

The Highland Council
Planning Development and Infrastructure Committee
17 February 2016

Agenda Item	13
Report No	PDI 11/16

Review of Trading Standards Services – Update and Implications

Report by Director of Development and Infrastructure

Summary

This report provides an overview of recent and ongoing reviews by CoSLA, and both the Scottish and UK Governments, of Trading Standards' service provision, and provides an opportunity for members to consider, and take a view on, some of the potential implications for future service provision in Highland.

The Committee is asked to:

- note the detail and progress of the various reviews;
- consider the potential implications of the reviews on Trading Standards service provision in Highland;
- consider how best to ensure future Trading Standards service provision satisfies the needs of Highland communities and businesses; and
- agree that the needs of Highland Councils consumers and businesses are best addressed by:
 - maintaining effective operational trading standards capacity and capability in our more remote rural communities;
 - ensuring that specific consumer issues and business needs are addressed in the development of any future service delivery solution, the setting of service standards and priorities; and
 - seeking engagement with neighbouring authorities on future service delivery goals and potential service sharing opportunities.

1. Background

- 1.1 In response to members' comments to references made in the "Trading Standards Annual Performance Review 2014/15" report made to PDI Committee in November 2015, it was seen as important to ensure members were fully informed about the reviews being conducted and given the opportunity to consider and take a view on how best to ensure that future Trading Standards service provision satisfies the needs of Highland communities and businesses.

2. The Reviews

- 2.1 Consumer and Competition Policy Working Group
- 2.1.1 The Report of the Working Group on Consumer and Competition Policy for Scotland was published November 2015¹

- 2.1.2 This independent, short life Working Group was set up to consider optimal arrangements for delivering consumer protection and competition policy in Scotland, and was established by the Scottish Government.
- 2.1.3 The main recommendation made by the Working Group is that the Scottish Government should create a unified, statutory consumer body called Consumer Scotland, accountable directly to the Scottish Parliament that would be independent from both political and commercial influence.
- 2.1.4 The primary impact on local authority trading standards services from the working group recommendations are considered to be that;

Consumer Scotland:

- has the statutory powers to deal with a situation where a Trading Standards service is deemed to be performing unsatisfactorily;
 - is able to facilitate the changes required on enforcement delivery to ensure that Trading Standards services have the necessary capacity and expertise;
 - provides effective co-ordination across Trading Standards services;
 - addresses current problems relating to succession planning in an ageing profession and lack of training opportunities within the Trading Standards service;
 - has responsibility for setting national enforcement priorities - from which national enforcement standards should flow; and
 - should approve an annual operating plan, following consultation with key stakeholders, and which strikes a balance between local and national priorities.
- 2.1.5 The Trading Standards profession has been largely supportive of these recommendations, many of which attempt to address the same issues raised by Audit Scotland in their 2013 “Protecting Consumers” report. The recommendation highlighted at point (b) above is however seen as being the most relevant to this report, as it is considered very unlikely at a time of diminishing local authority resources that this recommendation could be addressed other than by the linking of Trading Standards services across neighbouring local authorities and moving towards some regional delivery structure.
- 2.1.6 The Scottish Government’s response to the working group recommendations was scheduled for 19 January 2016. This has now however been postponed, potentially it is understood until after the Scottish Parliamentary elections in May 2016.

2.2 COSLA Trading Standards Strategic Review Group

- 2.2.1 The Trading Standards Strategic Review Group, chaired by SOLACE, was established by CoSLA in June 2015 to take forward the review of trading standards services in Scotland, in response to the Audit Scotland – Protecting Consumers report of January 2013.
- 2.2.2 The review was originally proposed to be conducted in 3 stages, i.e. Phase 1 – the evaluation of trading standards activity and the views of stakeholders to inform the redesign process; Phase 2 – the planning stage, drilling down further into the options presented in Phase 1; and finally, Phase 3 – implementation. Effectively, however, phases 1 and 2 have been merged into a single phase, and what is proposed by the chair as being the final meeting of the review group, is now

scheduled for mid-February 2016, with a final report to CoSLA soon after.

