

EAST RENFREWSHIRE COUNCILAudit and Scrutiny Committee.10 November 2016Report by Director of EnvironmentNATIONAL REVIEW OF TRADING STANDARDS SERVICES**PURPOSE OF REPORT**

1. The Audit and Scrutiny Committee has taken a close interest over the years on the national debate over the provision of Trading Standard services. The purpose of this report is to advise the Audit and Scrutiny Committee of the on-going national review of Trading Standards Services and the potential impact this may have on local service delivery within East Renfrewshire Council.

RECOMMENDATION

2. It is recommended that the committee considers the report.

BACKGROUND

3. East Renfrewshire is one of the smallest Councils in Scotland but with the current Trading Standards staff of 5.4 FTE it is one of the best resourced on an officer to population ratio. Trading Standards staff, together with shared IT and administration support, is capable of providing a full range of Trading Standards services. Additionally, in an initiative to support the Councils 5 Capabilities strategy, it provides an enhanced educational and preventative dimension through its links with the recently established Prevention Team within the Environment Department. As Trading Standards is a "local service" it is accountable to East Renfrewshire members and able to react to matters that concern its residents and businesses. This is often undertaken through bespoke project work on initiatives of particular local concern.

4. In 2002, the Accounts Commission undertook an in-depth review of the Trading Standards services in Scotland in a report entitled "Made to Measure". In short it stated that some services, those with less than 8 members of staff, were too small to offer a comprehensive service. There were several recommendations made such as joint boards, amalgamated services and greater working together to increase capacity to develop services. This report was revisited by Audit Scotland in 2013 in its report "Protecting Consumers". Its main conclusion was "that the long-term viability of councils' Trading Standards services is under threat and that urgent action has to be taken to address this immediately".

5. The Protecting Consumers report was presented to COSLA and they agreed to set up a Trading Standards Strategic Review Group with its Working Group headed by the chief executive of West Dunbartonshire Council to investigate options. East Renfrewshire was represented on that Strategic Review Group.

REPORT

6. At the most recent COSLA Leaders meeting a paper was put forward where Leaders were requested to approve the followings recommendations:

- i. Consider the recommendations of the Trading Standards Strategic Review Group;
- ii. Agree the strategic change option proposed in the report for regionally based services governed by joint committees within the framework of a binding MOU;
- iii. Mandate to the Improvement Service a design exercise to scope up the precise number and configuration of regional services; and
- iv. Agree that a report be brought back to Leaders providing more detailed information on the developing regional arrangements, once this design exercise is complete.

7. Appendix A contains further detail on the outcome of the Strategic review and its findings.

8. The Leaders voted to simply note the paper at this stage and have agreed that the Improvement Service will scope up the precise number and configuration of regional services, with a follow up report presented to Leaders.

CONCLUSIONS

9. A fully comprehensive local Trading Standards services, would ideally be best delivered by the present ERC set up if the primary focus is to address issues locally, particularly when they are pertinent to some of the most vulnerable members of society. This delivery mechanism depends on commitment of resource at a local level and this has not always been the case in some local authorities, hence the concern about the viability of Trading Standards. However, there is also merit in some co-ordination of national and international issues particularly related to consumer protection, including scams, organised crime and unsafe imported products. Some of this is the function of Trading Standards Scotland (TSS) but they do not have the full legislative remit of Trading Standards.

10. The Council will have to consider the Improvement Service's report in due course and assess the potential implications to this Council of a regional approach to Trading Standards.

