

## The Highland Council

### Planning, Development and Infrastructure Committee 4 November 2015

Agenda Item	12
Report No	PDI 67/15

#### Trading Standards Annual Performance Review 2014/15

#### Report by Director of Development and Infrastructure

##### Summary

This report provides Members the opportunity to review the work of Trading Standards during 2014/15. The production and reporting to committee for approval is a commitment under the Development and Infrastructure Service Plan (ref. OSR.9). The opportunity has also been taken to include within the body of the report to update members on some current developments affecting Trading Standards.

## 1. Background

- 1.1 As set out in the Development and Infrastructure Service Plan, the primary function of the Trading Standards team is to fulfil the Council's statutory duties under numerous pieces of consumer protection and trading standards legislation to ensure that trade in the Highlands is carried out in accordance with relevant statutory requirements and in so doing to protect the safety and economic interests of consumers and businesses.
- 1.2 Performance against the annual Operational Plan agreed by Committee is measured by way of an annual performance review document.
- 1.3 In addition to satisfying service plan commitments, the review document provides the link between Trading Standards regulatory and advisory activities during 2014/15; Scottish Government and Highland Council agreed outcomes, along with the Council's statutory duties.

## 2. Performance and Other Indicators

- 2.1 Effectively measuring the performance of any regulatory body does not easily lend itself to the use of quantitative numerical indicators, with the few remaining performance indicators still reported, failing to measure any tangible outcomes, or the overall impact, community and commercial benefits of the work Trading Standards does.
- 2.2 Despite the absence of any meaningful performance indicators for Trading Standards services being identified by Audit Scotland in their "Protecting Consumers" report, which was the subject of a separate report to the TECS Committee in May 2013 various attempts to address this gap, including the COSLA led Strategic Review of Trading Standards have yet to deliver.
- 2.3 Until such time that the output from the strategic review can be agreed and implemented, the annual performance review document is believed to provide members with the best possible overview of the projects, initiatives, case work

and where reasonable to do so the outcomes and impacts that can be attributed to the work undertaken, asking that this is assessed against the 2014/15 Operational Plan<sup>1</sup> that was approved by Planning, Development and Infrastructure Committee in May 2014.

- 2.4 Some use of indicators is however made within the annual review document, not to represent classic quantitative performance, but to provide an indication of workload; what is going on in the external commercial and community environment; to support the decisions that have been made in prioritising our work; and to understand how what has been done relates to the outcomes that we strive to achieve. For ease of reference many of these indicators in addition to appearing within the body of the document have also been tabulated separately in a section at the end.

### **3. Annual Performance Review 2014/15**

- 3.1 The Annual Performance Review document is available online at the following link [Trading Standards Annual Performance Review 2014/15<sup>2</sup>](#). A number of hard copies are also available in the Members' Lounge.

### **4 Current Developments affecting Trading Standards**

- 4.1 Although not wholly contained within the financial year 14/15 that is the subject of the review document, it is thought that members should be aware of current developments, both at a Scottish and UK level, that will inevitably impact on future Trading Standards service provision, with a clear direction of travel from all the following reviews being likely to be known before the end of 2015.

#### **4.2 COSLA Strategic Review of Trading Standards**

- 4.2.1 A strategic review of trading standards services in Scotland, reporting to the COSLA Community Wellbeing Executive Group is currently being taken forward through an officer group chaired by a member of SOLACE.

- 4.2.2 This move arose following the concerns around the delay in implementing some of the recommendations from the 2013 Audit Scotland "Protecting Consumers" report<sup>1</sup>. The officer group which met for the first time at the end of April and again in September includes representatives from Citizens Advice Scotland, BIS, Scottish Government, SCOTSS including Highland Council's Trading Standards Manager, the Chartered Trading Standards Institute, Federation of Small Businesses, Trading Standards Scotland and COSLA.

- 4.2.3 It is anticipated that a report and recommendations from the group's next meeting in November will be put to the COSLA Executive Group before the end of 2015.

#### **4.3 Scottish Government Working Group on Consumer & Competition Policy**

- 4.3.1 Scottish Government has formed a short-life Working Group to consider optimal arrangements for delivering consumer and competition services in Scotland.

