

**AUDIT SCOTLAND'S "PROTECTING CONSUMERS" REPORT :  
THE SERVICE RESPONSE**

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**1. PURPOSE**

- 1.1** This Report advises Members of the Planning, Protective Services & Licensing Committee of the Audit Scotland report, "Protecting Consumers", which reviewed arrangements for the delivery of trading standards and food safety services across Scotland. The report makes a range of conclusions for further action, and expresses serious concerns at the future of trading standards unless actions are taken at a national level.
- 1.2** The report provides an oversight of the Audit Scotland report and proposes an action plan at a local and national level to address their concerns. Many of these are at a national level where officers, including elected members, will have the opportunity to participate through professional bodies including COSLA, although there are actions proposed by the service

**2. RECOMMENDATIONS**

- 2.1** That Members note the significance of the Audit Scotland "Protecting Consumers" report to Regulatory Services as it relates to trading standards and food safety services; to consumers and agree to endorse the Action Plan.
- 2.2** That the Committee considers the recommendations in 4.4 (viii) relating to providing Members with a greater understanding of trading standards, food safety and other services designed to protect consumers the service profile with elected Members, and agree the steps to be taken in 2013-14.
- 2.3** The Members request a progress report to the PPSL Committee from the Regulatory Services Manager within an agreed timescale

**3. BACKGROUND**

- 3.1** The report of Audit Scotland, "Protecting Consumers", published on 31 January 2013, reports on their work to assess the arrangements within local authorities to protect consumers within the disciplines of trading standards and also food safety. This report is available from the link, ([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)) and was based on data provided from all Scottish Local Authorities.

- 3.2** The key outcome for Regulatory Services is to protect the public, including consumers, and the report considered the effectiveness of Council arrangements in the main activities of trading standards, and the food safety work of environmental health. The areas considered included costs; risks; promotion of activities, partnership arrangements with the aim of protecting consumers. The report indicates that consumers depend on Councils to have effective food safety and trading standards services. It does not consider the advice services provided by national and local advice agencies, including Citizens Advice Consumer Service Scotland, which also supports this work.
- 3.3** The findings of the report are **at a national level**, although there are comparisons made across Local Authorities in certain areas. The key findings are :-
- (a) The long-term viability of trading standards is under threat and urgent action is required to strengthen the protection of consumers. These services generally have a low profile amongst elected Members and senior management, and have experienced greater than average reductions in staff over the last 4 years of 15%, compared to the reduction in Local Government of 10%. The trading standards budget across Scotland is £21 million (0.2% of overall Local Authority budget) compared to £18.5 million stated in the 2002 Audit Scotland report "Made to Measure".
  - (b) Food safety services have been reduced by 9%, and in line with the national 10% reduction.
  - (c) There are concerns about the loss of experience and expertise, and too few training places, in both these services, at a time when consumer issues are increasing with the Internet/on-line shopping and the reducing finances of businesses and consumers in the current financial regime.
  - (d) Councils are targeting resources at the highest risk areas and reducing their work on lower risk activities using local and national intelligence and standards. The report recognises that trading standards services have less of a focus on risk, and there are inconsistencies in service delivery. In food safety this is less of an issue, with the national standards contained in the Food Standards Agency's Framework Agreement.
  - (e) One third of all consumers do not know where to go to access help and assistance. Many Local Authorities (including Argyll & Bute) have a partnership agreement with the Citizens Advice Consumer Service for first stage civil law advice. Argyll and Bute Council are one of six authorities across Scotland who do not provide an intervention service for second stage advice (where the informal initial advice provided is unsuccessful).

- (f) The Food Standards Agency (FSA) for Scotland audits Councils' food safety services against an agreed Framework which provides a national standard with a reporting framework. The same is not true for trading standards, leading to inconsistencies and difficulties benchmarking or monitoring performance.

**3.4** The recommendations in the report can be summarised as follows :-

(a) Councils should

- (i) work with the FSA to develop a workforce strategy to sustain an effective food safety service in 5 – 10 years, and take action to address shortfalls.
- (ii) have access to, and make use of, intelligence to support local, regional and national work and priorities
- (iii) develop a clear direction for the future of consumer protection services and ensure they are allocating resources effectively and appropriately reflecting risks, national and local priorities and the needs of consumers.
- (iv) ensure work in low risk areas is sufficient to protect them from becoming more serious risks.
- (v) monitor and manage performance, benchmark work and performance reporting to elected Members, senior management and the public.