RECOMMENDATION

11. It is recommended that the committee considers the report.

Further information can be obtained from: Steve Fox Prevention Services Manager (Trading Standards) 0141 577 8585 email: steve.fox@eastrenfrewshire.gov.uk

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STRATEGIC REVIEW OF TRADING STANDARDS

Introduction

1. Leaders previously agreed that a strategic review of Trading Standards be undertaken, chaired by a Chief Executive nominated by SOLACE. The review was chaired by Joyce White of West Dunbartonshire Council. The Review Group comprised representation from the Society of Chief Officers of Trading Standards in Scotland (SCOTSS), Chartered Trading Standards Institute (CTSI), Trading Standards Scotland (TSS), Scottish Government, Citizens Advice Scotland and FSB. Support was provided by the Improvement Service and CTSI. The Review Group consulted regularly with SOLACE and the Trades Unions (primarily through Unison) in the conduct of the review.
2. The review considered the following issues:
 - (a) Concerns around the viability of current arrangements for delivering local authority Trading Standards services in Scotland;
 - (b) Their resilience and sustainability given anticipated future financial and resource pressures; and
 - (c) Options for improving resilience, sustainability and quality of service.

Background

3. Trading Standards is a small service, relative to others, and concerns have been recurrently raised about its resilience and sustainability. Audit Scotland (2002 and 2013) have reported declining numbers of professional staff, an ageing workforce, and lack of training places for future staff. The 2013 report noted that staffing had fallen by 15% between 2008 and 2012 and the evidence of this review is of continuing decline (from 304 FTEs in 2015 to 290.8 in 2016 in local services across Scotland: see appendix 1). That national trend disguises substantial local variation in spend: from under £900 per 1000 population to over £15,000 per 1000 population. This reflects variation in local priorities, operating context, local arrangements for regulatory and protective services and some accounting variance. The change across the five years to 2015 ranges from +50% to -70% (see appendix 2).
4. Trading Standards spend has fallen substantially across the last five years in Scotland (around 21%) in line with other non-education and non-health and care spend (e.g. roads maintenance, leisure and culture). Additionally, Trading Standards began the “austerity” period already fragile. Less than 50% of Scottish councils now have the 8 FTE professional staff Audit Scotland deemed necessary to deliver core regulatory and enforcement functions, quite apart from the additional functions Trading Standards may undertake in particular places.
5. The Review Group has noted the different deployment and organisational location of Trading Standards staff across Scotland, and the different links and roles they may have with respect to related services. The focus of the review proposals is on core functions that require qualified trading standards input and is therefore potentially insensitive to the particularities of innovative developments in particular councils (e.g. professional staff acting as advisors to non-professionally qualified regulatory staff, or health and care staff). The Review Group asked SCOTSS to prepare a statement of core statutory (and therefore common) trading standards functions, and other functions commonly associated with trading standards but not core (see appendix 3).

6. The final point by way of background is the national capacity embodied in Trading Standards Scotland. This is currently funded by UK Government to coordinate and manage intelligence nationally, to ensure that cross boundary risk is identified and addressed in Scotland and with the rest of the UK, and to deliver on national anti-scams work, tackling illegal money lending and work on cyber-crime. This receives a grant of £1.215 million per annum and is accountable under the grant agreement to UK Government. Leaders will recall that a COSLA political Board oversees the work of TSS. In its work, the Review Group has been concerned to ensure that this funding stream is not put at risk.

Strength and Weaknesses of Current Arrangements

Strengths

7. The strengths of the current 32 council arrangements are clear. It allows councils to prioritise and make arrangements for consumer protection that reflect diverse local circumstances and challenges. It allows specific local innovation in organisational and management arrangements that suit the local context, and prioritisation against key local outcomes and risks. The assessment of these will quite legitimately vary locally and, in recent years, many councils have had to make difficult decisions around what services to provide as resources reduce.
8. Regulation is now seen on a “risk and proportionality” model and different council areas will generate different patterns of risk to consumers. The statutory framework for the service allows councils to make judgements on these matters and it was always likely that a diversity of practice would develop across Scotland. Equally, where councils believe collaboration with other councils is desirable to deliver their duties, they are free to develop such arrangements and they exist at various levels of formality (from informal collaboration between neighbours to formal collaboration like the West of Scotland Notified Body arrangement and a shared
9. Finally, although it is possible to review individual services and functions in isolation, councils have to balance priorities in the round in response to the pressures they face. The data for the last 25 years shows that education has been protected, care has grown and most other service budgets have been squeezed. Some of this has been driven by national ring-fencing, but much has been driven by local decision about priorities. That requires local control of services and budgets.

