

DERBYSHIRE COUNTY COUNCIL

CABINET

15 May 2012

Report of the Strategic Director of Cultural and Community Services

**CONSUMER LANDSCAPE REVIEW – EMPOWERING AND PROTECTING CONSUMERS
(REGENERATION)**

1. Purpose of the Report:

To inform Cabinet of the publication of the Government's response to the consultation on institutional reform of the arrangements to protect consumers and legitimate businesses from unfair trading practices.

2. Information and Analysis:

- 2.1 The Government recognises the important role that well informed members of the public, who are knowledgeable about their consumer rights, play in demanding good quality goods and services at a fair price. This leads to competition, driving up quality and creating economic growth. However, ill-informed consumers are particularly vulnerable to rogue traders and therefore it is essential that consumers have access to clear, impartial and practical consumer advice and that rogue trading is tackled effectively. Rogue traders also pose a threat to local legitimate businesses by taking unfair competitive advantage.
- 2.2 Government felt that the current landscape of bodies responsible for advice and enforcement is inefficient and confusing, leaving consumers uncertain who to turn to for help and advice when things go wrong. Their recent consultation, *Empowering and Protecting Consumers*, proposed a number of approaches to tackle this which included asking the Citizens Advice network to take on the bulk of consumer education and advice and local authority trading standards authorities to take the lead on the majority of consumer law enforcement issues. The outcome of the consultation was published in April confirming Government's intention to set up a National Trading Standards Board, which will, from April 2013, take on some of the responsibilities currently with the Office of Fair Trading. See link below:

<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/e/12-510-empowering-protecting-consumers-government-response.pdf>

- 2.3 The Office of Fair Trading (OFT) currently has a lead role in delivering a range of consumer protection issues. Whereas local authority trading standards services have responsibility for enforcing a wide range of consumer protection at a local level, the OFT are responsible for tackling issues that pose a national threat. As part of the Landscape Review, much of this responsibility is being passed to trading standards. In addition, from April this year, responsibility for delivering the national Consumer Direct telephone service passed from OFT to Citizens Advice. Although the telephone number (**08454 04 05 06**) currently remains the same, the new service is operated by Citizens Advice and is marketed under the CA logo as the Citizens Advice consumer helpline. (For how to access the new service on-line please go to the following website: <http://www.adviceguide.org.uk>)
- 2.4 The Citizens Advice service will also take on responsibility from Consumer Focus for representing consumers' interests in unregulated sectors. This will leave a new, technical Regulated Industries Unit working with the energy and postal services sectors and their regulators, replacing Consumer Focus. The intention of Government is that anyone seeking advice should go to just one agency – namely Citizen Advice – for help. Derbyshire Trading Standards has a history of working closely with local Citizens Advice Bureau to support local consumers and has recently set up regular meetings with Bureau Managers to share intelligence about rogue trading. There is a fine distinction between breaches of civil (contract) law and breaches of criminal law and so it is essential that we are able to jointly identify those traders causing the most consumer detriment. We will also continue to support CA colleagues with providing support to local consumers who have a genuine dispute with a Derbyshire Trusted Trader and also the most vulnerable local consumers.
- 2.5 Rogue traders do not just operate locally. The recent prosecution of Derbyshire based rogue sellers of mobility products demonstrated that there were victims throughout the UK. In 2008 Government providing funding to help create regional enforcement teams to help tackle rogue traders that operate across local authority borders. In October 2008, Cabinet authorised the East Midlands team which is hosted by Nottinghamshire County Council, to work with Derbyshire Trading Standards to tackle rogues based in the East Midlands and causing consumer detriment in Derbyshire. The Division continues to work closely with regional colleagues in order to tackle the rogues.
- 2.6 Responsibility for identifying and taking action to address rogue traders creating a national threat to consumers currently remains with the OFT. However, a National Audit Report in June 2011 was critical of the OFT's record in taking action to tackle rogue trading at a national level. The National

Audit Office estimated that the cost of detriment which cannot be tackled at local level is more than £4.8 billion each year. See report via link below:

http://www.nao.org.uk/publications/1012/protecting_consumers.aspx

- 2.7 As part of the Consumer Landscape, Government has announced the creation of a new National Trading Standards Board (NTSB) which consists of regional Heads of Trading Standards Services from England and Wales. Derbyshire currently chairs the East Midlands Group and therefore the Assistant Director/Head of Trading Standards represents the East Midlands. From April 2012 the new Board has responsibility for allocating funding for the regional Scambuster Teams and the Illegal Money Lending Team based in Birmingham as well as for tackling 'e-crime'. Over the next 12 months the Board will continue to work with OFT to identify and agree priorities for tackling rogue traders operating at the national level, and from April 2013 responsibility – and some additional funding – will pass to the Board and the Office of Fair Trading will cease.
- 2.8 A new body, the Competition and Markets Authority will take over from the OFT responsibility for making markets work effectively and taking action to prevent business trading anti-competitively. The CMA will have the power to tackle competition problems, and practices and market conditions that make it difficult for consumers to exercise choice in an otherwise competitive market. For these purposes the CMA will have use of both its competition toolkit and will have powers to enforce consumer protection legislation. The CMA will also have primary enforcement responsibility in relation to the application of unfair contract terms legislation.
- 2.9 Further details are provided as an appendix including a Frequently Asked Questions section.

3. Financial Considerations:

There are no direct financial considerations associated with this report. The NTSB has agreed that part of the funding allocated by the Department of Business Innovation and Skills will be used to continue to support regional collaboration.

4. Equal Opportunities Considerations:

Derbyshire Trading Standards will continue to prioritise to tackle rogue trading that impacts on the most vulnerable members of our local communities.

