

AGENDA MANAGEMENT SHEET

Name of Committee	Cabinet
Date of Committee	6th October 2005
Report Title	Reducing Administrative Burdens – The Consumer and Trading Standards Agency
Summary	<p>The Department of Trade and Industry (DTi) are consulting on proposals to address the recommendations in the report by Philip Hampton on reducing administrative burdens prepared for HM Treasury. A proposal is to establish a new government agency, the Consumer and Trading Standards Agency. This report seeks approval of a response on behalf of the Council.</p>
For further information please contact:	<p>Adrian Levett Head of Trading Standards Tel: 01926 414059 adrianlevett@warwickshire.gov.uk</p>
Would the recommended decision be contrary to the Budget and Policy Framework?	No
Background papers	<ol style="list-style-type: none">1. Reducing Administrative Burdens - effective inspection and enforcement. Philip Hampton, March 2005 www.hm-treasury.gov.uk/hampton2. Reducing Administrative Burdens – the consumer and Trading Standards Agency. Consultation 5th July 2005. DTi www.dti.gov.uk/ccp/ctsa/pdfs/ctsacondoc.pdf3. Companion document to the DTi Hampton Review consultation. Improving consumer protection – a vision for the future. OFT 5th July 2005 www.ofg.gov.uk/News/Publications/Leaflets+ordering.htm

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

- Other Committees
- Local Member(s) Not applicable
- Other Elected Members Councillor A Farnell
Councillor J Haynes – “I support the conclusion contained within the report.”
Councillor D Shilton
Councillor M Doody
- Cabinet Member Councillor R Hobbs – “Report noted.”
- Chief Executive
- Legal Ian Marriott – Report is agreed.
- Finance Paul Walsh - Approved
- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION

Yes

SUGGESTED NEXT STEPS:

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Cabinet - 6th October

Reducing Administrative Burdens – The Consumer and Trading Standards Agency

Report of the Director of Libraries, Heritage & Trading Standards

Recommendation

That Cabinet approves the response to the DTi consultation on the Hampton Report.

1. Background

- 1.1 In March, HM Treasury published the “Hampton Report” which recommended that the burdens on business could be reduced by streamlining the regulatory system to have fewer, larger regulators, with which business must interact.
- 1.2 One of the key recommendations in the report was that a Consumer and Trading Standards Agency (CTSA) should be established at the centre of Government to co-ordinate work on consumer protection and trading standards.
- 1.3 The Government has accepted the recommendations from the Hampton Report and the DTI are taking forward work to establish the new agency. They have issued a consultation document entitled ‘Reducing Administrative Burdens – the Consumer and Trading Standards Agency’ to seek views on the proposed scope and structure of the new agency.

2. The Proposals

- 2.1 The consultation paper sets out options for the scope and structure of the new organisation and seeks views on 29 specific questions. A copy of the full consultation paper is available at www.dti.gov.uk/ccp/ctsa/pdfs/ctsncondoc.pdf
A summary of the proposals is listed below.

2.2 In terms of scope and functions it is proposed the CTSA will co-ordinate all aspects of the work of the Trading Standards Service, apart from that covered by the Food Standards Agency, the proposed Animal Health Agency, and the Health and Safety Executive. 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 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).

2.3 In addition the following functions would be carried out by the CTSA:

- *Advice for business* – providing advice to business and providing strategic leadership to the Trading Standards Service on giving advice to business.
- *Consumer education* – responsibility to provide education for consumers and to provide strategic leadership to the Trading Standards Service on consumer education.
- *Consumer Direct* – responsibility for managing Consumer Direct the new national helpline for first-line consumer advice.
- *Co-ordinated Performance Framework for the Trading Standards Service* – using powers to set minimum performance levels and encourage and support performance improvement and the spreading of best practice.
- *Priority setting for Trading Standards* – working jointly with the Food Standards Agency, Animal Health Agency and HSE to give local authorities consistent advice on priorities.
- *Consistency of inspection and enforcement* – a role in improving the consistency of regulation faced by businesses particularly those that trade in several local authority areas, including to some extent the conduct of enforcement activity by the CTSA.

2.4 In terms of developing a structure to deliver these functions the Hampton Report proposed two options.

- Option 1: In this scenario the CTSA would be formed as a new and separate body. The OFT consumer functions would be transferred to the new body, which would include NWML, the HAC and the BHC. The OFT would continue to enforce competition law and conduct market studies.
- Option 2: In this scenario the CTSA would be established as part of the OFT. The other bodies, NWML, HAC and BHC would also be added to the existing OFT structure.