Weaknesses

10. The weaknesses of the current arrangement are equally clear. Professional trading standards capacity in Scotland has consistently eroded and many services are now very fragile. The evidence gathered by this review (see appendix 1) indicates that. The average number of Trading Standards staff per council is 9 but this ranges from 2.2 to 23 FTE. The staff age profile is heavily skewed towards the older age bands, and on current trend staffing levels are reducing at around 5% per annum across Scotland.
11. Real spending on the service has declined year on year from 2002 (see Audit Scotland 2002 and 2013 and appendix 2) and the range of advice and support available to the public has declined (Audit Scotland 2013). Given likely future pressures, and continued national protection of education, health and care, further erosion of budgets and capacity will fundamentally challenge the sustainability of the “x 32” model of trading standards delivery.

12. Specifically, the existing model requires replication of limited leadership capacity across Scotland, limits economies of skill and scale, restricts the development of specialism, restricts training and development of staff for future skills, and lacks even basic resilience with respect to staff absence and turnover. Given the continuing use of voluntary severance as one mechanism for change, this is likely to worsen across the next 5 years.
13. The Review Group was concerned that all of these difficulties create a vicious circle: pressures of work resulting in greater job stress, reduced opportunities for development and reduced job satisfaction increasing the likelihood that people will take up voluntary severance options. The age structure of the profession makes this more likely and that in turn will increase the pressure on younger staff. Career prospects will also be diminished by the flattening of structures and deletion of more senior posts.
14. The very limited capacity of local trading standards services restricts capacity to form coherent and robust collaborative arrangements. Staff under increasing pressure in the day job struggle to develop the very collaborative arrangements that might help manage those pressures. It also gives a very short term focus that means that “future proofing” for the service is very limited. The Review Group has particular concerns about the growing online risk to consumers, and the ability of the system to handle it. Given the age structure of the profession, the Review Group is particularly concerned about the absence of workforce planning and succession planning which would have to be done on a collaborative basis.
15. The erosion of the service has also had a significant impact on collective capacity in benchmarking and performance management. There is no robust overarching framework for comparing performance between councils, and no ability to link inputs, outputs and outcomes. For that reason, the Review Group cannot accurately assess the impact of higher or lower levels of spending per 1000 population on performance. The Local Government Benchmarking Framework can provide only a standardised spending indicator for that reason. The Review Group received anecdotal evidence on achievement but could not go beyond that.

The Balance of Strengths and Weaknesses

16. There are practical advantages to the current location of Trading Standards. It has allowed local integration of related services and management, and decline in core trading standards capacity has been in part offset by local partnership with the third sector, particularly in the areas of consumer advice and money advice. In 2015/16, Scottish councils provided around £18 million of support to third sector partners in these areas.
17. The concern of the Review Group is that core trading standards regulatory and enforcement capacity has been in continuous decline over the last 20 years. As noted, this has reduced leadership and operational capacity, fragmented workforce planning and development, restricted economies of skill and scale, and limited voice and visibility. If the pattern of reduction across the last 5 years continues across the next 5 years then the Review Group thinks the sustainability of local services as they are currently organised is very questionable.
18. The qualification on that conclusion is that different councils have prioritised (and deprioritised) Trading Standards to varying degrees. As noted, expenditure per 1000 of the population on core functions varies by a factor of over 16 between the lowest and highest spender. This substantial variation in the base creates problems for future collaboration as it reflects different expectations and standards for the services. Arms-length arrangements with the third sector for consumer and money advice also vary in scale and commitment.