5. Other Considerations:

In preparing this report the relevance of the following factors has been considered; legal, prevention of crime and disorder, human resources, environmental, health, property and transport considerations.

6. Background Papers:

AUTHORISATION OF SCAMBUSTER INVESTIGATIONS AND
COLLABORATIVE CROSS AUTHORITY WORKING WITHIN EAST MIDLANDS
(Communities) October 2008, 19 April 2011

7. Key Decision:

No

8. Call-in:

Is it required that call-in be waived for any decision on this report?
No

9. Strategic Director's Recommendations:

That Cabinet notes the report

Martin Molloy
Strategic Director
Cultural and Community Services

Appendix

REVIEW OF THE CONSUMER LANDSCAPE AND THE NATIONAL TRADING STANDARDS BOARD

Background

This briefing outlines the implications of the announcement made in April 2012 that gives the outcomes of their consultation on changes to the bodies involved in consumer protection work.

Enforcement

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 (ie Trading Standards East Midlands dealing with cross border rogue traders, and sharing resources and expertise), and currently **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.

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, BIS 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.

The Government propose that local government (via the new National Trading Standards Board) comprising representative Heads of Trading Standards from each English area and from Wales, provide the delivery mechanism and governance structure for all the regional and national consumer protection work. From 2012/13, they will direct the work currently done regionally by councils and be responsible for allocating government funding, under a grant agreement, for illegal moneylending teams, scambuster teams, safety of consumer goods at the major ports and provision of a specialist internet crime unit. In England and Wales, these grants total £9.7 million. As from 2013/14 this role will be expanded to include some of the work currently carried out by the OFT.

It is proposed that there will be a high level oversight mechanism at a political level (via BIS, the LGA and the WLGA).

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. However, having the NTSB run by senior local government officers, and an oversight/steering mechanism that includes local government politicians, will ensure that this work is better joined up and serves the needs of local authority trading standards services.

Changes to Consumer Advice

The OFT has provided the Consumer Direct telephone helpline for over five years working closely with local authority trading standards services. Consumer Direct provided simple consumer advice and referred to councils more complex issues or those where enforcement action might be required. In essence the process will remain the same, but from 1st April, Citizens Advice will be providing the service rather than OFT. Council trading standards services will 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.

Why is this important locally?

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.

All councils and citizens benefit from the protection provided regionally and nationally by council trading standards services. For example, all consumers are potentially vulnerable to national pricing rip-offs and international scams. Dealing with illegal money-lending - a crime often based in specific, often deprived, local communities - requires specialist expertise and a different approach that very few councils can maintain locally. Rogue traders do not respect local authority boundaries and can move effortlessly from one area to the next targeting some of the most vulnerable consumers. A regional/national solution is needed to tackle them. Legitimate businesses who comply with the law face unfair competition from the minority that do not.

Council trading standards services will best be able to protect their local citizens and businesses by participating fully and benefiting from this new enforcement framework.

FAQs

- ***Will the Board be a National Trading Standards service?***

No, the Board is about improving what is already being delivered by trading standards to tackle regional and national crime. It is not changing or replacing what goes on at a local level by your local trading standards services other than helping them with better intelligence and support. Trading Standards remains a council governed and council run service.

- ***Will local trading standards services lose their autonomy?***

No, the Board simply allows local trading standards services better access to support to deal with regional and national issues. The NTSB does not alter how local services are run or governed, and if a local council wants to take a national case it will still be able to do so. This is about better joining up what needs to be done locally, regionally and nationally to better protect consumers.

- ***The Board will be up and running from April - what are the first priorities it will tackle?***

During the first year it needs to gain the trust of stakeholders, develop a system for improving the sharing of intelligence and evaluate existing projects to ensure the available money is being used to the best possible effect. It will also need to be gearing itself up ready for any additional funding/functions that may be passed over on 1st April 2013 when additional funding from the current OFT enforcement budget will be available and the Board will take over responsibility for the coordination and database management functions that are currently carried out by the OFT.

- ***Why has Scotland and Northern Ireland been left out?***

In NI Trading Standards has always been delivered by central government not local authorities so the system is different. In Scotland Scottish trading standards, local authorities and

Government have decided to run their own Scottish Board. However reps from Scotland and NI will be invited to attend all NTSB meetings so we can share intelligence, information and best practice across the whole of the UK.

- ***Will it be independent from the Government?***

Yes, the NTSB decisions are independent from Government. The Chair may report directly to Government but they will be independent. The Board has to comply with any conditions imposed by BIS on the use of the grant but we expect that to be very flexible. The Board will also rightly have to be accountable to Government for the use of the public money it allocates but apart from that it is run by and on behalf of heads of trading standards in local authorities.

- ***How will the accountability and transparency of the Board be ensured?***

The NTSB can only spend money in accordance with the conditions imposed by BIS as part of their standard grant agreements. The NTSB will have to account to BIS for all money spent and this will be subject to scrutiny by the National Audit Office and Public Accounts Committee as with any other similar expenditure. We are also aware that BIS are discussing with the LGA the possibility of setting up an oversight mechanism with local councillors and BIS politicians to help scrutinise the work of the Board.

- ***In these times of economic difficulties would £10 million not be better spent elsewhere?***

No we do not think so. Recent NAO reports show that an enormous amount of consumer detriment is happening at a regional and national level. A relatively small investment via the Board, that can specifically target this type of detriment, will have a significant impact. At a local level circa £160 million is being spent on trading standards so this £10 million is relatively small. Also, this is not new money. Much of this work has been going on anyway, with specialist teams protecting people from illegal money lenders, scams and stopping dangerous goods coming into the UK. Removing this money now would endanger consumers.