



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 17TH FEBRUARY 2015

SUBJECT: GWENT TRADING STANDARDS PROJECT

REPORT BY: CORPORATE DIRECTOR SOCIAL SERVICES

1. PURPOSE OF REPORT

1.1 This report presents a Business Case for the establishment of a Regional Trading Standards Service across the five Gwent Local Authorities, including governance arrangements, with Caerphilly as the lead authority. If the Business Case is agreed a Shared Services Agreement would be drawn up, to be reviewed after 3 years and all local authority trading standards staff identified as being “in scope” in Blaenau Gwent, Monmouth, Newport and Torfaen would be transferred to Caerphilly under TUPE arrangements. The proposal to establish a Gwent Trading Standards Service is not recommended to members for the reasons set out in the Report. This Report is seeking the views of Members prior to its presentation to Cabinet.

2. SUMMARY

- 2.1 Regeneration and Environment Scrutiny Committee considered a Report on 17th September 2013 regarding proposals for a Gwent Trading Standards Project. The Committee endorsed the recommendations within the report, but requested updates on the Project. Cabinet subsequently approved participation in the proposed Project on 2nd October 2013.
- 2.2 A further report was presented to Regeneration and Environment Scrutiny Committee on the 18th February 2014 updating members on the progress of the Project since its start at the beginning of November 2013.
- 2.3 This report provides Committee with the Business Case at Appendix 1, which has been prepared setting out the rationale for the creation of a Regional Trading Standards service and the recommendations which are being made to Cabinet. The Business Case identifies both the benefits for service users and the partner authorities that would be gained by the development of a regional service.
- 2.4 The Business Case and a similar report is also being presented to Cabinets/Full Council of the four partner authorities setting out a proposal for the creation of the Regional Trading Standards service, including governance arrangements, the transfer of their Trading Standards staff to Caerphilly Council and their proportional financial contribution for service provision over a 3-year period. The commencement date of any new service is dependent on the timing of any decision to proceed, but at the time of drafting this report is envisaged that this would be during 2015.
- 2.5 The Business Case has been developed on the basis of a number of assumptions as set out in 4.7 below which have not been fulfilled. Therefore the proposals to establish a Gwent Trading Standards Service in accordance with the Business Case is not recommended to Members. It is recommended that an alternative option of exploring other opportunities for collaboration is explored.

3. LINKS TO STRATEGY

- 3.1 Trading Standards is a service identified within A Compact for Change between the Welsh Government and Welsh Local Government as one that should be considered for collaborative service delivery.
- 3.2 Enforcing Trading Standards legislation is a statutory duty and this activity also contributes to the Healthier Caerphilly, Greener Caerphilly, Prosperous Caerphilly and Safer Caerphilly priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly delivers and Objective 1 of the Council's Strategic Equality Plan 2012.

4. THE REPORT

4.1 Introduction

The nature of Trading Standards is to serve as a watchdog for legitimate business and consumers. Trading Standards officers remove counterfeit cigarettes and alcohol, dangerous toys and unsafe food products from the market. They also take action against rogue traders, doorstep sellers and mass marketers that prey on the vulnerable. These are challenging times for consumers and in the current economic climate the protection of consumers is an increasingly important issue.

The majority of functions discharged cannot be stopped or provided by the community because of their statutory nature and the duty that each authority has for enforcement. Trading Standards has responsibilities that impacts on all trade sectors, but primarily covers consumer and business protection, investigations and intelligence across areas including food production, farming, manufacturing, imports, retail and internet trading.

The provision of a Trading Standards service remains predominantly with Local Authorities across England and Wales. There is no commercial provision of the full range of Trading Standards services and only one English authority has outsourced this service as part of a wider contract including property services, planning, engineering and environmental health, while seconding staff who remain employed by the authority.

Where central government considers a local authority is failing in regard to its duties relating to Trading Standards, it can undertake enforcement action and recharge the authority for its costs.

Business Case

The Business Case has been prepared following the HMRC Five Case Business Model. The purpose of the business case is to describe the overall vision for a regional service, evaluating the options for delivery and setting out a proposal for the creation of a regional service, to each of the respective Gwent Local Authorities.

4.2 The Strategic Case

4.2.1 The Strategic Context

At a national level there is a commitment to collaboration, which is regarded as one of the key tools available to local authorities, for dealing with the challenges of delivering services in the face of a very significant decline in public funding.