19. On balance, the Review Group consensus is that the status quo ante is unsustainably fragile across Scotland, and that a new delivery arrangement is necessary. The Group accepts that some individual councils are in a more sustainable position than others but the whole system is weak and needs secured. In concluding this, the Review Group would particularly draw attention to three points:
- (i) Trading Standards is a statutory regulatory and enforcement function and that needs respected and protected;
 - (ii) As the key problem identified is the limited financial and resource base of the service, any alternative arrangement would require a funding guarantee to be worth pursuing; and
 - (iii) Given the very different base in different councils, a common prioritisation of Trading Standards services would need to be agreed and this would probably need to involve some levelling up and some levelling down of individual councils' current commitments.
20. If either (ii) or (iii) above is unacceptable, the Review Group is of the view that there would be little point in changing the current local services arrangement. Creating a new arrangement that starts out with a financial and resource crisis would make little sense, particularly if different partners to the arrangement had different priorities and expectations of it.

Strategic Options for Change and Improvement

21. The Review Group has not attempted to produce a detailed option appraisal and business case for a particular option. That was not its remit as a strategic review and the Group has focused on the major change options available and an outline assessment of their merits: the major options identified were:
- (i) The status quo ante + augmented national arrangements for workforce planning and development, performance management and benchmarking, dealing with online risk to consumers and management of relationships with key partners.
 - (ii) Move to regional arrangements for service delivery, with the likely number being between 3 and 6, which would minimise duplication of effort; consolidate limited capacity and expertise; create better development opportunities for staff; allow scale mobilisation of capacity to address key risks as they emerge, and greatly improve resilience to illness, absence and staff turnover. A simple joint committee model would be sufficient to provide the legal and governance basis for such a model.
 - (iii) A single national service with a regional sub-structure to drive maximum consolidation, standardisation of practice and management approach, and to achieve both economies of skill and scale and flexibility of deployment of scarce expertise. The national body would discharge all the national functions noted at (i) above. Again, a joint committee arrangement is suggested.
 - (iv) Engage with Scottish Government about their plans for devolved consumer protection responsibilities and propose that responsibility for trading standards be transferred and integrated into any new arrangement, i.e. a national arrangement but governed and funded by Scottish Government. This would presumably result in a corollary reduction in the local government settlement.
22. The future of TSS and how best it might fit within or alongside the above options would require parallel discussion with UK Government and would of course depend on the model being pursued.

23. Options (i) and (iv) are essentially limiting cases: “do almost nothing” or “get rid of the service altogether”. The former does nothing to address the core capacity and resilience problems of the current service arrangement but would require additional funding for national functions. It would also probably require a five year guarantee of at least current levels of funding. It is better than nothing but the Review Group concluded it would be insufficient to meet the ongoing challenges the service faces.
24. Option (iv) is, in essence, the “give up” option, would take very significant time to achieve (supposing that Scottish Government would be agreeable, which is questionable), and sends out an undesirable message about Local Government’s capacity for service reform and service delivery. It is also hard to estimate the possible financial impact on the settlement overall, or on the grant to individual councils. For these reasons, this option was rejected.
25. The Review Group therefore focused on options (ii) and (iii), the regional and national models. Although they are presented as exclusive options, a regional model with some shared national functions may not be that much different from a national model with a regional sub-structure to ensure connectedness with all participating councils. Both would be governed by joint committees with representation from all council members.
26. The regional model is the minimum step up from the current local arrangements, and potentially offers greater responsiveness to different regional economies and consumer risk profiles across Scotland. Regional governance offers more continuing local control than regional management under national governance. A risk of a national model is that its priority focus and activities become disproportionately focused on certain parts of Scotland whose risk profile is particularly high.
27. On the other hand, a national model offers greater capacity to develop specialist expertise, greater potential economies of skill and scale, and a more consolidation of capacity to address future risk, particularly online risk. It is, however, hard to see how a national service, using a consistent risk assessment and performance approach, could avoid prioritising in ways that might undermine a sense of equity and solidarity among participating councils.
28. The review group did consider whether the regional or national service could be formed as delivery organisations with councils retaining the client/commissioning role but there is simply not sufficient capacity within the system to sustain a client/contractor split. It would also do nothing to remedy the underlying financial instability the service faces unless commissioning was long term (5 to 10 years).
29. The Review Group’s conclusion was that a regional model was the best option identified in terms of balancing continued local connection and accountability and improving capacity, sustainability and impact. The precise number and boundaries of regional services would require a detailed design stage but the Review Group would make two observations:
- (i) That the inheritance in different parts of Scotland would be very variable. For example, the West of Scotland has a relatively strong base at present and the East has a weaker base. It would be for the governance in each region to address these variable inheritances at the outset, but the design of regions would need to take account of this.
 - (ii) Wherever possible, it would be sensible to link any trading standards arrangement to already developed regional structures, e.g. “City Deal” or regional economic development partnerships.

