

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Regeneration and Sustainable Development Cabinet Board

27 October 2017

Report of the Head of Planning and Public Protection

N. Pearce

Matter for Decision

Wards Affected: All

Primary Authority Partnerships

Purpose of Report

1. To seek delegated authority for the Head of Planning and Public Protection to enter into Primary Authority Partnerships with businesses.

Executive Summary

2. This report details the nature of a Primary Authority Partnership arrangement which Neath Port Talbot County Borough Council would wish to pursue with new and existing local businesses and confirms the need for delegated authority for the Head of Planning and Public Protection to enter into such Primary Authority Partnerships.

Background

3. The Environmental Health & Trading Standards department currently supports a number of local businesses that trade across council boundaries. This is done by providing regulatory advice to the business and liaising with other local authorities that approach it.

These voluntary partnerships are valued by businesses and provide an important service for the regulatory community by

enabling local authorities to co-ordinate their efforts. However, the following limitations apply to these partnerships:

- There are increased pressures on the department to fulfil their statutory enforcement obligations under increasingly complex legislation with fewer resources.
- Business may wish for a higher level of input than the local authority is currently able to resource.
- Businesses may lack confidence to rely on advice provided by this local authority because there is no requirement for other local authorities to respect the advice.
- Businesses may feel frustrated that the effort that they put into working with this local authority to improve their compliance is not recognised by other local authorities.
- There is no dispute resolution mechanism should local authorities disagree over interpretation of legal requirements, leaving the business in a difficult position.
- There is limited infrastructure to support voluntary partnerships and other local authorities may not be able to easily identify that an active partnership is in existence.

The **Primary Authority** scheme is designed to overcome many of these issues. It was established by the Regulatory Enforcement and Sanctions Act 2008 (“the 2008 Act”), and it allows businesses to form a partnership with a single local authority.

The scheme allows businesses to access assured advice on compliance, that must be respected by local authorities, thus addressing business concerns about consistency and giving them confidence. It also allows for the co-ordination of proactive inspection activities, thereby improving the effectiveness of local activities and reducing duplication of effort. The scheme supports local authorities in delivering protection for their citizens, workers and the environment.

Primary Authority is a key element of the Government’s commitment to improve the delivery of regulation in line with the statutory principles of good regulation. These principles are that

regulation should be transparent, accountable, proportionate, consistent, and targeted.

Primary Authority is the responsibility of the Secretary of State for Business, Innovation and Skills, with Regulatory Delivery (RD) operating the scheme on behalf of the Secretary of State. A partnership between a local authority and a business, once it has been nominated by the Secretary of State, has a statutory basis.

A local authority that offers a Primary Authority partnership to businesses is demonstrating its willingness to work constructively with business to improve compliance. It is also taking on responsibility for leading and shaping the regulation of a single business or a group of businesses. This is done by providing tailored, assured regulatory advice and by guiding the way that other local authorities regulate the business or businesses so that it is both effective and efficient, including through the sharing of compliance information.

Primary Authority represents an important support service to locally based business. The Environmental Health & Trading Standards department has a commitment to support local businesses both as part of the national service and as part of Neath Port Talbot County Borough Council in its own right.

Supporting businesses is part of the authority's regeneration strategy, providing businesses with a place to grow and prosper and making Neath Port Talbot a better place to live. By providing access to the Primary Authority scheme, the Environmental Health & Trading Standards department will be offering a clearly defined commitment to business that quality regulatory support will be available and the advice given will be adhered to by Environmental Health & Trading Standards departments across England & Wales. This support, and the confidence that it brings to businesses, will encourage other businesses to set up within Neath Port Talbot. Other Welsh authorities have already embarked on Primary Authority partnerships, most notably Shared Regulatory Services (The merged Environmental Health, Trading Standards & Licensing departments of Cardiff, Bridgend and The Vale Of Glamorgan).