(b) COSLA and Councils should

- (i) work together to ensure strong national co-ordination for trading standards in Scotland.
- (ii) develop national arrangements for national co-ordinating and explore a full range of options for redesigning trading standards services
- (iii) liaise with Scottish Government on the future of trading standards, as appropriate
- (iv) develop a workforce strategy to sustain an effective trading standards service over the next 5 – 10 years.
- (v) ensure Councillors are fully informed and supported to make decisions about the future of services to protect consumers, and
- (vi) work with Citizens Advice Consumer Service Scotland and others to increase awareness and understanding of consumers on where they can access advice services.

## 4. ARGYLL AND BUTE REGULATORY SERVICES RESPONSE

4.1 The report provides a baseline position and driver to undertake further work to ensure the effectiveness of Council services to protect consumers, and recognises the essential role of trading standards and food safety in doing so.

4.2 With the changing agenda for consumer protection, actions at a national level by Councils, professional bodies, advice services and COSLA are essential in addressing the recommendations of this report.

4.3 The financial position with reducing budgets and staffing levels within Local Government is recognised. **It is critical that the services which protect consumers are effective, risk-based and are not depleted to an extent where consumers are subjected to uncontrolled or high risks. Consumers must also be able to access advice through a variety of local and national advice services, including the Council.**

4.4 From an Argyll and Bute perspective, there are aspects of the report to highlight :-

- (i) **We have a risk-based approach**, targeting resources at high-risk activities across the whole service, including trading standards and food safety which is necessary as we do not have sufficient resource to undertake all our statutory duties.

This includes an alternative enforcement strategy which is aimed at providing support to low risk businesses and consumers in order that they can take appropriate action to resolve any issues they may have and for businesses to remain a low risk to consumers.

- (ii) Our service review considered alternative means of service delivery and we redesigned the services to achieve financial savings. The key outcomes were :-

◆ Rationalisation of management, and front-line service delivery (reduction in food safety of 12%, and trading standards of 10% against national reduction of 9% and 15% respectively).

◆ Development of an alternative enforcement plan to ensure that customers could access information and advice through the website, newsletters, etc., and through initiatives designed to protect consumers, allow them to “self-help”, and to ensure low risk premises remain low risk. This work is on-going although at an early stage.

- (iii) There are some qualifications required for the data provided by Argyll and Bute Council and stated in the Audit Scotland report:

◆ The staffing figures for trading standards have changed with

the recruitment of a Trading Standards Officer, taking the Council above the measure of 8 FTE posts used in the report.

- ◆ The financial information and staffing levels relating to food safety were estimated as these are incorporated within general environmental health teams and budgets. As the environmental health team is “generalist”, the available resources are managed and in the event of a major incident, whether it is food safety or public health, resources can be redirected to the incident from other areas of our work.
  
- (iv) We measure the views of consumers through customer surveys. These are generally running at an average of 95.7% consumer satisfaction. Specific surveys in 2012 have identified 90% satisfaction at trading standards work with business, 87% satisfaction with debt counselling advice services and 82% for environmental health service requests.
  
- (v) We work with other agencies in deliver a service which in general meets our statutory duties and protects consumers and public health. These arrangements involve data sharing protocols relating to information, intelligence and joint working. The report highlights the need for these at a local and national level.
  
- (iv) The report identifies a high level of high risk premises in trading standards compared to other Local Authorities. This has been inherited from previous systems and, as we focus the service to risk-based enforcement, we will be reviewing the risk rating of all premises in the next 6 months.
  
- (v) There are a large percentage of unrated premises in food safety, with the highest in Scotland. This is contrary to the Food Framework and is an area of concern. In general, many are considered low risk but have not been fully rated in accordance with the risk rating scheme. This is untenable, and attempts to address this have been hindered by other higher priority work in food safety and environmental health. We will be implementing an action plan to rate these “unrated premises”, utilising a vacancy in the current EH team.
  
- (vi) The report highlights the importance of workforce planning to address the lack of training places available for the professions. We have been successful in recent years in training existing staff to obtain professional qualifications as part of our succession planning and to address recruitment difficulties. This has included more recently the recruitment of a Trading Standards Officer who obtained the qualification whilst working with, and being supported by the Council, and a Environmental Health Officer who started with the Council as a Student EHO. With the loss of student training places in our structure and reducing training budgets, we will need to carefully consider our workforce planning strategy.

- (vii) We are one of only six services not providing a second stage civil law intervention service to consumers. We are not under any statutory duty to provide such a service and the Council agreed this policy through a decision by the Protective Services and Licensing Committee on the 17<sup>th</sup> December 2003. Effectively, this means that where initial civil advice is unsuccessful in resolving the consumer's issue, we do not get involved at stage 2. We would expect this to be provided by advice agencies including Argyll and Bute Citizens Advice Bureau. This allowed us to focus our trading standards resource at targeted statutory activities and practices.