30. The Review Group's view is that the basis for any new regional arrangement should be a joint-committee with representation from all constituent councils. This should be underpinned by a binding MOU that empowers the joint-committee to:

- Develop a plan for the operation of the Trading Standards service in their area in consultation with councils, and other statutory and independent partners in consumer protection;
- Develop a costed resource plan for the resources necessary to deliver the service plan; and
- Requisition the necessary budget to meet the resource plan from the constituent on a formula (to be agreed, but potentially linked to business and/or population).

31. The Review Group see the MOU, and the ability of the proposed joint committees to requisition the required budgets from constituent councils, as precondition for a regional approach working. If that view is not accepted, there would be little point in taking the option on to a detailed design stage.

Conclusions

32. The current capacity of Trading Standards services in Scotland have eroded and, through councils vary, the whole system lacks resilience and future proofing.

33. The core problems the service faces are financial constraint, increasing cross border consumer detriment, ageing and reducing workforce, and inability to maintain specialism and expertise, all of which lead to a reduced service to business and the consumer, a less fair marketplace for business to flourish, and less protection for consumers.

34. A regionally based service arrangement would allow some of these problems to be mitigated, or managed more effectively but only if the resources and finance necessary to deliver were guaranteed.

35. If that is not possible, current national capacity through TSS should be augmented to cover performance and benchmarking, workforce planning and development, developing capacity to address online risk, and managing key partners.

