

Council Savings Programme Trading Standards Review 2014 Options Appraisal Report

Service Delivery Options Review

Purpose of this report

1. As part of the Council Savings Programme 2014-2020 the budget for the Trading Standards Team is to be reduced by £50k per annum from 1 April 2015. This will reduce the gross service budget from £493,460 to £443,460 (approx. 10%)
2. Some of the options for achieving the savings target will require consultation and this report provides further detail on the proposals to support this. The decision on how the savings are to be made has been delegated to the Director of Environment and Community Services.

Statutory basis of the Trading Standards Service

3. The Trading Standards Service in local authorities has evolved over many years from the traditional weights and measures service to much more and covers a vast array of legislative provisions aimed at protecting consumers and legitimate businesses.
4. There are 264 Key pieces of legislation which fall within the remit and 192 of these place, to some degree, a duty for enforcement / investigation. However, many of these are rarely used. The main statutes are:
 - Weights and Measures Act 1985
 - Agriculture Act 1970 (Includes Feed Responsibility)
 - Animal Health Act 1981/5
 - Animal Welfare Act 2006
 - Children and Young Persons Act 1933 (and S.3, 4, of the 1991 Act)
 - Consumer Protection Act 1987
 - Consumer Protection from Unfair Trading Regulations 2008
 - Copyright Designs and Patents Act 1988
 - Fair Trading Act 1973
 - Fireworks Act 2003 and Regulations 2004
 - Food Safety Act 1990
 - Licensing Act 2003
 - Local Government (Miscellaneous Provisions) Acts 1976/82
 - Petroleum (Consolidation) Act 1928
 - Town Police Clauses Act 1847
 - Toys (Safety) Regulations 2011
 - Trade Marks Acts 1938, 1994
 - Zoo Licensing Act 1981

5. The service also has three key roles in the crime and disorder agenda and in meeting obligations under the Crime and Disorder Act 1998. These are:
 - a) Taking action to prevent people being victims of commercial crime in their own home.
 - b) Taking action to disrupt traders from operating in the informal economy
 - c) Taking action to prevent harm to children and nuisance caused by young people from access to age restricted goods such as alcohol.
6. Although there are many pieces of legislation that place a duty on Trading Standards to enforce there are no definitions of what is a minimum level of statutory service. This is partly because of the range and nature of the service demands on LAs and that they will be very much dependant on the nature and type of businesses in that area.
7. There are however some benchmarks that South Gloucestershire Council has used in order to assess the level of service and arrive at its current level of provision. The Local Authority Coordinator of Regulatory Services (LACORS) which was part of the LGA issued risk assessment guidance for types of businesses and suggested inspection frequencies. This is the basis for the system currently in place.
8. The risk assessment works on the basis that high risk premises are visited once a year, medium risk every two years and low risk five years.
9. A number of years ago South Gloucestershire Council reviewed its position in trying to follow this rigidly and decided that:
 - a) It was not possible with the resources we had to do this.
 - b) This was not intelligence led.
 - c) A number of the visits were felt not to be useful either to the businesses visited or the local authority.
10. A decision was therefore taken to maintain the visits to the high risk premises but to only do a random sample of medium / low risk visits each year in order that resources be used on an intelligence led basis whilst maintaining some 'dip' sampling of premises.
11. Projects and themed work was thereafter undertaken based on intelligence and in response to complaints. Complaints are also reviewed to assess their relative importance and a response determined on that basis.
12. These changes from pre-programmed working patterns to a focussed intelligence led service has enabled the service to identify and tackle significant criminality such as the rogue trader Jim Coffey who was imprisoned and the leaflet 'non-distribution' company DPDS whilst still supporting our highest risk businesses through inspection.
13. This approach has been endorsed nationally through the better regulation agenda, the Hampton report and the new Trading Standards National Intelligence Model

which all recommend this style of approach. The NIM is a more sophisticated intelligence model using sub regional, regional and national intelligence across agencies and is one the service is moving towards.