A detailed analysis has been undertaken of the existing Trading Standard provision across the five Gwent authorities encompassing resources, the areas of work, service planning and existing business strategies.

4.2.2 The Case for Change

The case for change arises from concerns, about the future resilience and capacity of each of the five authorities, were Trading Standards to be retained within a single local authority setting.

As a predominantly reactive service, a significant reduction of resources will result in a reduction of preventative work and the inability to deal with any issues that may arise and require a consolidated approach, such as the foot and mouth outbreak, or the horsemeat scandal.

A regional service would provide for greater resilience, in-built flexibility and a 'fit for purpose' service to consumers and businesses in Gwent. The new service model will be required to fulfil business needs incorporating:

- Increased service efficiency
- A reduction in pressure on budgets both overall and for each participating council
- Increased resilience to meet the demand placed on the service

A regional approach will enable the improvement of consumer reporting mechanisms and the flow of intelligence between partners.

The areas of Trading Standards service which have been defined as being 'in scope' for the project are set out in section 1.10 of the Business Case. The services identified as being in scope, are carried out by all five authorities, apart from those exceptions indicated.

4.3 **The Economic Case**

A wide range of options was considered as possible delivery models for a regional service and from which a short-list was drawn up and evaluated against the business objectives and critical success factors. The short-list comprised:

1. Status Quo (included as the baseline)
2. Limited company
3. Lead authority with Joint Committee/Management Board
4. Sub-regional Gwent collaboration

The outcome of the evaluation was the identification of a preferred option:

Lead Authority with Joint Committee/Management Board

This option resulted in a score that was considerably higher than either the Limited Company or the Sub-regional Gwent collaboration, both of which were discounted.

A benefits appraisal was undertaken of the preferred option detailing both the financial and non-financial benefits and dis-benefits. This identified a net cost reduction achieved through a single management structure, efficiencies from a reduction in the duplication of processes and activities, and the development of standardised operating procedures that incorporate best practice across the region.

4.4 **The Commercial Case**

The Commercial case outlines the proposals in relation to the preferred model described in the Economic Case. It provides the rationale for the recommendation that Caerphilly is the lead authority and that the service has two Trading Standard 'hubs' at Caerphilly and Newport, which will provide facilities for 'drop-in' working and meeting space. The emphasis will be on equipping the staff for agile working across the region rather than fixed workstations. Hot desking facilities will also be available, within the offices of the other three authorities.

The proposed operating model for the new service is described, with a single management structure that divides the service into 3 key areas of work:

- Protection (Consumer Intervention)
- Business Support (Business Standards & Support)
- Intelligence and Investigations (Investigations)

Skilled staff will provide 'teams of expertise' within each of the areas and the size of the teams /greater concentration of staff within a regional service will enable resilience and efficiencies through economies of scale.

It is proposed that the Trading Standards staff from the other four authorities are TUPE transferred across to Caerphilly on their existing terms and conditions.

Legal proceedings are a feature of Trading Standards work with 54 prosecutions taken across Gwent in 2013/14. Following consultation with the Heads of Legal Services it is proposed that offences will be prosecuted by the Legal Service of the Authority where the offence occurred, or by agreement where there are multiple offences across the region. Effective communication will be essential and this arrangement will be kept under review to ensure that processes and decision making are consistent

4.5 The Financial Case

The Financial Case sets out the indicative financial implications of the proposal. It provides a summary of 2013/14 Trading Standards service budgets across the 5 Local Authorities for 2013/14 (pre-baseline) and also for 2014/15 (baseline).

The following table (Financial Case: Table 25) is presented setting out the proposed costs of a regional service over a 3-year period. (Based on 2014/15 figures)

(Table 25) Projected Regional Service Expenditure and Income (3 year period)

Regional Service Expenditure	2014/15 Baseline	Year 1 2015/16	Year 2 2016/17	Year 3 2017/18
Direct Service Expenditure	£2,498,538	£2,524,165	£2,528,101	£2,529,348
Projected Annual Income Target (Net POCA)	-£65,083	-£53,038	-£53,038	-£53,038
Direct Service Expenditure (Net income)	£2,433,455	£2,471,127	£2,475,063	£2,476,310
Management Charge	£0	£26,933	£39,433	£26,933
Redundancy / Severance	£0	£0	£88,000	£0
Estimated Reduction Service Expenditure	£0	-£84,242	-£199,002	-£299,002
Regional Service Expenditure (Net Income)	£2,433,455	£2,413,819	£2,403,495	£2,204,241

Notes:

- Salaries incl increments.
- Salaries do not incl future estimated pay award (s) and all five authorities would need to make the appropriate adjustment on an annual basis to accommodate this
- Reduced income 15/16 onwards as result of the AHWG being withdrawn.
- Yr1 HR costs from RCF, Yr2 from TS account.
- The estimated reduction in service expenditure is a cumulative reduction over years 1,2 & 3.