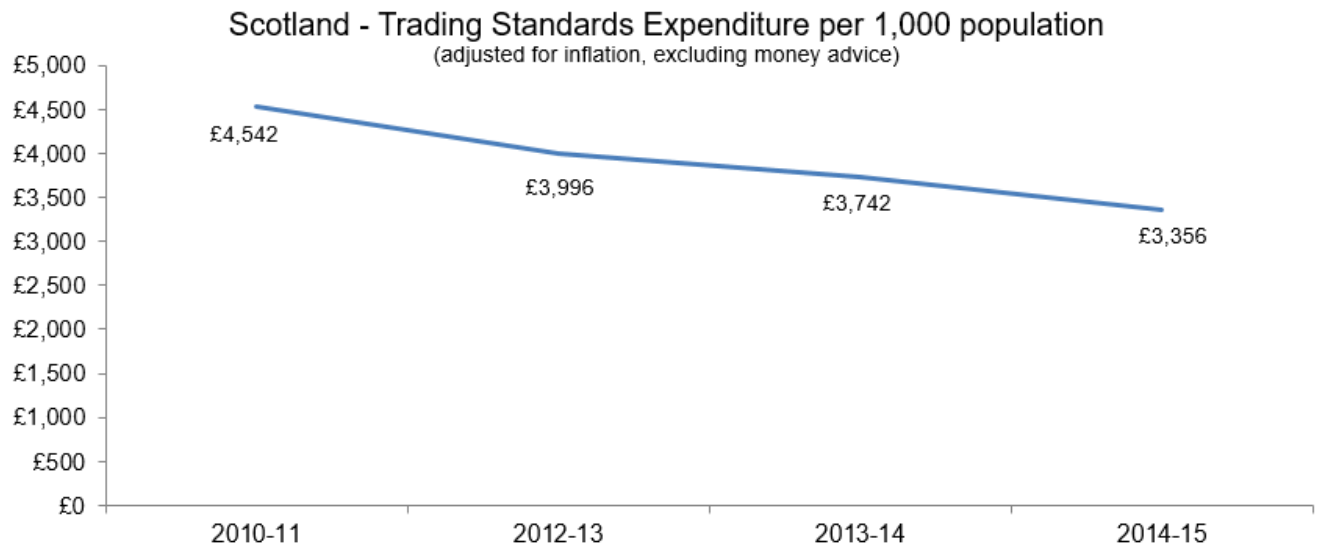
Recommendations

36. That Leaders:

- (i) Agree the strategic change option proposed in the report for regionally based services governed by joint committees within the framework of a binding MOU; and
- (ii) Mandate to the Improvement Service a design exercise to scope up the precise number and configuration of regional services.

Appendix 1

Authority after 1/5/16	FTEs at 1/5/15	FTEs at 1/5/16	FTEs pending
Aberdeen City	17.6	17.6	0
Aberdeenshire	17.4	16.9	0
Angus	10.4	10	2
Argyll & Bute	8.6	8.6	0
Comhairle nan Eilean Sair	2.2	2.2	0
Dumfries & Galloway	8.9	9.9	0
Dundee	8.7	8.7	0
East Ayrshire	9	9	0
East Dunbartonshire	8	8	0
East Lothian	4	4	0
East Renfrewshire	5	5	0
Edinburgh	12.5	11.5	0
Falkirk	3.95	3.95	0
Fife	21.66	21	0
Glasgow	24.3	21.8	0
Highland	17.8	13	0
Inverclyde	2.15	3.15	0
Midlothian	3	3	0
Moray	6	6	0
North Ayrshire	6	5	0
North Lanarkshire	23	23	0
Orkney	3	3	0
Perth & Kinross	6	6	1
Renfrewshire	6	5	0
Scottish Borders	7.4	7	0
Shetland	3	3	0
South Ayrshire	15.1	14.1	0
South Lanarkshire	22	20	0
Stirling & Clackmannanshire	6.8	6.8	0
West Dunbartonshire	7.4	7	0
West Lothian	8.2	7.6	0
Totals	304.06	290.8	3



Core Functions	Other functions commonly provided by trading standards
Weights and Measures (Metrology) – ensures integrity of weighing and measuring for trade (and health services)	Animal Health – animal welfare and disease control.
Fair Trading – ensures transactions in goods and services have accurate (and sufficient) information to allow informed decision making. Prevents aggressive trading practices:- <ul style="list-style-type: none"> • Doorstep Crime / Rogue Traders • Consumer Scams 	1 st tier consumer advice
Consumer Product Safety – ensures consumer products are safe (Includes some non-consumer products; e.g. construction products).	2 nd tier consumer advice
Intellectual Property – covers counterfeit goods, and devices designed to circumvent copy protection systems.	Single Use Carrier Bags
Tobacco Control – covers age related sales, product labelling / packaging, advertising, shop display ban, vending machine ban and registration of retailers.	
Age Restricted Sales – other products such as firework, knives, butane, solvents, spray paints and petrol (note that Alcohol covered by Police Scotland)	
Animal Feed Safety – ensures feed does not introduce harmful substances into food supply (note that Food Standards Scotland intends to centralise this function).	
Petrol and Explosives – Health and Safety of the storage and supply.	
Enterprise Act – Civil enforcement to protect the collective interests of consumers and to remedy losses suffered through criminal and civil infringements.	
Business advice in furtherance of core functions	
Other minor functions:- Agricultural Products Quality – ensures quality of animal feed and fertilisers. Energy Efficiency Labelling Home Energy Performance Reporting	

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