 Councils have adopted the scheme and, as such, it is the UK's most widely-used approved trader scheme. Although BWC membership does not provide consumers with a guarantee of the quality and condition of the goods and services provided by the business concerned, it nevertheless increases levels of consumer confidence by recognising and promoting businesses that are committed to trading lawfully, fairly and safely. In the Trading Standards profession, BWC is regarded as one of the most effective tools available to councils in protecting consumers against doorstep crime and rogue traders. The council has now held its BWC licence for a year and it is therefore appropriate to undertake a review of the success of the scheme to date.
- 4.2 Although the BWC scheme is probably best suited to the home improvement and motor trade sectors, any type of business can apply for membership. A list of current members is shown in Appendix 3. Derby's scheme is still in its relative infancy, however feedback received to date from consumers and businesses alike is extremely positive (see Appendix 2 – summary of customer feedback received) and there is a growing waiting list of businesses wishing to join.
- 4.3 Under the terms of its BWC licence conditions, the Council is required to promote the scheme on a regular basis and, for that reason, placed adverts in the Derby Telegraph and Derby Lite newspapers in early March 2013, including contact details for member businesses. Following this, the Council received adverse media comments concerning its approval of one specific business, a pawnbroker, because of the perceived conflict with the stated values of the council. These are reflected in several of the key priority work areas identified by the Derby City Neighbourhood Partnership's Child and Family Poverty Commission. A report on the Commission's work is included elsewhere on the Agenda for this meeting. Its key objectives include:
- challenging the aggressive marketing and promotion of pay day lending companies to protect the vulnerable
 - promoting the alternatives to the use of pay day lending companies
 - increasing the supply of affordable banking and credit
- 4.4 The pawnbroker concerned also offers short-term, high-interest loans and applied to join BWC in July 2012. It was granted membership following an audit by Trading Standards, which showed that the business was fully compliant with Trading Standards legislation. However, there are concerns about the 'pay-day loan' sector in general, which has recently been the subject of a report by the Office of Fair Trading and found widespread non-compliance with the law and guidance across the sector at every stage in the life-cycle of such loans.

- 4.5 The adverse publicity received by the council has brought into question whether scheme membership should be restricted to certain business types only and prompted a review of the level of scrutiny to be applied to each application received. As part of the review, officers have liaised with Hampshire County Council (HCC), which administers the BWC scheme in the UK. HCC advises that, under the scheme's terms and conditions, having blanket category exemptions would be inadvisable. However, they have no objections to the council making 'local conditions' to fit in with council priorities. In this respect, there is also a clause in the terms and conditions which states that membership can be refused, on an individual application basis, if *'...goods or services are such that the local authority or other business members would incur a risk to their reputation by association'*. HCC also advises that this condition can be invoked retrospectively when existing members apply for annual renewal of their membership. In that context, it should be noted that none of the feedback received from scheme members to date has referred to the need to restrict membership to certain business types only. Finally, HCC has advised that any challenge received to a decision to refuse membership or decline annual renewal would need to be dealt with through the council's corporate complaints procedure
- 4.6 It is therefore suggested that all future promotion of the scheme should be targeted towards the home improvement and motor trade sectors only, which are the areas that the public raise most concerns about and that are most frequently cited for rogue trading. Although this would not prevent applications being received from businesses in other sectors, in those circumstances revised procedures would be implemented to ensure further scrutiny by senior managers before a decision was taken. In addition, in situations where there was any doubt about whether the business concerned was operating ethically, lawfully or transparently, the decision on whether or not to grant scheme membership would be made in consultation with the Cabinet Member.

- 4.7 For each membership or renewal application received in future, it is therefore suggested that a community interest test be rigorously applied. In practice, this would mean that the council would be likely to decline applications in the following circumstances:

Where,

- there was no demonstrable benefit to consumers or other customers in the goods or services being supplied
- the goods or services offered an alleged benefit which was not capable of being substantiated
- the goods or services could not be lawfully supplied
- the services were of a broadly financial investment nature, relying on the future value of goods or land, speculation on commodity, shares or other products, unless those products were regulated by the Financial Services Authority
- the goods or services offered were such that the council or other business members would incur risk of damage to their reputation by association
- the goods or services offered were of a religious, spiritual or personal belief nature such that membership might be construed as endorsement of that religion or belief

Whilst it is difficult to draw up a definitive list of such business types, it might include for example, 'pay-day' loan shops, sex establishments, gambling establishments and premises licensed to sell alcohol.