Initial opportunities for efficiency savings of £230k have been identified over the 3-year period from 2014/15 to 2017/18 (Table 25). The potential savings achievable however, will be dependent on a number of factors including a commitment by each authority to ring-fence their Trading Standards budget for the 3-year period. It has been acknowledged however, that some authorities may not be able to make this commitment given the volatility of local government funding in the current economic climate.

The figures presented in the table below (Financial Case: Table 26) summarise the costs to each authority of

- i) delivering an 'independent' service
- ii) being part of a regional service across Gwent

and provides a comparison of the difference in estimated service costs between the two options from the baseline year 2014/15 to year 3 2017/18.

(Table 26) Service Cost Comparison Independent v Regional Trading Standards

Operational Headings	Blaenau Gwent £	Caerphilly £	Monmouthshire £	Newport £	Torfaen £	Total £
Service Model: Each LA continues to deliver own service						
Baseline Yr 14/15	334,067	801,394	335,577	649,936	377,563	2,498,538
Year 3 17/18	340,365	804,171	336,703	655,681	348,824	2,485,744
%age increase in estimated costs from Baseline yr to yr 3	2%	0%	0%	1%	-8%	-1%
Service model: Regional Service						
Baseline Yr 14/15	334,067	801,394	335,577	649,936	377,563	2,498,538
Year 3 17/18	303,988	716,906	300,162	584,908	351,315	2,257,279
%age increase in estimated costs from Baseline yr to yr 3	-9%	-11%	-11%	-10%	-7%	-10%
Summary						
	£	£	£	£	£	£
Difference in Service Costs over 3 years: Each authority delivers its own service	6,298	2,776	1,126	5,745	-27,739	-12,794
Difference in Service Costs over 3 years: Regional Model	-30,079	-84,489	-35,415	-65,028	-28,248	-241,258

Nb Projected income not included the figures in the table above. (Table 26)

4.6 The Management Case

Governance Arrangements

Three options for governance have been identified for the service:

1. Joint Committee - A single body that will provide governance on behalf of the five councils, comprising a joint committee of elected councillors, to oversee all activity. Each authority would delegate decision-making and policy approval to the Joint Committee. This option allows for all 5 Local Authorities to have an equal share in the decision-making, but will require an additional resource to support and convene and incurs additional costs of approximately £5,000 per year to produce externally audited accounts.
2. Management Board – A single body that will provide governance on behalf of the five councils and comprising a management board of elected councillors and local authority officers. This would entail a contract agreement together with a Memorandum of Understanding and would not formally have any decision-making powers delegated to it, and on that basis is not recommended to Members by the Project Board.
3. Discharge of functions to a Lead Authority – The Lead Authority (Caerphilly) will discharge the Trading Standards service on behalf of each of the other four authorities. This would involve the other authorities giving up their decision-making and for Caerphilly CBC to make decisions and run the service. There would also be a legal agreement underpinning this arrangement. A Management Board (or similar) would then be set up with the overall purpose of monitoring and advising on the effective performance and delivery of the service. The Management Board would have no decision making powers vested in it by any of the five authorities nor would it be a Joint Committee for the purposes of the Local Government Act 1972.

Should a decision be taken to proceed Members' views are sought on whether the preferred governance option is a Joint Committee or full delegation of powers to a Lead Authority.

4.7 Business Case Assumptions

Members should be aware that the Business Case presented has been developed on the basis of a number of assumptions:

- Trading Standards budgets of all 5 local authorities would be ring-fenced, but there are budget reductions for 2015/16 of £23k and £40k proposed by Blaenau Gwent and Newport Councils respectively.
- The Business Case has been constructed on the basis that staffing budgets would be fully resourced, however Newport Council adopt a vacancy management factor amounting to £24,000 for Trading Standards in 2014/15.
- The Business Case reflects a proposed Management Charge arising from some of the additional costs to Caerphilly Council in taking on staff from the four other Local Authorities and delivering the regional service. This charge is set out in Table 25 of the Business Case and reproduced in 4.5 above, amounts to £39,433 in Year 2 and includes IT charges, and 0.5 fte HR Officer.
- It is also assumed within the Business Case that the allocation to the Project from Welsh Government's Regional Collaboration Fund in 2015/16 will be £60,000.