14. This has also recently been supported by a legislative change which requires substantial intelligence to be available prior to under age sales test purchasing operations taking place. Speculative or 'fishing' exercises can no longer be undertaken and this has prevented the service's proactive test purchasing exercises taking place.
15. The exception to this approach has been in the primary feed and food production visits to farms as they are clearly defined as being necessary under a Statutory Code of Practice.
16. It is important to note that the intelligence led work has enabled resource to be diverted to discretionary but important functions supporting vulnerable people, businesses and addressing community concerns. Specific examples being No Cold Calling Zones, Trader Approval Schemes and Weight restriction checks on roads.
17. LACORS in conjunction with the Association of Chief Trading Standards Officers had also previously produced a best practice guide for LA TS Services including a peer review scheme based on the EFQM excellence model. When reviewed against the best practice model the service fared well, showing a strongly performing authority for its resource levels and the peer review, including an independent elected Member from the IDeA, showed that governance and work arrangements were good.
18. Over the years there have been a variety of recommendations from Government, starting with the Roger's review, on what the priorities should be for local authority TS services. More latterly this has been replaced by priorities from the Better Regulation Delivery Office, part of BIS, and the National Trading Standards Board.
19. The TS team reviews its priorities against these recommendations and continues to find that in the main our priorities follow these. In some circumstances there may be recommendations that are not relevant to our local area such as a recent focus on fulfilment houses – we don't have any.

Trading Standards Structure

20. The service is made up of two areas including a commercial metrology trading element.

- Enforcement, Fair Trade, Advice, Animal Health and Welfare (including a licensing function).
- Metrology (Weights and Measures), Explosives and Petroleum Licensing and Product Safety (including under age sales).

The teams are organised in to lead areas with more senior officers providing expertise and guidance on complex cases.

Work is prioritised according to statutory requirements, consumer detriment and, in line with national practice and guidance, is becoming and will need to become even more intelligence driven.

21. The service currently comprises 11.1 (FTE) staff and has an annual gross budget of £493,460 direct costs, reducing to £443,460 with delivery of the Councils' savings program, made up as follows:

Area	Net budget
Staffing costs	£417,420
Project Funding	£9,460
Supplies and Services	£66,580
Total *	£493,460
Income	£76,540
Net Cost of service	£416,920

- This equates to a net cost per FTE of £37,560 and includes supplies and services.

22. The staffing structure is as follows:



Future Options

23. In order to deliver the proposed savings in time for the financial year 2015/16 it will be necessary for the decision to be made on the savings plans in autumn of 2014.
24. Following achievement of the savings targets, the whole service budget will be £443,460 with the net service budget, taking in to account income will be, depending on options chosen approximately £366,920. This equates to a likely reduction in the current staffing level of 11.1 FTE to 9.6FTE. A reduction of 1.5FTE at current rates. With this level of staffing it is not possible to continue to operate as at present. Therefore there is likely to be a need to re-structure to focus the team more in line with the Trading Standards National Intelligence Model (NIM).
25. South Gloucestershire has a growing proportion of elderly and disabled residents needing support in their homes. In 2007, 26.4% of households included a resident aged 65 or over. This increased to 29.9% in 2011, compared with a national average of 25%. In 2007, 25.8% of private households were in receipt of income related or disability related benefits and therefore classed as “vulnerable”. This increased to 26.9% in 2011, compared with a national average of 21%.
26. The effects of the growing South Gloucestershire population are compounded by the economic implications of welfare reform, potentially leading to an increase in people looking to make a living in an inappropriate way and potentially take advantage of some of the more vulnerable members of society.
27. There is also significant local and central government interest in Trading Standards teams utilising their existing powers and work to protect and promote legitimate business by tackling the rogues and providing support.
28. The impacts of the savings will be compounded by the increase in service demand associated with the economic climate and this poses a risk to the Council which is reflected in the Risk Log for the project.

OPTIONS

29. Options have been identified to establish the most appropriate way of achieving the savings and these are considered in turn below. These options can be considered separately or together and provide a menu of choices from which Members can choose to realise the £50,000.

Option1: Remove all discretionary functions £56,340

30. The Council currently undertakes the following discretionary functions which will cease under this option: -

Area of work	Role	Current time / costs
RTRA – Lorry Watch RTA	Undertaking routine checks at specific locations and providing communities a facility to report instances of overweight vehicles breaching safety and environmental weight restrictions. There are currently 6 cases being investigated with the intention of formal action. In 2013-14 there were 19 successful prosecutions and 9 cautions issued. Current levels of referrals as part of the Lorry watch scheme are averaging 25 per month.	0.4FTE £15,024
Consumer Advice/ NCCZs Scams	Providing consumers advice on their statutory rights and providing links with communities to protect vulnerable consumers from doorstep traders The service received 4610 notifications of complaints from Citizens Advice Consumer Service in 2013-14. Reviewing these provides essential intelligence to the fair trading function and enables the highest risk residents to receive advice. There have been 121 streets set up as No Cold Calling Zones covering approximately 5200 properties of which 9 applications have been in Priority Neighbourhoods. There has also been 6 streets covering approximately 200 properties set up as Community Control Zones set up by local community organisations under the guidance of Trading Standards. This area also includes providing advice to businesses who would only receive advice following a Trading Standards visit, justified complaint or as part of a specific project.	0.7FTE £26,292
Trader Approval Schemes	Providing local business a membership of an approved scheme to show they have been audited by LA TSD Trading Standards have signed up to provide local businesses with the Buy with Confidence trader approval scheme. However numbers have been falling over recent years, we currently have 25 members, despite various initiatives to try and bolster membership numbers. Competition from commercial and consumer organisations has not helped the marketing of the scheme.	0.4FTE £15,024 (£1,700 income with Trader Approval Scheme)
Total		1.5FTE £56,340