- 2.5 Hampton's preference was for Option 1, on the basis that there would be significant managerial and organisational advantages in creating a new body that was wholly focussed on the major task of delivering a coherent enforcement network and performance management of local Trading Standards Services.

3. Matters for Consideration

- 3.1 Views are sought on seven issues:

- Powers of the CTSA
- Priority setting for the Trading Standards Service
- Consistency of Inspection and Enforcement
- Quality Assurance of third party alternative dispute resolution schemes
- Cross border scams
- Representative actions on behalf of groups of consumers
- The structure of CTSA either as a new body or part of the OFT

- 3.2 The functions that are proposed for the agency in terms of managing Consumer Direct, co-ordinating the provision of education for consumers; co-ordinating the provision of advice to business and undertaking the consumer enforcement role currently performed by the OFT would be appropriate. These proposals would lead to a more coherent consumer enforcement framework benefiting consumers and business.

4. Consultation Response

Cabinet is recommended to respond in the following terms to the consultation:

- 4.1 **Powers of CTSA** - We fully support the Government's commitment to develop a flexible performance framework for Trading Standards Services, representing greater co-ordination between regulatory bodies. The paper emphasises that the service would remain a function of local authorities recognising that trading standards is best placed within local government to deliver a locally responsive service that meets the needs of consumers, businesses and local communities. From this position trading standards services are ideally placed to play a key role within the local community and contribute to key local strategic priorities such as community safety, public health and social care and economic prosperity.
- 4.1.1 We accept that variation in service quality does exist, and support the drive to improve performance through effective performance framework co-ordination at local, regional and national level.
- 4.1.2 The introduction of minimum standards offers a mechanism to improve consistency and the overall performance of trading standards services nationally, reassuring both businesses and consumers. Whilst we would wish to see any proposed minimum standards developed in consultation/partnership with key agencies, including LACORS, the LGA and local authorities themselves, we suggest these standards should be primarily based upon the LACORS Good Practice Guides.

- 4.1.3 We support the assertion that the way in which the CTSA exercises its powers should be compatible with Government's commitment to a more coherent and proportionate approach to the inspection of local authorities, recognising value of initiatives such as the EFQM Peer Review programme. Also, we would support the granting of additional powers to require a Peer Review of a local authority before the imposition of measures relating to the power for the CTSA to take over enforcement in a local authority area.
- 4.2 **Priority Setting for the Trading Standards Service** - The Warwickshire Trading Standards Service makes a contribution to a number of national and local priorities in areas as diverse as tackling anti-social behaviour, doorstep crime, health, social care, and economic prosperity. In doing so, it is engaged with a number of central government departments and competing priorities are set. Greater consistency and co-ordination of central government priorities for trading standards would benefit local authorities' performance of local trading standards services, and thus consumers and businesses.
- 4.2.1 We are concerned that the process outlined does not grant sufficient ownership to local authorities, and ultimately local people. We recognise the acknowledgement that trading standards is best placed within local government in order to be responsive to local consumers and businesses, reflecting local concerns. However, the process for the identification of priorities for the Service does not allow sufficient input for locally determined priorities, risking local accessibility and accountability.
- 4.3 **Scope of CTSA** - The scope of the CTSA requires further clarification, in particular, clarification about responsibility for the breadth of issues such as underage sales and tobacco advertising that currently fall within the policy remit of central government departments as diverse as the Home Office and the Department for Culture, Media and Sport. As already stated in paragraph 1.2.2 the proposed CTSA role is limited by the existing roles of other.
- 4.4 **Consistency of Inspection and Enforcement** - The proposition that the CTSA may adopt an enforcement role in regard to 'national' or larger businesses raises many issues about practicality, financial resourcing, accountability and the scope of the new agency. At present, local authority trading standards services have home authority relationships with many different forms of businesses. The Home Authority principle established by the Local Authority Coordinator of Regulatory Services (LACORS) requires a special relationship between a local authority and the head office of a company resident in their area. This authority becomes the focal point for interaction with that company for other Trading Standards authorities. This work has been conducted on a voluntary unfunded basis and yet has been remarkably successful.
- 4.4.1 We would suggest that if any category of business warrants a nationally co-ordinated regulatory approach, it would be multiple outlet retailers who seek to impose nationally consistent systems. In any event the role of the CTSA would, through necessity, remain limited due to the non-inclusion of key regulatory areas such as food in their remit.

