

**FIGHTING FUND:**

Advisory Panel Terms of  
Reference

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## **Advisory Panel Terms of Reference**

### **Purpose of the Fighting Fund**

1. The main purpose of the Fighting Fund is to support Local Authority Trading Standards Services in tackling rogue traders and consumer targeted scams through prospective or ongoing enforcement activity such as investigations, prosecutions or civil proceedings of national or regional importance (which could include appeals) or for innovative enforcement activity. We are looking to support exceptional cases which rank strongly against the published criteria and have high Added Value.

### **Role of the Advisory Panel**

2. The role of the Advisory Panel is to:
  - i. Consider applications from Local Authority Trading Standards Services for support from the Fighting Fund;
  - ii. Assess the applications against the agreed criteria having regard to the Fighting Fund : Guidance for Local Authority Trading Standards Services and the model Form of Agreement;
  - iii. Agree which applications should be funded, and in each case, the amount of funding to be provided and the proportion to be paid by the Local Authority back into the Fighting Fund from any proceeds it receives from the Asset Recovery Incentivisation Scheme under the Proceeds of Crime Act 2002 (or from any similar incentivisation scheme);
  - iv. Make recommendations to the Director of Consumer and Competition Policy or a Deputy Director in the Consumer and Competition Policy Directorate, in the Department for Business, Innovation and Skills (BIS) for final decision, on behalf of the Secretary of State as to which applications meet the criteria and merit support from the Fighting Fund.
3. The Advisory Panel will need to prioritise the applications and ensure that support is kept within the Fund limit and make recommendations accordingly. However, if there are insufficient cases that strongly meet the criteria, the funds may not all be spent.
4. For those applications that the Advisory Panel recommends that BIS supports, the Advisory Panel should also make recommendations to BIS regarding the amount funding to be provided and the proportion to be paid by the Local Authority back into the Fighting Fund from any proceeds it receives from the Asset Recovery Incentivisation Scheme under the Proceeds of Crime Act 2002 (or from any similar incentivisation scheme).
5. Advisory Panel members will not be required to contact or deal with Local Authorities themselves or take any actions on behalf of BIS, but will simply give advice to BIS.

### **Composition of the Advisory Panel**

6. The Advisory Panel shall compose senior representatives of the following organisations:
  - i. Consumer Focus
  - ii. Independent Trading Standards consultant;

- iii. Local Better Regulation Office (LBRO);
  - iv. Trading Standards Institute (TSI);
  - v. Office of Fair Trading (OFT);
  - vi. Department for Communities and Local Government (CLG);
  - vii. Department for Business, Innovation and Skills
  - viii. The Scottish and Welsh Assembly Governments as necessary; and
  - ix. Intellectual Property Office (IPO) as necessary.
7. In this capacity, Advisory Panel members will act on behalf of and advise BIS, rather than on behalf of the organisations at which they are based.
  8. Members of the Advisory Panel must inform BIS without delay if there is any actual or potential conflict of interest which could affect your objectivity and independence as a member of the Advisory Panel. Members must also provide reasonable details of any such actual or potential conflict. In this context Advisory Panel members should consider their interests in their private capacity as well as any interests of the respective organisations at which they are based. They must also withdraw from the Advisory Panel for those meetings, or parts of meetings, where the issue, which is the subject of the actual or potential conflict of interest, is discussed.
  9. If all Advisory Panel members cannot attend a meeting, a quorum of 5 members is required in order to make recommendations to BIS on the applications received. If the Advisory Panel is considering applications that include a specific Scottish or Welsh element representatives of the Scottish and Welsh Governments must be represented at those meetings. A representative of the Intellectual Property Office will attend those meetings where the Advisory Panel is considering applications that, in the opinion of the BIS secretariat, include a specific intellectual property element. However, the attendance of a representative of the Intellectual Property Office is not necessary for a quorum, including where such applications are being considered.
  10. Advisory Panel members will be asked to appoint a chair and deputy. A quorum requires either the Chair or deputy to be in attendance at meetings.

### **Meetings of the Advisory Panel**

11. The Advisory Panel members agree to initially sit on the Advisory Panel from April 2010 to end March 2012 (the initial period for which the Fighting Fund has been agreed). However, BIS reserves the right to remove and replace Advisory Panel members during the appointment period if it wishes, upon giving 1 month's notice. Advisory Panel members may also resign during the initial period, provided that they provide 1 month's notice of their intention to resign from the Advisory Panel and suggest a replacement.
12. Meetings will normally be held twice a year, (and no more than 4 times a year), but there may be a need for the Advisory Panel to assess cases outside of these times. Initially, meetings will be held at BIS offices, but telephone conferencing for future meetings and the assessment of applications through email correspondence will be trialled.
13. The Advisory Panel will meet approximately 4 weeks after the call for bids from BIS, which occur in April and January. Further calls for bids from BIS will occur in June and September. We will look to assess these and any other urgent applications through email correspondence.

14. The Advisory Panel will be asked to make recommendations to BIS within 2 weeks of their meeting.

### **Administration**

15. The BIS secretariat is responsible for:

- i. Collating Local Authority bids received for the Advisory Panel,
- ii. Setting the dates and agenda for Advisory Panel meetings,
- iii. Drafting a summary of the Advisory Panel's recommendations, which must be agreed by the Chair or Deputy of the Advisory Panel for decision by the Director of Consumer and Competition Policy,
- iv. Advising local authorities of the outcome of their bids within 2 weeks of receiving the Advisory Panel's recommendations.

16. Agendas for Advisory Panel meetings and accompanying documents will be sent out by the BIS secretariat at least 1 week before a meeting.

17. In most cases, the information circulated to Advisory Panel members will be anonymised, i.e. it will not identify any trader or other person against whom a Local Authority is taking or contemplating action. In addition, there may be legal or other reasons based on which BIS decides, in a particular case, not to circulate an application or other information to a particular Advisory Panel member or to request a particular member not to attend a particular meeting. This may occur if, for example, BIS has been informed, or otherwise considers, that an Advisory Panel member may have an actual or potential conflict of interest.

### **Monitoring and Evaluation**

18. From the end of the initial period of funding to a period of not more than three months after 31 March 2012, the Advisory Panel Members will be asked to contribute to the project evaluation. The evaluation will help determine whether the Fund should continue and whether the Advisory Panel should continue in this or a different form.