2.2.3 Although four potential models for future service delivery are under consideration, there is a consensus amongst group members that some element of regional delivery, for at least some Trading Standards functions, will be needed; a view, which coincides with the expressed view of the Trading Standards profession in Scotland and the UK (see **appendix 1** attached).

2.2.4 Subject to the decision reached by Council Leaders at CoSLA, it is anticipated that any implementation of the review group's recommendations will be taken forward through the relevant CoSLA Executive Group and possibly SOLACE.

2.3 UK Government Review of Trading Standards

2.3.1 In July 2015, the UK Government launched a Productivity Plan, "Fixing the foundations: Creating a more prosperous nation"ⁱⁱⁱ. The plan sets out Government's vision for driving growth and raising living standards.

2.3.2 Within this plan there is a commitment to:
"review Trading Standards to ensure that consumer enforcement capability effectively supports competition and better regulation objectives".

2.3.3 The review will be led jointly by the Consumer and Competition Directorate and the Better Regulation Delivery Office (BRDO) on behalf of BIS, and the following objectives for the review have been set:

- establish what Trading Standards departments are expected to deliver on behalf of Government;
- establish the extent to which Trading Standards services demonstrate transparency and accountability regarding the services they deliver;
- establish by what means central Government influences outcomes;
- consider whether Local Authority Trading Standards Services remain the appropriate mechanism for delivering some or all of the enforcement responsibilities bestowed on Trading Standards;
- consider how Trading Standards can support the deregulation agenda taking into account the reduction in local capacity;
- consider the ways central government could reduce the enforcement burden; and
- consider other efficiencies that could be made.

2.3.4 Stakeholder engagement activity was undertaken by the BRDO during the late summer of 2015, involving CoSLA, SCOTSS (Society of Chief Officers of Trading Standards in Scotland) and CTSI (Chartered Trading Standards Institute), with an interim outcome report scheduled for November 2015, but disappointingly this is yet to be published.

2.4 "The Impact of Local Authority Trading Standards in Challenging Times"
This study by Birmingham University commissioned by The UK Government's Department for Business, Innovation and Skills and The Trading Standards Instituteⁱⁱⁱ, predated the UK government review referred to in point 2.3 above and is understood to have been influential in its establishing.

2.4.1 The stated objectives of the study were to:

- to paint a clearer picture of the benefits that trading standards work contributes to local and national priorities and its benefits to the public purse;
- to develop a logic model of trading standards processes;
- to develop case studies that describe and estimate the benefits of trading standards services;
- to build an evidence base on the impact of budget cuts to local trading standards services in recent years;
- to test the efficiency and effectiveness of trading standards services across England, Scotland and Wales; and
- to identify any current or potential future enforcement gaps.

2.4.2 For the purposes of this report objective number 5 is considered to be the most relevant and the report's recommendation on this point was that:

(a) "Local authority trading standards departments should give careful consideration to the advantages and disadvantages of different organisational models for the future of trading standards provision, including shared service arrangements with neighbours, working in wider regional groupings for certain specialist functions, with private sector service providers, or buying in services from other councils/agencies, and other funding options such as making joint appointments and secondments with other agencies.

(b) Whatever the favoured model, priority should be given to ensuring that governance arrangements are such as to engage councillors as actively as possible, both in determining the priorities for trading standards and in overseeing their realisation."

3. Conclusions

3.1 There are a number of common themes across all these reviews, the first being the importance for both consumer and business interests that an effective trading standards service is in place; the second, that the status quo is not an option; and the third, that there is a need to examine how the very limited resources available can best be re-organised, almost inevitably meaning some sharing of services, in order to ensure an effective trading standards service will continue to be delivered.

3.2 Accepting, for the purposes of this report, that the above conclusions are correct, then the question for committee is what implications would the regionalisation of all or part of the Trading Standards service have on Highland Council, its consumers and businesses.

3.2.1 The greatest risk is that a reduced level of service is available to Highland consumers and businesses as a result of the limited resources available to Trading Standards through amalgamation with neighbouring Councils. There is also a risk that a central body such as Consumer Scotland could influence the migration of trading standards resources towards the large population centres in central Scotland.