In response to the Audit Scotland report, we plan to review the adequacy of such arrangements prior to the end of the current support arrangements between the Council and ABCAB, and as part of the national consumer protection agenda being pursued by COSLA.

- (viii) The report highlights the need nationally to raise the profile of the service with elected members. Given the work of the service and our delegated powers, there is not the same need to report to Committee, as for example, our development management colleagues do. In many respects this gives the service a lower profile with members.

Notwithstanding this, I believe we have a good profile with Elected Members in Argyll and Bute and this has been developed over many years through direct discussions on issues with members as required and through this Committee.

This work is on-going and recently we have sought to improve this profile through the issue of the electronic document "An Introduction to Regulatory Services" to members in June which is also on the Members Portal; reports to Planning, Protective Services and Licensing Committee on service plans and other issues; and regular briefings to the Lead Councillor for Planning and Regulatory Services.

I would be interested to receive feedback from Members on their views on the profile we have with you and propose that we continue this work in 2013-14 through:

- ◆ Committee Reports on statutory plans; progress reports on the Regulatory Services Balanced Scorecard and other reports on emerging issues, as appropriate;
- ◆ Briefings through the Chair of the PPSL Committee, as Lead Councillor
- ◆ As appropriate, presentations or displays at Committees and Area Committees on specific service issues, or areas identified by the Committee.

## **5. PROPOSED ACTION PLAN**

- 5.1** The “Protecting Consumers” report identifies significant concerns which require action at a local and national level. This is particularly important when you consider many of the findings for trading standards were identified in an Audit Scotland report, “Made to Measure” in 2002 and remain issues today.
- 5.2** Appendix 1 of this report proposes an Action Plan for Regulatory Services to address these issues requiring commitment from Officers, the Council and Elected Member.
- 5.3** The Council’s Audit Committee have been provided with a generic action plan, although not as detailed as this Committee report
- 5.4** The majority of the actions are targeted at a national level. It is intended that we will support this through the work of officers in professional working groups, including the Society of Chief Officers of Trading Standards in Scotland (SCOTSS); Society of Chief Officers of Environmental Health in Scotland (SOCOEHS) and elected Members through the work of COSLA.
- 5.4** We need to ensure that elected Members have an understanding of the work of trading standards and food safety, and indeed Regulatory Services, as the report recommends that trading standards and food safety have an adequate profile amongst elected Members. This will enable Members to answer the questions raised in Appendix 3 of the Audit Scotland report, relating to confidence in systems, quality and effectiveness of Council services which protect consumers, and for them to signpost consumers to advise services which may assist them.

## **6. CONCLUSIONS**

- 6.1** The Audit Scotland report highlights concerns about the long-term viability of trading standards and food safety, although these will be replicated across other areas of environmental health. It is important that action is taken to address these at national and local levels, and the action plan proposed in this report seeks to identify steps to achieve this.
- 6.2** Regulatory Services do not have sufficient resources to undertake all our statutory activities and adopt a risk-based approach in place, targeting resources at areas of highest risk. In doing so, there is a managed risk that external agencies (including the Food Standards Agency) will identify non-conformities with standards pertaining to low risk activities and Members require to recognise this. The impact of future savings will need to be risk-based, with a clear consideration of any implications to consumers and business.
- 6.3** To enable the service to resource this local action plan and meet other key priorities, we will be seeking authorisation to recruit to a vacant

post in environmental health (0.5 FTE), and appoint contractors to undertake visits pending the appointment, to target the unrated premises and other service priorities on a project-related basis.

## **6. IMPLICATIONS**

- 6.1 Policy** Protecting consumers is a key outcome of Regulatory Services and the report is consistent with existing policies and the Single Outcome Agreement.
- 6.2 Finance** None, although future savings need to consider impact on consumer protection and statutory activities/duties.
- 6.3 Personnel** We are seeking authorisation to appoint to a vacancy in the establishment, which is fully budgeted, to undertake aspects of this action plan and enable the service to continue to protect consumers.
- 6.4 Equal Opportunities** None
- 6.5 Risk**
- (i) By agreeing to the action plan, we will be better able to ensure that our services are designed to protect consumers from future deterioration of services.
  - (ii) There is a controlled managed risk, that the FSA can take action against the Council for not fully meeting the Framework document, albeit low risk activities.
- 6.6 Legal** The report covers the statutory responsibilities and duties on the Council to deliver trading standards and food safety.