OTHER OPTIONS CONSIDERED

- 5.1 The council is under no obligation to operate an approved trader scheme. However, the option of withdrawing from the BWC scheme at this stage would expose the council to potential claims from all scheme members, maximising potential financial and reputational risks.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director	Olu Idowu Roger Kershaw N/A N/A John Tomlinson
For more information contact: Background papers: List of appendices:	Julian de Mowbray 01332 641972(julian.demowbray@derby.gov.uk) None Appendix 1 – Implications Appendix 2 – Customer feedback data Appendix 3 – List of current BWC members

IMPLICATIONS

Financial and Value for Money

- 1.1 The financial risks to the council of cancelling memberships and/or withdrawing from the scheme are set out in the report

Legal

- 2.1 The legal and reputational implications for the council in cancelling memberships and/or withdrawing from the scheme are set out in the body of the report

Personnel

- 3.1 None directly arising

Equalities Impact

- 4.1 The scheme provides protection, particularly for vulnerable consumer groups, against the activities of rogue traders operating in the city

Health and Safety

- 5.1 None directly arising.

Environmental Sustainability

- 6.1 None directly arising.

Property and Asset Management

- 7.1 None directly arising.

Risk Management

- 8.1 As set out in the body of the report

Corporate objectives and priorities for change

- 9.1 The information set out in this report supports the corporate priorities to ensure the people in Derby will enjoy **good quality services that meet local needs** and **being**

safe and feeling safe.

Appendix 2

Customer feedback summary data:

1. Feedback from business members:

Thinking about the process of applying for Buy With Confidence:	Strongly agree (%)	Agree (%)	Disagree (%)	Strongly Disagree (%)
The process was clear	50	50	0	0
The process was straightforward	50	50	0	0
The process took the length of time I expected	56	33	11	0
I felt fully informed about the status of my application	56	44	0	0

	Very satisfied (%)	Satisfied (%)	Neither satisfied nor dissatisfied (%)	Dissatisfied (%)	Very dissatisfied (%)
How satisfied have you been with your membership of BWC?	40	30	30	0	0

	Yes (%)	No (%)	Don't know (%)
Have you secured work as a result of being a BWC member?	50	40	10

	Yes (%)	No (%)	Don't know (%)
Would you recommend BWC to other traders?	90	0	10

2. Feedback from customers of BWC members:

	Very good/good (%)	Poor/very poor (%)
How would you rate the quality of work carried out?	100	0
Did you feel you were charged a fair price?	100	0
How would you rate the level of customer service your received?	100	0
Would you recommend the business to a friend?	100	0

Appendix 3

Current BWC Members:

Business	Trade
Bernard Toon& Son	Locksmith
J P Building Services (Derby) Ltd	Builders
Appleyard Landscapes	Landscape Gardeners
Central Felt Roofing Services	Roofer
Trade Windows (Derby) Ltd	Windows, conservatories etc
Bright Ideas Home Improvements	Double Glazing
Cash Converters Ltd	Pawn Brokers
Qualitas Building Solutions	Builders
Rod Drain Clearance	Drains
AJM Plumbing Heating & Solar Services	Plumber
Silly Sids	Furniture
Browns Builders Merchants Ltd	Builders Merchants
M J Wright Aerial Installations	Aerial Fitter
I J J Services Ltd	Plumbing & Heating
CPR Carpet Services	Carpets - Fitting & Retail
Moneta Partnership	Financial Services
Marigolds Cleaning Services Ltd	Contract & Domestic cleaning
Mrs M T Morris t/a Clean Team	Domestic cleaning &
McEwan's Garage Ltd	Motor Vehicle Repairs
Sue's Maintenance Services	Handyman Service inc Plumbing
Sheasby& Son	Painter & Decorator
Beal and Son (Electrical Contractors) Ltd	Electrician
Memory Mattress.co.uk	Retailer
MBF Joinery & Building Services	Joiner & Building
Greens Electrical Services	Electrician