31. Total annual savings from these options would be up to £56,340 which includes a Trader approval scheme which operates on a licence agreement with set fee levels and this currently generates about £1,700 in income a year although this is under increasing pressure.
32. Please note below the positive and negative aspects of the discretionary elements being stopped.

Positive Aspects	Negative Aspects
All the savings and slightly more could be realised without effecting statutory services.	The most vulnerable in our communities will be less protected from the cessation of support for no cold calling zones and civil advice.
	Communities who are plagued by overweight lorries would not have any enforcement unless it was provided by the Police. This would include safety weight restrictions.
	The Council would not offer or support a trader approval scheme.

Option 2: Withdrawal of most of the discretionary elements of work leaving some that cater to and protect the most vulnerable in society. £45,072

33. The table below shows the proposals in this area.

Area of work	Role – Proposed Provision	Current time / costs	Proposed time / costs
RTRA / RTA – Lorry Watch	Weight restriction checks would only be undertaken as a result of intelligence received with respect to the safety restrictions in place in the district.	0.4FTE £15,024	0.1FTE £3,756
Consumer Advice/ NCCZs Scams	Maintain some service to support existing NCC Zones but don't support the development of others unless project funding to do so is found. No business advice to be provided. Scams bulletins sent to the most vulnerable to continue. Intelligence led specific advice only provided.	0.7FTE £26,292	0.2FTE £7,512

Area of work	Role – Proposed Provision	Current time / costs	Proposed time / costs
	Under this option it could be possible to purchase the services in Trading Standards to set up and monitor a new No cold calling zone. This could be supported through external funding, or by successful application for a community grant.	Estimated cost per zone is £500	0 (service recharged)
Trader Approval Schemes	Allow a private company or another local authority to operate a trader approval scheme for South Gloucestershire Council. Gloucestershire TS, amongst others, already do this.	0.4FTE £15,024 (£1,700 income with Trader Approval Scheme)	None
Total		1.5FTE £56,340	0.3FTE £11,268

34. Implementing these options would result in a saving of £45,072 leaving nearly £5,000 to be found.
35. A small amount of money could be found to support this work by taking away the legal fees budget of £2,000 and rely on court costs being recovered and / or the Proceeds of Crime monies being able to address these costs.
36. There is a risk to this but the service has consistently achieved this in Court costs recovered over the last few years and this gives us confidence that suggest that it will happen in the future. It is possible to use a suspense account to ensure that annual fluctuations in court costs received are smoothed out.
37. It may also be possible to identify small savings from each of the supplies and services budgets, predominantly linked to statutory service provision such as expert opinions and / or investigations that would enable the remaining £3,000 to be found.
38. There is also a small risk to this but these can be considered to be part of the court costs that the service would expect to recover.
39. This option would require the service to continue implementation of the national intelligence model to clearly provide intelligence led provision of services to the most vulnerable.
40. Please note below the positive and negative aspects of this option.

Positive Aspects	Negative Aspects
The majority of the savings could be achieved.	Not quite all of the level of savings could be achieved this way.
More discretionary functions could be retained.	This would still necessitate losing 1.5FTE as it is unlikely that .5FTE could be reduced to .2FTE The remaining FTE could be used to increase support to discretionary functions. ?
The most high risk in our society, as already identified, would continue to be supported.	The most vulnerable in our communities will be less protected from the cessation of support for no cold calling zones and civil advice.
Mandatory functions would continue to be supported.	Communities who are plagued by overweight lorries would not have any enforcement unless it was provided by the Police.
Weight restrictions in place in the district for safety reasons would receive some service.	The Council would not offer or support a trader approval scheme.
	There would be no civil advice to businesses.

Option 3 Only target proactive work to highest risk and random sample some medium and low risk.

41. This option has already been implemented by the service in order to maximise use of existing resources and would not deliver any further savings.
42. The service has reviewed its provision against the statutory framework and best practice guidance as outlined in the background and statutory basis sections above. It considers that the current level of provision is the minimum that enables us to meet the statutory minimum.