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**AM/KT/7063 March 2013**

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## AUDIT SCOTLAND NATIONAL REPORTS – PROTECTING CONSUMERS

### ACTION PLAN

Key Point/Checklist/ Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
Does the Council work with the FSA in Scotland and, in future, the new Scottish food safety organisation to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective food safety service over the next 5–10 years, and take action to address any shortfalls identified	We have good relationships with the FSA and the Food Framework provides a standard for local authority food safety services. Our statutory food safety service plan is approved by Committee, and we are subject to audits by the FSA. To date, these have been positive  We have on-going staff development, training and support arrangements in place to retain and improve competency.	(i) Review staffing levels and workforce planning within environmental health and prepare report for further consideration	Service	31/10/13	Regulatory Service Manager
		(ii) Identify clear priorities for service based on outcome of point 1 above into 14/15 service plan	Service	30/4/13	Regulatory Service Manager
		(iii) Participate in corporate Workforce Planning review	Corporate/ Service	31/03/14	Regulatory Service Manager
		(iv) Work with REHIS to implement new training programme for EH	Service	31/12/13	Regulatory Service Manager
		(v) Deliver the outcomes of the PDR reviews with staff	Corporate/ Service	31/3/14	Head of Planning and Regulatory Services
		(vi) Work with COSLA regarding resources for Regulatory Services	Corporate/ Professional	On-going	Members/ Snr Mgmt.
		(vii) Work with FSA, Society of Chief Officers of Environmental, Health Officers in Scotland on issues regarding workforce planning and resources	Service / Professional	On-going	Regulatory Service Manager
Has the Council developed a new risk assessment scheme for trading standards that is sensitive to local intelligence about businesses	We have a scheme of risk assessment although the report indicates that there is a high percentage of high risk premises in Argyll and Bute (5.9%) compared to other local authorities (Fife 0.5%, Highland 2%)	(i) We are in the process of preparing to implement a new national risk assessment scheme which will update all risk assessments.	Service	30 <sup>th</sup> October 2013	Regulatory Service Manager
		(ii) Arrangements will be implemented to ensure that the service	Service	30 <sup>th</sup> June	

Key Point/Checklist/Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
		undertakes risk assessments and local scores consistently in line with the national risk assessment scheme.		2013	
Does the Council ensure they have access to, and make use of, intelligence to help determine their local priorities, and contribute intelligence to information systems that support the work of other Scottish and UK councils, and the national teams	These are available through existing liaison arrangements direct with agencies (FSA, OFT etc.); liaison groups with other LA's, use of IT system to share information and intelligence, including MEMEX which we implemented in December 2012. We also attend meetings hosted by national Scottish Scambusters with input from IMLU & E-crime teams.	(i) Maintain current working arrangements and utilise new MEMEX software	Service	On-going	Regulatory Service Manager
Has the Council developed a clear direction for the future of their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way that appropriately reflects the risks, national and local priorities and the needs of local communities	Through the service review, we redesigned service delivery including that of consumer protection. First stage civil advice is issued by national agencies and not the Council and we have measures in place to ensure the public access this basic advice service. This includes agreement with Citizens Advice Scotland and financial support to Argyll and Bute Citizens Advice Bureau, The current situation with second stage civil advice/interventions is less clear. There is also improved information and links on our website and the Customer Management Centre are able to direct any consumer to appropriate advice services. Our trading standards service plan defines the consumer protection priorities for the year focussing on	(i) We are to undertake a review of the local and national civil advice arrangements in Argyll and Bute to determine whether they meet the needs of the consumer and are effective	Service/Corporate	31/12/13	Regulatory Service Manager
		(ii) We are to review and implement a new risk rating system for trading standards. This will enable us to address the issue whereby Argyll and Bute Council have the highest percentage of high risk premise in Scotland	Service/Corporate	31/07/13	Regulatory Service Manager