- 4.4.2 The paper sets out three options to improve consistency. The first option of maintaining the current home authority principle with an underpinning code of practice would not deliver the benefits sought by central government, nor deliver the improvements local government wants to achieve as the system would remain un-funded.
- 4.4.3 The second option of Home Authorities inspecting a random sample of premises across the country raises a number of concerns regarding the practicality of enforcement, financial resourcing and the absence of local accountability. It also assumes a level of uniformity throughout a national company, whilst evidence suggests the existence of wide variance between and within regions. It is also unclear how funding mechanisms would allow for dealing with non-compliance at company and/or store level. The loss of local accountability is a key concern for local communities and could result in inconsistency in enforcement between those businesses that are locally based and those that are nationally based.
- 4.4.4 The final option outlined, whereby the newly formed CTSA would undertake the enforcement role, has the potential to achieve increased consistency. However, fundamentally, it is not clear how the agency would ensure national consistency between inspectorates and we are concerned that this may lead to the creation of a two tier enforcement structure.
- 4.4.5 Additionally, for many larger businesses, this option would increase the number of inspections rather than deliver efficiency for business, a clear example being supermarkets. Environmental Health services would continue to inspect food hygiene and health and safety matters, Trading Standards would continue to do underage sales enforcement relating to alcohol, and the Fire Service would continue to carry out inspections relating to fireworks and petroleum whilst the CTSA covered other trading standards issues.
- 4.4.6 Here defining the scope of the CTSA again is imperative, as the paper states 'other issues outside the remit of the CTSA would continue to be subject to whatever inspection regime they are currently under'. Without further consideration of the scope of the new agency, responsibility for trading standards issues such as under-age sales and tobacco advertising, and greater co-ordination of central government priorities and inspection regimes, the options identified will fail to deliver both the increased consistency and efficiency sought.
- 4.4.7 In suggesting an alternative option, we feel that dependent upon the agreed definition of national or larger businesses, central co-ordination of local authority trading standards service engagement, adequately funded and linked to national standards, could achieve the stated desired outcomes. Evidence shows that the work of local trading standards services on animal health in conjunction with DEFRA, using the Framework Agreement, has been very successful in providing an improved and more consistent service. We believe there is significant scope for the CTSA to adopt this approach as a means of influencing the work of local authority trading standards services.

4.4.8 In relation to the other proposals for the CTSA relating to third party dispute resolution schemes, cross border scams and the ability to take representative actions on behalf of groups of consumers, these would all be suitable roles for the agency.

4.5 **Structure of CTSA** – The Hampton Review proposed 2 options for establishing the CTSA, either as a wholly new body or as part of the existing OFT.

4.5.1 We fully support the use of consultation upon the proposed structure of the new agency and the opportunity to formulate a structure that delivers the recommendations of Hampton for both businesses and consumers, and increases efficiency and consistency of trading standards enforcement. However, at present the remit and function of the CTSA is not clear, whether the new agency is designed to be an enabling leadership body or a service delivery body. This makes it difficult to comment on the nature or location of the agency.

4.5.2 Whether the agency is indeed formed as a wholly new body, or as part of the OFT, we would wish to stress the following crucial elements to the success of its operation:

- Proper partnership working with local government
- Sensible and appropriate use of its powers
- To be a consulting and inclusive body
- To provide strong leadership within government for Trading Standards issues
- To provide a strong profile for the importance of local Trading Standards Services

4.5.3 The agency should be established with a strong ministerial link necessary to ensure the agency has the ear of government. Additionally, we would argue that rather than it being simply desirable to establish a closer relationship between the CTSA and Government than currently exists between the Government and the OFT, it is indeed essential for the successful operation of the new agency and achievement of the desired outcomes.

4.6 **Conclusion**

In conclusion, we welcome the opportunity to comment upon the proposed structure of the new CTSA. Whilst we do not wish to express a preference in favour of either of the two options, each having both advantages and disadvantages, we envisage an agency that is committed to working in partnership with local government, fair and equitable in application of its powers, and providing a strong leadership force for trading standards. We feel that further clarification and definition of a number of issues raised, including the scope and remit of the CTSA and the distinction between the CTSA and the OFT, is required before any final decision upon structural change is reached through consultation.

5. Financial Implications

- 5.1 As this document is a consultation document there are no immediate financial implications involved in responding to the proposals, however, the proposals to establish the CTSA will result in changes to the local delivery of trading standards services that will have financial implications from 2008.
- 5.2 By establishing a body that has the power to set statutory minimum standards and set national priorities that the local authority must deliver to, this will require the service to be appropriately funded. Should the standards and priorities that CTSA set impose additional burdens on local authorities, it is hoped that these would attract additional funding to meet these additional demands. The Trading Standards Service would work through LACORS, LGA and the Trading Standards Institute to measure and evaluate the additional burdens and make appropriate representations for additional funding.

NOEL HUNTER
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9 September 2005