

	General Purposes Committee Report
Date:	24 October 2007
Subject:	Mail Forwarding Businesses Determination of the Appointed day for the purposes of sections 3 and 75 of the London Local Authorities Act 2007. Delegation of functions to the Director of Community Protection.

Summary

A mail forwarding business is one where a postal address is made available to a person for receipt of postal packets that are held for collection or forwarded on.

Presently there are no legal requirements for such businesses to record the identity of their users or to keep records etc.

New provisions controlling mail forwarding businesses are contained in section 75 of the London Local Authorities Act 2007. These provisions are adoptive which means that the City Council can choose whether or not to implement them within Westminster. 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 under section 28 of the Trade Descriptions Act 1968.

This report proposes that the new provisions under Section 75 of the 2007 Act be adopted, that the functions be treated as non executive functions and that the exercise of these functions be delegated to the Director of Community Protection.

Recommendations

1. The Committee recommends the Council determines that the functions under section 75 of the London Local Authorities Act 2007 are treated as non-executive functions for the purposes of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

2. The Committee recommends that the Council determines 7th January 2008 as the appointed day for the purposes of Section 1(5) of the London Local Authorities Act 2007 (being the day when Section 75 will come into force).
3. The Committee recommends the Council determines that the functions under section 75 of the London Local Authorities Act 2007 are delegated to the Director of Community Protection.

Committee report

Date:	24 October 2007
Classification:	For General Release
Title of Report:	Mail Forwarding Businesses Determination of the Appointed Day for the purposes of sections 3 and 75 of the London Local Authorities Act 2007 Delegation of functions to the Director of Community Protection
Report of:	The Director of Community Protection The Director of Legal & Administrative Services
Wards involved:	All
Policy context:	Crime & Disorder Strategies One City-Order Agenda Trading Standards Business Plan priority
Financial summary:	A one-off fee is charged per application to recover costs incurred as per section 75 of the London Local Authorities Act 2007. The fee income will be offset against the administration and enforcement costs. Therefore the impact is cost neutral.
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1 Background Information

- 1.1 The London Local Authorities Act 2007 received Royal Assent on 19 July 2007. It introduces new legal controls on mail forwarding businesses where none exist at present. The controls were lobbied for by Westminster City Council. 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.
- 1.2 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 Westminster are often prestigious and attract users both nationwide and internationally. There are estimated to be close to 140 mail forwarding businesses in Westminster and any one may have anything from fifty to several thousand clients. Clients are wide ranging from individuals through to limited companies.
- 1.3 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.
- 1.4 Westminster Trading Standards receive 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.
- 1.5 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 2002 Westminster Trading Standards 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. In 2005 the scheme was launched nationally by the Trading Standards Institute but few Authorities adopted it for a variety of reasons.

- 1.6 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.

2. Detail

- 2.1 If the Council resolves that section 75 is to be brought into force in Westminster, it will not be possible to carry on a mail forwarding business in Westminster unless it is registered with the City 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.
- 2.2 The types of identification considered by the Director of Community Protection to be relevant are listed in Annex 1. The services of a mail forwarding business are used by all groups of persons and the list has been compiled to reflect this. This list will be subject to periodic review and revision by the Director of Community Protection,
- 2.3 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.
- 2.4 The requirement to register and keep records does not apply to holders of licenses for postal services e.g. Royal Mail.
- 2.5 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.

- 2.6 A transitional period 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.
- 2.7 The appointed day has been set for the 7th January 2008 so as to allow sufficient time for the publication requirements in the London Local Authorities Act 2007 to be met.

3. Financial Implications

- 3.1 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.
- 3.2 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 140, and there are no known figures regarding the rate of new applicants entering the market place.
- 3.3 The cost of dealing with applications for registration has been calculated at £57 per application, the detailed breakdown of which is shown in Annex 2.
- 3.4 As these are estimated figures the Director of Community Protection is of the view that a fee of £57 per application is appropriate in the circumstances.
- 3.5 As per the Council's Financial Regulations, a review of this fee will be held annually to ensure that the fee remains in line with the full recovery of the costs associated with an application.
- 3.6 Given the anticipated number of registrations in 2007/08, 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.

4 Legal Implications

- 4.1 The legal implications are set out in the body of this report.
- 4.2 As the functions described in this report have been included in a Local Act it is necessary to decide whether the functions under section 75 of

the London Local Authorities Act 2007 are to be treated as executive or non executive functions for the purposes of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The Director of Legal Services has advised that in his view the functions should be regarded as non executive.

5. Staffing Implications

- 5.1 Enforcement of these provisions will be met from within current staffing levels.

6. Business Plan Implications

- 6.1 There are no additional implications that have not already been considered as part of the Business Plan.

7. Outstanding Issues

- 7.1 There are no outstanding issues.

8. Consultation

- 8.1 This is not ward specific. Cabinet members for Community Protection, Licensing and Finance have both been consulted.

9. Crime and Disorder Act 1998

- 9.1 Under section 17 of the Act a Local Authority has a duty “to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent crime and disorder in its area”. The implications of crime and disorder have been considered and this report has been drafted pursuant to the City Council's duty under section 17.

10. Health and Safety Issues

- 10.1 Health and safety is covered by existing departmental procedures.

11. Human Rights Act 1998

- 11.1 The London Local Authorities Act 2007 regulates mail forwarding businesses. It is not considered that there are any human rights implications arising out of any requirement for such businesses to register with a local authority or to keep proper records in accordance with the terms of this legislation.

12. Reason(s) for Decision(s)

- 12.1 The legislation was promoted by Westminster City Council to regulate mail forwarding businesses due to significant levels of complaints

received concerning rogue traders using the services of mail forwarding businesses in Westminster of which there are a high number relatively.

- 12.2 By adopting the provisions of the legislation the City Council ensures that the controls on mail forwarding businesses in its area are legislatively compliant.

If you have any queries about this report or wish to inspect one of the background papers please contact Vivien Levy up to 30 September on 020 7641 2506, between 1- 5 October Bethan Featherby on 020 7641 2589 and from 8 October Sue Jones on 020 7641 2721, fax 020 7641 1702, email vlevy@westminster.gov.uk or bfeatherby@westminster.gov.uk or sjones@westminster.gov.uk

Background papers.

None.

Annex 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

Annexe 2: Table showing estimated costs of Registration

Staff Member	Time (Hrs)	Staff Cost £	Overhead £	Total £
Technical Support Officer	1.16	25.71	0.65	26.36
Senior Trading Standards Officer	0.67	22.98	0.58	23.56
Principal Trading Standards Officer	0.17	6.75	0.17	6.92
Total	2.00	55.44	1.35	56.84

Note:

A notional overhead rate of 5% of the total expenditure budget has been applied to the effective hourly rate to incorporate costs such as telephone calls, printing, postage, CSI costs and general office running costs.