Option 4: Reduce Statutory Provision below that considered the mandatory provision ~£50,000

43. This option would require a reduction in service levels for some statutory functions.
44. The service would fully implement the National Intelligence Model and would not undertake statutory investigations / respond to complaints unless they were supported by the intelligence analysis.
45. Some of the statutory functions such as primary food production visits would not necessarily be considered as a high priority or intelligence led function under the NIM and be dropped. This would pose a risk as statutory functions would not be maintained and in areas such as Feed the governing body, the Food Standards Agency, could take the function, and appropriate funding, away from the local authority.

46. Please note below the positive and negative aspects of this option.

Positive Aspects	Negative Aspects
Discretionary functions would be maintained.	Statutory functions would be affected leaving the authority open to challenge.
	Determining which statutory functions to not do would be fraught with difficulties and potential for challenge.

Option 5: Income Generation/Maximisation – No Savings considered possible

47. There are a number of areas where the consideration of income generation could be considered.

- Increase Metrology income
- Increase licensing fee income
- Provide services through a limited company or buy services through this.
- Provide paid for advice to businesses.

48. For a number of years the Trading Standards service has considered expanding its business operation to generate further income. The nature of the market is that it is very specialised and this along with the legislative constraints have meant that this has not been realistic. In fact the service has had to manage significantly reducing income levels over the last 4-5 years. This is therefore not considered to be a realistic option.

49. Trading Standards receives licensing fee income for its petroleum, explosives and animal welfare licensing work. Increasing income in these areas is not possible as income relating to Petroleum and Explosives is controlled nationally and animal Welfare Licensing must be set on a cost recovery basis.

50. Establish an independent company (either for South Glos or on shared basis with other areas) to carry out processing, but decisions and enforcement action remain responsibility of the Council. (SWERCOTS – the regional Trading Standards Partnership - are setting up a regional company and in the longer term we might be able to buy in from that (but unit costs are likely to be similar to current)).

51. There are also potential risks that the new company would not be financially sustainable, throwing burden back on the Council without necessary expertise, if it folded.

52. Selling services to other local authorities may provide some opportunity to reduce costs but they're going through same exercise. (Bristol do minimum and we already sell service to them; Gloucestershire have own lab; Somerset have shared service with Devon. We used to sell service to Wiltshire but they terminated service).

53. We could charge for business advice and training but there's a lot of competition and opportunities are considered limited.

54. A primary authority approach has been tried but companies have not been wished to pursue this option.

Positive Aspects	Negative Aspects
It may be possible to generate income and protect statutory and discretionary services	There are no guarantees surrounding this option.
	Time scales for developing and implementing systems to generate income are too tight to meet the savings profile.
	This has been considered before by the service area which has seen income drop significantly from previous levels.
	Many Local Authorities are considering these options with most wanting to sell services and not buy.

Option 6: Maintain the Status Quo – No savings realised.

55. The Courts have stated that in considering savings options, elected Members must be given the option of not making the savings in the area designated, but of looking to make them elsewhere.
56. A ‘do nothing’ option by maintaining the status quo would recognise the previous efficiencies made, and would continue to provide an additional resource as the demand for service increases. However it would also require the Communities Committee to identify alternative areas in which the saving can be made.

Positive Aspects	Negative Aspects
Mandatory functions of the Trading Standards Service would be maintained.	Not meeting savings would mean increased savings from other service areas
Vulnerable victims would continue to be protected from scams and rogue traders.	
Communities would continue to benefit from weight restriction enforcement.	
South Gloucestershire Traders and consumers would continue to benefit from having a trader approval scheme.	

Find out more and have your say

We welcome comments on the proposals outlined in this option paper between 17 September and 5 November 2014.

Further information is available in the consultation summary, available from our website or by contacting us using the details listed below.

We are particularly keen to find out if you feel that all relevant areas are being considered and whether you think there are any specific impacts or alternatives that the council should consider.

A copy of the initial draft equality impact assessment is available and we would also welcome comments on this.

Further information is available on our consultation webpage:

www.southglos.gov.uk/consultation or from your local South Gloucestershire library and One Stop Shop.

You can find out more or tell us your views by:

- Email: consultation@southglos.gov.uk
- Completing our consultation feedback survey (online or available on request)
- Write to: FREEPOST RTCT-JXLE-EET, South Gloucestershire Council, Corporate Research & Consultation Team, Trading Standards Consultation, Civic Centre, High Street, Kingswood, BRISTOL, BS15 9TR
- Phone: 01454 868154

If you would like someone to talk to your group or organisation about these proposals, please contact us using the details above to arrange.