4.8 Options Analysis

4.8.1 Option 1 – Do Nothing

Do nothing in this context means do not proceed with the establishment of a Gwent Trading Standards Service as detailed in the attached Business Case. In reality the Trading Standards Service in Caerphilly is subject to the Council's Medium Term Financial Plan and will experience a reduction in resources over the next few years.

4.8.2 **Option 2 - Proceed with the Business Case and establish a Gwent Trading Standards Service**

The Business Case presented cannot be delivered as it has not been possible for all Local Authorities participating in the project to agree to the assumptions set out in paragraph 4.7. In particular the Newport Trading Standards Service is not fully funded in view of the vacancy management factor and Newport and Blaenau Gwent Trading Standards budgets are subject to further reductions in 2015/16. In view of this it is recommended that this option is not pursued.

4.8.3 **Option 3 – Explore other opportunities for collaboration**

There have been a number of work streams within the Gwent Trading Standards Project that have provided the opportunity for joint review of the 5 Trading Standards Services. In particular a series of workshops reviewing business processes within the 5 services have presented opportunities for sharing best practice and knowledge. There may also be some small scale opportunity for sharing of certain resources. This Project has reflected an interest in exploring collaborative working amongst the 5 Local Authorities and it is recommended that should any other opportunities be identified that these are considered, subject to the development of a business case as appropriate.

5. EQUALITIES IMPLICATIONS

- 5.1 A full Equalities Impact Assessment has been undertaken and this formed one of the Welsh Government conditions of the grant funding for the project. It can be found in Appendix E of the Full Business Case that is attached to this report.

6. FINANCIAL IMPLICATIONS

- 6.1 Should the Business Case be approved the financial arrangements are as set out in the Business Case and summarised in 4.5 above. The total cost of the new service for the 3-year period, at 2014/15 levels, is set out in Table 25 above and shows the value of saving after 3 years shown of £229,214 (£2,433,455 14/15 baseline reduced to £2,204,241 17/18).
- 6.2 The additional HR and IT costs, that Caerphilly would incur as the lead authority for the regional service, have been identified and these have been built into the financial model.
- 6.3 The financial model and the associated projected savings are based on the assumption that the trading standards budgets for each of the five authorities are ring-fenced for the 3 year period and are not reduced from the levels set out in Tables 24 and 25. If any of the five authorities are unable to make this commitment, it will not be possible to achieve the projected financial savings and it would be necessary to re-evaluate the viability of the model.
- 6.4 There are concerns however, that the required ring-fencing of the Trading Standards account may not be possible for all five authorities. It should be noted that additional proposed budget reductions for 2015/16 of £23k and £40k by Blaenau Gwent and Newport Councils respectively would impact upon the level of projected efficiency savings.
- 6.5 Regional Collaboration Funding has been awarded to this Project by Welsh Government with £49,365 received in 2013/14, and a further £100,000 allocated in 2014/15. It is clear now however, that implementation will not be possible before the end of 2014/15 and that therefore it will not be possible to utilise this funding as originally planned. £60,000 had been expected for 2015/16 on an indicative basis. However, recent communication from Welsh Government regarding a 50% reduction to the Regional Collaboration Fund in Wales has resulted in a proposed 100% cut to the Gwent Trading Standards Project allocation for 2015/16. The main elements of expenditure to date have been in relation to project management with the bulk of the remainder of the grant identified for IT set up costs should the proposal to proceed be agreed; alternative funding would now be necessary.

