

REPORT TO: ENVIRONMENTAL SERVICES AND SUSTAINABILITY COMMITTEE
- 19TH SEPTEMBER 2005

REPORT ON: PROPOSALS FOR A NEW CONSUMER AND TRADING STANDARDS
AGENCY

REPORT BY: HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS

REPORT NO: 572-2005

1.0 PURPOSE OF REPORT

1.1 This report seeks to advise the Committee of a proposal to create a Consumer and Trading Standards Agency [CTSA].

2.0 RECOMMENDATIONS

2.1 It is recommended that the committee note the contents of this report and approve the submission of the appended draft response to the DTI, as the response from Dundee City Council.

3.0 FINANCIAL IMPLICATIONS

3.1 None.

4.0 LOCAL AGENDA 21 IMPLICATIONS

4.1 None.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 None.

6.0 BACKGROUND

6.1 In Budget 2004, the Chancellor asked Philip Hampton to lead a review into regulatory inspection and enforcement, with a view to reducing the administrative cost of regulation to the minimum, consistent with maintaining the UK's excellent regulatory outcomes.

6.2 The Hampton final report was published in March 2005, and concluded that burdens on business could be reduced by streamlining the regulatory system to have fewer, larger regulators, with which business must interact. The Government accepted Hampton's recommendations, including that a new body should be created at the centre of Government to co-ordinate work on consumer protection and Trading Standards. The DTI are leading on Hampton implementation and are seeking views on the establishment of this body, to be known as the Consumer and Trading Standards Agency (CTSA).

6.3 It is proposed that the CTSA will co-ordinate all aspects of the work of the Trading Standards Service, apart from that covered by the Food Standards Agency (FSA), the proposed Animal Health Agency, or the Health and Safety Executive (HSE). It will cover issues such as fair trading, product safety and weights and measures. The Hampton Report recommended that the CTSA should comprise the consumer enforcement functions currently carried out by the Office of Fair Trading (OFT), as well as the functions of the

National Weights and Measures Laboratory (NWML), the British Hallmarking Council (BHC) and the Hearing Aid Council (HAC).

- 6.4 In addition, the following functions will be carried out by the CTSA:
- 6.4.1 **Advice for business:** The Hampton Report placed great importance on regulators giving advice to business. The CTSA should have a role in providing this advice, and in providing strategic leadership to the Trading Standards Service on giving advice to business.
 - 6.4.2 **Consumer education:** Empowered, informed consumers are better able to make decisions and are an important part of a successful market. The CTSA will have a responsibility to provide education for consumers and to provide strategic leadership to the Trading Standards Service on consumer education.
 - 6.4.3 **Consumer Direct:** Reflecting the close links between the need for effective advice, the Trading Standards Service and the CTSA's focus on consumers, the DTI consider that the CTSA would be the most appropriate body to have responsibility for managing Consumer Direct.
 - 6.4.4 **Co-ordinated Performance Framework for the Trading Standards Service:** As part of the Agency's co-ordination and strategic lead for the Service, the DTI see the CTSA using its powers to set minimum performance levels for the Trading Standards Service and to encourage and support performance improvement and the spreading of best practice. Minimum performance levels will reassure business and consumers as to the level of service they can expect to receive.
 - 6.4.5 **Priority setting for Trading Standards:** The DTI propose that the CTSA should work jointly with the FSA, the proposed Animal Health Agency and the HSE to give the Trading Standards Service consistent advice on priorities. There will always have to be local discretion and Local Authorities should be allowed to respond to what is important in their area, however to plan effectively there needs to be clearer direction from the centre. Centrally co-ordinated priorities will therefore give Local Authorities a clearer direction so they are better able to deliver and meet the needs of local business and consumers.
 - 6.4.6 **Consistency of inspection and enforcement:** The Agency will have a role in improving the consistency of regulation faced by businesses particularly those that trade in several Local Authority areas. In its manifesto, the Government said the CTSA would take a lead in enforcement where there is a national company with its headquarters in one Local Authority area, but with a number of outlets in others.
- 6.5 Consumer protection is principally a matter for Westminster, but the establishment of the CTSA will be matter of interest to local authorities in Scotland, COSLA and the Scottish Executive. The Local Authorities Co-ordinators of Regulatory Services (LACORS) are keen to take on board the views from individual local authorities to help inform their response to the consultation document, and to inform any future report to the COSLA Environment, Sustainability & Community Safety Executive Group.
- 6.6 Copies of the consultation document are available for perusal in the Members' Lounge. It contains a list of 33 questions but the suggested response set out in the appendix to this report does not address all of these.

7.0 CONSULTATIONS

- 7.1 Chief Executive

Depute Chief Executive (Support Services)
Depute Chief Executive (Finance)

8.0 BACKGROUND PAPERS

Reducing administrative burdens: effective inspection and enforcement, HM Treasury March 2005, ISBN 1-84532-088-3

Reducing Administrative Burdens – the Consumer and Trading Standards Agency. DTI Consultation July 2005, URN 05/1297

Albert Oswald
Head of Environmental Health & Trading Standards

12 September 2005

Proposals for creating a Consumer and Trading Standards Agency

Chapter 3 – Powers of the CTSA

Question 1

Do you think the powers listed in paragraph 39 are the right powers to carry out effective performance framework co-ordination? Are any of these powers unnecessary?