3.2.2 To counter this it should perhaps be recognised that acting alone, Highland Council's Trading Standards service cannot ensure our consumers and businesses

can be protected. Trade is not restricted by council or national boundaries and the protection of consumers and business requires there be a strong, effective regulatory service across the UK. A weak service in other authority areas can, and does, therefore have a negative impact on us.

- 3.2.3 There has been a general decline in Trading Standards capacity and capability across the UK, not through any lack of morale or motivation, but simply through fewer officers on the ground. The risks for Highland consumers and businesses associated with acting too late, or not at all, are considered to far outweigh the risks from regionalisation or centralisation.
- 3.2.4 There is a clear need to ensure that the case is made for operational trading standards capacity and capability, remaining in more remote rural communities, which often share consumer issues and business needs.
- 3.2.5 Shared services proposals for trading standards services have to date been unsuccessful, and only one exists between Scottish Authorities (Stirling and Clackmannanshire). However it will now be necessary to revisit this approach and to seek engagement with neighbouring authorities to address the risks identified.

4. Implications

4.1 Resource and Rural

The issues discussed in the report will only become apparent on further details becoming known of how any review recommendations are to be implemented.

4.2 Climate Change/Carbon Clever, Legal, Risk, Gaelic and Equality

There are no Climate change/Carbon Clever, legal, risk, Gaelic or equality implications arising from this report.

Recommendation

The Committee is invited to:

- note the detail and progress of the various reviews;
- consider the potential implications of the reviews on Trading Standards service provision in Highland;
- consider how best to ensure future Trading Standards provision satisfies the needs of Highland communities and businesses; and
- agree that the needs of Highland Councils consumers and businesses are best addressed by:
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 - seeking engagement with neighbouring authorities on future service delivery goals and potential service sharing opportunities.

Designation: Director of Development and Infrastructure

Date: 28 January 2016

Author: Gordon Robb, Trading Standards Manager

Background Papers:

ⁱ Report of the Working Group on Consumer and Competition Policy for Scotland

<http://www.gov.scot/Publications/2015/11/4010>

ⁱⁱ UK Government launched a Productivity Plan

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443898/Productivity_Plan_web.pdf

ⁱⁱⁱ Impact of Local Authority Trading Standards in Challenging Times

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/420218/bis-15-139-the-impact-of-local-authority-trading-standards-in-challenging-times-r2.pdf

^{iv} Joint Statement on the state of Trading Standards in 2015 (see attached)



Joint statement on the state of trading standards in 2015

The significant attention focused on trading standards services across the UK by local and central government has created a debate among professionals about the future of the service. Often this debate has focused on areas of disagreement rather than the significant amount of consensus that exists within the profession.

In order to inform the current local and central government reviews of trading standards, heads of service across the UK have worked together with the Chartered Trading Standards Institute to establish an agreed position on the current state of trading standards and identified areas of concern.

1. In the current system, different levels of resources lead to different levels of protection for consumers and businesses across the country – it is not a level playing field.
2. Failure of enforcement in one geographical area has an impact in other geographical areas and can lead to problems.
3. There are a number of major central government policy areas (for example pricing) that get very little attention from local authority trading standards services.
4. A significant further cut to trading standards services will result in some unsustainable services and the system cannot bear this cut. Radical reform is required to ensure a sustainable system of consumer protection.
5. Although managerial skills and support services across local authority regulatory services are in the main similar, as individuals increasingly prioritise work and greater focus is given to higher risk work, operational officers require an increasing level of specialist professional skills in addition to generic skills.
6. The system in the UK must have the collective capacity and capability (including geographic spread) to deal with major issues and priorities.
7. Trading standards delivers at local, regional and national levels and each of these requires an appropriate governance mechanism.
8. There should be a transparent and effective method for funding local delivery of national priorities.
9. We would support the development of an appropriate performance framework for local, regional and national priorities.
10. We would support a fundamental review of trading standards in the UK.

Chartered Trading Standards Institute (CTSI)
 Association of Chief Trading Standards Officers (ACTSO)
 Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
 Welsh Heads of Trading Standards (WHOTS)
 Northern Ireland Trading Standards

23 October 2015