7. PERSONNEL IMPLICATIONS

- 7.1 Should the Business Case be approved the terms and conditions for all transferred staff will be within the regulations governing TUPE transfer. Each of the other 4 Councils will need to finalise a piece of work in order to identify which of their employees they believe to be “in scope”. This exercise will be largely but not exclusively dependent on the amount of time the employee spends undertaking the duties that are to be transferred, should the Business Case be approved.
- 7.2 Should the Business Case be approved those “in scope” staff would then transfer to Caerphilly CBC on their existing terms and conditions of service. Those staff affected by the transfer but not deemed to be “in scope” would remain with their home authority and be deployed in line with their existing arrangements as appropriate. It is considered that all staff could be accommodated in the new arrangement.
- 7.3 The arrangements for addressing any employment and pension liabilities should any or all parties withdraw from the service would be set out in the Shared Services Agreement.
- 7.4 The current situation in Caerphilly is that the Licensing Enforcement function lies within the Trading Standards service and it is envisaged that this function, for Caerphilly only would transfer to the Gwent Trading Standards service if a regional service were to be created, with the commensurate staffing resource. The Caerphilly Licensing function itself would remain as existing. As the Caerphilly Trading Standards, Licensing and Registration Manager would also transfer wholly into the Gwent Trading Standards Service it would also be necessary to make alternative line management arrangements for the Licensing and Registration Services. The current post and post holder have, from the outset, been identified as being “in scope” for the purposes of this exercise.

8. CONSULTATIONS

- 8.1 The report has been sent to the consultees listed below and all comments received are reflected in this report.
- 8.2 A broad consultative program on the business case proposals has been undertaken encompassing the key stakeholders identified in section 1.11 of the Strategic Case. Consultation with consumers and businesses across the region, public bodies in the Gwent area and other professional bodies relevant to Trading Standards has been carried out via the consultation questionnaire on the Trading Standards in Gwent website and /or through letters/e-mails sent to individuals.
- 8.3 Consultation with staff and members has been through a variety of channels, including regional and local meetings and newsletters. Consultation has also taken place with the relevant Trade Unions who have been invited to attend staff meetings and have also received copies of newsletters sent to staff and members.
- 8.4 The feedback received as a result of the consultations is included in Appendix 2, together with comments where appropriate. The response from external bodies and businesses is supportive of the proposed Gwent Trading Standards Service, but some concerns have also been raised in relation to ensuring that the standard of service provision is not affected by a regional rather than local delivery. The detailed response received from Trading Standards staff employed by Caerphilly was not in favour of the proposals and a number of concerns were raised. Responses from other Trading Standards staff is mixed with some concerns raised.
- 8.5 The key points Unison made in response to the business case are included in Appendix 2 to this report. In summary, Unison have advised they are broadly in favour of the initiative, as being in line with its policy of supporting collaboration projects as a means of achieving efficiency savings, as an alternative to cutting services / jobs or outsourcing. They support the proposal for in-house provision, but have also stated unequivocally that, should a decision be

made to reconsider the other options evaluated in the Economic Case, they would wish to revisit their stance on this. Unison were strongly of the view that any arrangement should be for 5 years, not 3 as proposed and this was also a view offered in some responses from Trading Standards staff.

- 8.6 At their request, Unison have been invited to participate in the HR working group, which has been set up to provide advice and assistance with all HR related project requirements, including the TUPE arrangements. The Project Board welcomed the positive approach to the project by Unison`

9. RECOMMENDATIONS

- 9.1 Prior to presentation of this Report to Cabinet the Committee are asked for their views on the following recommendations to Cabinet:
- i) That Cabinet do not agree Options 1 and 2 and therefore do not agree to proceed with proposals set out in the Business Case to establish a Regional Trading Standards Service across the five Gwent authorities.
 - ii) That Cabinet support Option 3 in that other opportunities for collaboration are explored.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To seek Members' views.

11. STATUTORY POWER

- 11.1 The 2009 Local Government Measure.

Author: Rob Hartshorn, Head of Public Protection
Consultees: Cllr. D.T. Davies, Chair Regeneration & Environment Scrutiny
Cllr. E.M. Aldworth, Vice-Chair Regeneration & Environment Scrutiny
Cllr Dave Poole, Cabinet Member for Community & Leisure Services
Dave Street, Director of Social Services
Nicole Scammell, Acting Director of Corporate Services and S. 151 Officer
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Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
David A. Thomas Senior Policy Officer (Equalities and Welsh Language)
Alison Evans, Gwent Trading Standards Project Manager
Gwent Trading Standards Project Board

Background Papers:

Regeneration & Environment Scrutiny Report, 18th February 2014 – Gwent Trading Standards
Regeneration & Environment Scrutiny Report, 17th September 2013 – “Proposed Gwent Trading
Standards Service”
Cabinet Report, 2nd October 2013 - “Proposed Gwent Trading Standards Service”

Appendices:

Appendix 1: Full Business Case Gwent Trading Standards Service
Appendix 2: Consultation responses