If the CTSA is going to be empowered to take over enforcement in a Local Authority area when it believes that the authority is failing in its duty, then the standards by which they are judging failure will have to be clear, coherent and consistent with the National Performance Framework and any obligations imposed upon trading standards authorities by central government departments and agencies. We would suggest some additional powers as set out in our response to question 3.

Question 2

Do you think the application of these powers will be sufficient to achieve the efficiencies/reduction in burdens on business envisaged by Hampton? Do you think they will increase burdens on local authorities? If yes, please provide supporting evidence.

As the powers outlined in paragraph 39 are principally about monitoring, evaluating and directing the performance of local authorities on trading standards issues it is difficult to see how in their own right they will secure the efficiencies/reductions in burdens envisaged. They are perceived as powers of last resort and, as such, are ill-equipped to deliver the routine efficiencies/reductions that are desired. We feel that there should be no additional burden on local authorities and the power to require information from local authorities should only relate to information currently produced by existing reporting processes.

Question 3

If you do not think the proposed CTSA powers are sufficient (Q2) what additional or alternative role/powers can be given to allow the CTSA to effectively coordinate the performance framework?

The CTSA should have the power to promote collaboration and joint working between authorities where that would produce tangible efficiency benefits and advantages to local businesses and consumers. Other powers that might be useful to the CTSA:

- ***The power to contractualise with local authorities for the provision of certain facilities or projects.***
- ***The power to prescribe training and qualification requirements for trading standards personnel in conjunction with LACORS, TSI and the local government associations.***

Question 4

Do you think this is the right approach for the CTSA to take in using its powers? If not, what would be better?

We are comfortable with the analogy that the powers envisaged are equivalent to those currently enjoyed by the Food Standards Agency and are adequate for the purpose of measuring and evaluating performance by local authorities. More thought needs to be given however to how they will achieve the efficiency aims and goals set out in Hampton and ensure that central government priorities for trading standards are taken proper account of in service planning.

Chapter 3 – Priority setting for the Trading Standards Service

Question 5

Do you think this is the best process for identifying central government priorities for the trading standards service?

Yes, although we need to be clear over responsibilities where Scotland is concerned, for example over tobacco advertising.

Chapter 3 – Consistency of Inspection and Enforcement

Question 6

Can you suggest a definition for the type of business that the CTSA might cover for home authority work? What criteria could be used to assess whether a business falls within the definition?

While there may be inconsistencies in the application of the LACORS home authority principle, our belief is that local authorities do make a concerted and consistent effort to abide by this code. We fail to see how the intervention of the CTSA in certain business sectors will do anything other than add to the inconsistency and a more fragmented approach between enforcers.

We believe it will be very difficult to produce a definition that would suit multi-outlet businesses in all the business sectors subject to trading standards scrutiny.

Questions 7, 8, 9 – combined response

We believe that none of the 3 options outlined would be desirable or capable of delivering the desired improvement in the inspection of larger businesses. In particular, we are against Option 3 which would see some businesses move outwith local authority inspection or contracting arrangements introduced. Local government should be left to get on with inspection of businesses in its area and our favoured option would be Option 1.

Chapter 4 – Quality Assurance of Third Party ADR Schemes

Question 10

Do you agree that recognition of good quality Alternative Dispute Resolution schemes would be an appropriate role for the CTSA?

Yes.

Chapter 4 – Cross Border Scams

Question 11

Do you agree that distribution of these recovered assets would be an appropriate role for the CTSA?

We support the CTSA having the prime role in the distribution of recovered assets but if there are surplus monies recovered then there should also be some mechanism for defraying the costs to individual local authorities who have been part of any successful action.

Chapter 4 – Representative action

Question 12

Do you agree that the CTSA should be designated as a third party to bring proceedings on behalf of a group of consumers?

Yes.

Chapter 5 – Option 1 – the CTSA as a wholly new body

Questions 13-22 – combined response

We believe that the CTSA should be established as a wholly new non-departmental public body to give greater prominence and focus to consumer and trading standards matters. A new agency at arms length from government, with a fresh approach would be best equipped to achieve the aims of Hampton.

We believe there is a strong case for having a distinct CTSA (Scotland), similar to the Food Standards Agency, to serve Scottish consumers and businesses. Scotland has a separate and distinct legal framework and the policy aims and strategic objectives of the Scottish Parliament and Executive often differ from those of Westminster and need to be taken separate account of. A presence in Scotland would also help the CTSA work more closely with Scottish local government via COSLA which will be essential for its success.

Chapter 5 – Option 2 – the CTSA as part of the OFT

Questions 23-29 – combined response

We agree that it is important for the CTSA and OFT to work closely on consumer issues, but actually being part of the OFT would make it difficult for the new body to create its own identity. We feel the new agency needs to be established as a non departmental public body, outside the OFT, so it is able to give establish its own culture and direction, and give consumer issues the time and attention needed.