Key Point/Checklist/Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
	national and local priorities. Argyll and Bute Council are specifically mentioned in the Audit Scotland report as one of only 6 councils that do not take referrals from Citizens Advice Consumer Scotland, although second stage advice offered by the other local authorities is a non-statutory function and one which we ceased some time ago.	(iii) We are to review and improve the time recording systems used for environmental health and trading standards	Service	30/09/13	Regulatory Service Manager
	The Council have the largest number of unrated food businesses in Scotland	(i) We are to develop an action plan to rate the currently unrated food safety premises in Argyll and Bute. They are deemed to be low risk although they have not been formally rated using the FSA Code of Practice	Service/Corporate	31/03/14	Regulatory Service Manager
Does the Council ensure their work on lower risk areas is sufficient to prevent them becoming more serious risks	We have initiated an alternative enforcement strategy which seeks to achieve this. An annual work plan is agreed each year and delivered across Regulatory Services	(i) To further develop alternative enforcement (ii) To review the resource implications and success of the low risk intervention activities	Service	31/03/14	Regulatory Service Manager
Does the Council ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public?	Performance measures are in place and we are working with a number of local authorities to develop common benchmarking measures across Regulatory Services We are working with Association of Public Services Excellence (APSE) to develop a suite of performance measures in Scotland for trading standards and environmental health. Currently, performance is reported via	(i) To continue to develop benchmarks with the local authorities within the "Argyll" Club (ii) To participate in the pilot with APSE and other local authorities to develop better performance measures and benchmarking arrangements (iii) (iii) Continue to use the Corporate Pyramid system to report performance against key indicators	Service / Corporate	30/09/13  31/12/13  On-going	Regulatory Service Manager  Regulatory Service Manager

Key Point/Checklist/Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
	the Councils Pyramid system and service plans detail future priorities and also report on performance. Our Balanced Scorecard also reports on performance and is available through our website				
Does the Council work with COSLA in developing arrangements for national coordination, explore a full range of options for redesigning trading standards services, including a greater use of more formal joint working; shared services and establishing a national service	Yes through work of SCOTSS. A recent example are the new arrangement for the delivery of consumer protection in Scotland and the provision of specialist units for money lending, Scambusters and IE-crime fraud	Continue to support current liaison arrangements	National and service	31/3/13	Regulatory Service Manager
Do the Council and COSLA liaise with the Scottish Government on the future of trading standards services where this involves organisational or service issues for which it has responsibility	Via COSLA Working Groups, SCOTSS and specific consultations	Continue with current arrangements	Corporate / Service/Member	31/3/13	Lead Councillor P & RS
Does the Council work with COSLA to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective trading standards service over the next 5–10 years, and take action to address any shortfalls identified	Work has been through SCOTSS to date and has included funding arrangements of single-issue initiatives (e.g. tobacco enforcement) or the new consumer landscape.	Need to take forward recommendations of Protecting Consumers report with COSLA and others	Corporate/Service	30/06/13	Regulatory Service Manager

Key Point/Checklist/ Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
Does the Council work with COSLA to ensure that councillors are fully informed and supported to make decisions about the future of services to protect consumers	Elected representatives attend various COSLA Working Groups Briefings provided by Regulatory Services Manager /Trading Standards Manager/ EH Manager on any relevant matters	Continue with current arrangements and ensure briefings are issued to support Members	Corporate/ Service	On-going	Members/ Regulatory Services Manager
Does the Council ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public	These are in place and there is quarterly performance reporting. There is a trading standards plan although at present this does not go to Committee. Regular briefings are taking place with Lead Councillor on emerging issues and the national agendas.	Arrange regular briefings with the Lead Councillor Planning and Regulatory Services	Service/ Lead Councillor	31/03/14	Regulatory Services Manager/ Lead Councillor P&RS
		Determine how best to raise members appreciation of Regulatory Services and the areas of trading standards and food safety which are raised in this report	Service/ Lead Councillor	30/06/13	Lead Councillor Planning and Regulatory Services
Do the Council and COSLA work with the Citizens Advice Service and others to increase awareness and understanding among consumers of where they can get advice and help when buying goods or services, particularly when things go wrong.	We have a written agreement with Citizens Advice Scotland and we refer consumer enquiries to their national advice line. We also support the local Argyll and Bute CAB	(i) Agree new contract with ABCAB (ii) Reinstate reporting and liaison arrangements (iii) Consider funding options for 14-15.	Council and Service	30/06/13	Regulatory Services Manager
Does the Council work with COSLA to establish an effective system for analysing intelligence and agreeing national priorities for their work to protect consumers	COSLA role is minimal at present although with the demise of DTI, COSLA will need to be more involved	COSLA have a specific consumer protection team who will take this forward	Council and service	On-going	Members and service

Key Point/Checklist/Recommendation	Action/Response:	Proposed actions	Level	Date for Implementation	Lead Officer
Does the Council work with COSLA to review 'trusted trader' schemes and consider the need for a shared national approach or standards	We are presently considering options for the provision of a trusted trader type scheme. However, I am not aware of any plans from COSLA to operate a national scheme of this type.	Identify options for trusted trader scheme in Argyll and Bute Council and report to PPSL Committee	Service	31/09/13	Regulatory Services Manager