This Council has an obligation under the Regulators Compliance Code to provide businesses with advice and guidance about their

legal obligations in respect of environmental health, trading standards, fire safety and licensing legislation. Where businesses require additional advice and support services under Primary Authority the 2008 Act enables the Council to recover the costs associated in providing these services from the business. This will allow greater impact to be achieved from the existing resources deployed in providing support to business on regulatory issues.

Primary Authority is administered by RD. Standard terms and conditions for partnerships, made available by RD, mitigate the risks for participating local authorities to the minimum allowable in law. These standard terms and conditions will be placed in a Primary Authority Agreement which both the Council and the organisation will sign up to.

4. Matters For Consideration

The Council has already been approached to create a partnership with a local solar panel installer. The firm are keen to take advantage of the security, consistency and commitment of support that Primary Authority can bring.

If this report is approved, and once this partnership is firmly established, the department will look to expand to include other businesses based within Neath Port Talbot. Should locally based businesses wish to form a partnership in the meantime these will be considered on a case by case basis.

The Neath Port Talbot area has no large scale business based within its borders, but there are a number of food producers, retailers and service providers that serve the South Wales region. The department will liaise with the Economic Development department to disseminate the advantages of the Primary Authority scheme. Businesses will be considered on their level of compliance (both good and bad) and the trade sector in which they operate.

Currently, not all businesses will be eligible for the Primary Authority scheme. The Government has recently demonstrated its commitment to Primary Authority by extending the scheme to new areas of regulation, and enabling more businesses to participate. although the scheme will become more inclusive particularly for

smaller businesses and those that operate within a single authority from October 2017.

Existing support arrangements will continue, but these are currently under review and will be the subject of a separate report.

The service will be delivered on a cost recovery basis. The partnership agreement may specify delivery of advice on an ad hoc basis as and when required, or a minimum amount of time delivered through the year. Dependent on the business this may also mean an upfront charge. However, it is suggested that is dealt with on a case by case basis, to fit in with the businesses needs and resources.

Financial Impact

5. No significant adverse financial impact- the initial set-up costs are primarily associated with establishing the partnerships, but these are recoverable and will be dependent on the nature of the business.

Equality Impact Assessment

6. A Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this proposal does not require an Equalities Impact Assessment.

Workforce Impact

7. No significant impact on current workforce. Specific officers and deputies will be delegated to act as contacts with partners and will incorporate these duties into their current work activities, in accordance with existing Job Evaluation responsibilities.

Legal Impact

8. The Primary Authority scheme was established by the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act"), and it allows businesses to form a partnership with a single local authority. As indicated above, Primary Authority is administered by RD. Standard terms and conditions for partnerships, made

available by RD, mitigate the risks for participating local authorities to the minimum allowable in law. These standard terms and conditions will be placed in a Primary Authority Agreement which both the Council and the organisation will sign up to. There is potential for conflicts with other enforcement agencies over disagreements on the advice delivered.

Risk Management

9. None

Consultation

10. There is no requirement under the Constitution for external consultation on this item.

Recommendation(s)

11. It is recommended that

- (a) the Head of Planning and Public Protection be granted delegated authority to enter into any Primary Authority arrangements with organisations that meet the necessary criteria for entering such arrangements.
- (b) the Head of Planning and Public Protection be designated to be the representative of this Council for the purposes of the Primary Authority arrangement and to carry out on behalf of the Council all the delegated powers of such a Representative, and further delegates to Head of Planning and Public Protection the power to appoint an alternate or deputy for the purposes of the Primary Authority arrangement.

Reason for Proposed Decision(s)

12. An opportunity exists to provide assured advice, promote consistency and to encourage business confidence within Neath Port Talbot, whilst also accessing a means of cost recovery for time spent with the business by the Environmental Health & Trading Standards Department

Implementation of Decision

13. The decision is proposed for implementation after the three day call in period.

Appendices

14. [Appendix 1 : Primary Authority & Growth](#) (Hyperlink)
15. [Appendix 2 : Primary Authority Changes 2017 : Unlocking the Potential](#) (Hyperlink)

List of Background Papers

16. None

Officer Contact

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