

## REVIEW OF THE CONSUMER LANDSCAPE

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### 1. BACKGROUND

- 1.1 This paper highlights to Members the implications of the Government consultation (June 2011) which proposes radical changes in the way in which Councils' Trading Standards services deliver consumer protection across the United Kingdom. These proposals arise from the decision to abolish the Office of Fair Trading (OFT).
- 1.2 The proposals recommend that all consumer protection functions delivered nationally by the OFT are delivered by Council Trading Standards Services. The only exception will be consumer advice, which is currently delivered by the OFT under the banner "Consumer Direct", and this will be transferred to the Citizens' Advice from April 2012. The proposals will be subject to public consultation later in the spring.

### 2. RECOMMENDATIONS

- 2.1 That Members note the consultation paper and support the view that it is essential that any proposals will not diminish the delivery of consumer protection at a local level. The Regulatory Services Manager shall; bring a further report to Committee once the outcome of the review is known..

### 3. BACKGROUND – THE CURRENT ENFORCEMENT POSITION

- 3.1 Currently consumer protection work is delivered; *locally*, by individual Council Trading Standards services (e.g. underage sales, local scams, pricing in shops), *regionally* by groups of Councils choosing to work together (e.g. dealing with cross border rogue traders, illegal money-lending), and *nationally* by the Office of Fair Trading (OFT). All of these elements have to be working effectively together to provide the levels of protection that local communities need.
- 3.2 Many years ago groups of Councils (usually organised on English region, Welsh and Scottish lines) chose to organise themselves into groups to tackle these problems. For the last 5 years, the Department of Business, Innovation and Skills (BIS) (formerly Dept. of Trade & Industry) have provided additional funding for those activities relating

to cross-border rogue trading and illegal money-lending, recognising the national resilience that enforcement work in this area provides. Councils have keenly embraced these agendas through these groups.

- 3.3** The OFT has been responsible for taking enforcement action regarding nationally important consumer protection cases. Recent examples include the internet pricing system used by Ryanair, although the number of cases taken by the OFT has been relatively few. Councils have supported the enforcement role of the OFT, whilst at the same time having concerns over the lack of political oversight on this aspect of their work, together with the somewhat bureaucratic and prescriptive nature of some of the actions taken.

#### **4. ENFORCEMENT – THE NEW PROPOSALS**

- 4.1** The Government seem keen to see local government provide the delivery mechanism and governance structure for all the regional and national consumer protection work. It is expected that there will be a governance mechanism at a political level (via the LG Group) and at heads of service level, that would direct the work currently done regionally by Councils and be responsible for allocating government funding, under a service level agreement, for specific activities to deliver many of the functions currently provided by the OFT. It is recognised that there must not be any financial risk to Councils participating in this new work (e.g. from legal costs relating to large national cases) and the Government is working with Council Trading Standards Services to explore ways of providing some form of indemnity or insurance backed scheme to guarantee this.
- 4.2** None of this affects in any way the vast majority of Trading Standards work which will continue to be wholly delivered, funded and managed locally by Councils.
- 4.3** At this stage the funding associated with this change of enforcement is unknown, but if all the various funding streams and governance structures were joined up it is likely to be in the region of £12 – £15 million and is likely to be initially for a period of 3-4 years. This would give local government the chance to work together to rationalise all of the separate central government governance mechanisms, making them both closer to Councils and more efficient.
- 4.4** There are quite a few potential models under consideration. The OFT appear to favour a Joint Enforcement Board, where control of regional (Scotland-wide) and national (UK-wide) enforcement is overseen by a new Competition & Markets Authority, with input from Trading Standards.
- 4.5** Another model under consideration is one where the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) takes responsibility for a Scottish National Reaction Team, which will

provide a Scottish Scambusters & Illegal Moneylending Team and provide support to individual Scottish Local Authorities that require assistance with large cases. This option is likely to be supported by SCOTSS and by the general Scottish trading standards community.

#### **4.6 Changes to Consumer Advice**

**4.6.1** The OFT has provided the Consumer Direct telephone helpline for over 5 years working closely with Councils' Trading Standards services. This provides simple consumer advice and refers to Councils more complex issues or those where enforcement action may be required. In essence the process will remain the same, but under the proposals it will be the Citizens' Advice Bureau who will be funded by government to provide the frontline consumer advice rather than the OFT. It is understood they will rename "Consumer Direct" to "Citizens' Advice."

**4.6.2** In Scotland, Citizens Advice Scotland intends to provide this service by continuing to use the Consumer Direct call centre at Shawbost in the Western Isles. In England and Wales, the situation is less certain, with a tendering process currently being undertaken.

**4.6.3** It will be essential that Council Trading Standards services receive information from Citizens Advice about the type of complaints being reported so that they can plan and target their activities accordingly and so ensure that they continue to have the greatest deterrent effect against rogue traders

**4.6.4** This is important locally as all consumers benefit from access to good consumer advice. It enables them to become informed consumers who are confident in exercising their purchasing power and deal with problems if they arise.

### **5. CONCLUSIONS**

**5.1** All businesses and consumers benefit from the protection provided regionally and nationally by Council trading standards services. It is important than any proposed changes to the consumer landscape addresses local, regional and national issues, including national pricing rip-offs and international scams; illegal money-lending, a crime often based in specific, often deprived, local communities, requires specialist expertise that very few Councils can maintain locally. And rogue traders, being no respecter of boundaries. In doing so, this protects legitimate businesses who comply with the law.

### **6. IMPLICATIONS**

Policy	This may significantly change the delivery of the Council's Trading Standards service and the funding of 3 <sup>rd</sup> sector consumer advice
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Financial	Unclear at present
Equality	An issue which requires further consideration
Personnel	Potential subject to proposals

**ALAN MORRISON**  
**Regulatory Services Manager**  
**AM/KT/7310 SEP 2011**

For further information contact: Lee Roberts                      Tel: 01546 604779  
Trading Standards  
Manager  
e-mail : [lee.roberts@argyll-bute.gov.uk](mailto:lee.roberts@argyll-bute.gov.uk)