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<sup>1</sup> [http://www.highland.gov.uk/download/meetings/id/65230/item\\_17\\_trading\\_standards\\_2014-15\\_operational\\_plan](http://www.highland.gov.uk/download/meetings/id/65230/item_17_trading_standards_2014-15_operational_plan)

<sup>2</sup> [http://www.highland.gov.uk/downloads/file/3029/trading\\_standards\\_annual\\_performance\\_review](http://www.highland.gov.uk/downloads/file/3029/trading_standards_annual_performance_review)

- 4.3.2 To support the working group, five expert panels have been created to bring together leading professionals in their fields of consumer protection and competition policy, and to ensure their expertise is harnessed and fed directly into the Consumer and Competition Policy working group.
- 4.3.3 Two of the five expert panels, i.e. “Enforcement” and “Advice” have particular relevance to council Trading Standards services, with the Working Group’s recommendations, especially in the light of the other ongoing reviews and outstanding Audit Scotland concerns, likely to impact on future service provision.
- 4.3.4 The working group is expected to report to the minister in mid-October, with a response from the minister expected in November.
- 4.4 UK Government Department of Business, Development and Skills Review
- 4.4.1 In July 2015, the Government launched a Productivity Plan, “Fixing the foundations: Creating a more prosperous nation”. Included in the plan there is a commitment to:  
*“Review Trading Standards to ensure that consumer enforcement capability effectively supports competition and better regulation objectives”.*
- 4.4.2 The review will be led jointly by the UK government’s Consumer and Competition Directorate and the Better Regulation Delivery Office (BRDO) on behalf of BIS.
- 4.4.3 A review team has now been formed and the objectives for the review include:
- (a) establish what Trading Standards departments are expected to deliver on behalf of Government; and
  - (b) establish the extent to which Trading Standards services demonstrate transparency and accountability regarding the services they deliver.
- 4.4.4 An intensive period of stakeholder consultation will take place and the review team will be making recommendations to Ministers in autumn 2015.
- 4.5 Food Standards Scotland review of delivery of Official Controls (Feed)
- 4.5.1 Official Controls (Feed) is essentially the mechanism through which EU member states regulate the quality and safety of animal feedstuffs.
- 4.5.2 In 2012, partly as a result of matters raised by Highland Council’s Trading Standards service, the then Food Standards Agency (Scotland) now reconstituted as Food Standards Scotland (FSS) began to express concerns about the future viability of the existing delivery of these Official Controls through 32 individual Council Trading Standards services. These views were reinforced by the findings of the European Commission Food and Veterinary Office (FVO) and both the Scottish Government and latterly the FSS began to examine alternative delivery options.
- 4.5.3 The options considered through discussions at officer level between the FSS and the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) have included central delivery by FSS and a lead authority/ shared service

model similar to what has been put in place in England and Wales.

- 4.5.4 The agreement of any new delivery model, which clearly has resource implications, the worst case scenario being the redirection of funds from local authorities to the FSS, has been left with the FSS to pursue with local authorities, COSLA and the Scottish Government. Due to the threat of infraction proceedings being brought on the UK government by the EC the FSS is now seeking a conclusion on future delivery by December 2015, for implementation if necessary through new legislation, by April 2017 at the latest.

## 5. Implications

- 5.1 There are no legal, equality, climate change/Carbon Clever, risk, resource, rural, or Gaelic implications arising as a direct result of this report.

### Recommendation

The Members are asked to:

- approve the Trading Standards Annual Performance Review 2014/15; and
- note the current developments affecting Trading Standards.

Designation: Director of Development and Infrastructure

Date: 15 October 2015

Author: Gordon Robb, Trading Standards Manager

Background Papers:

1. Audit Scotland in their "Protecting Consumers" report<sup>3</sup>
2. TECS Committee Report May 2013<sup>4</sup>

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<sup>3</sup> [http://www.audit-scotland.gov.uk/docs/local/2013/nr\\_130131\\_protecting\\_consumers.pdf](http://www.audit-scotland.gov.uk/docs/local/2013/nr_130131_protecting_consumers.pdf)

<sup>4</sup> <http://www.highland.gov.uk/download/meetings/id/23576/item12tec4513pdf>