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Report to:	Risk and Audit Scrutiny Forum
Date of Meeting:	26 November 2013
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Audit Scotland Report 'Protecting Consumers'
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1. Purpose of Report

1.1. The purpose of the report is to:-

- Advise the Risk and Audit Scrutiny Forum (RASf) on the implications of the Audit Scotland Report on Protecting Consumers as it relates to South Lanarkshire Council and the consumers it serves.
- Provide a local response to the eight questions for elected members contained within the Audit Scotland report.

2. Recommendation(s)

2.1. The Forum is asked to approve the following recommendations:

- (1) that the content of the Audit Scotland report and recommendations be noted;
- (2) that Environmental Services' response to the recommendations contained within the Audit Scotland report, be noted;
- (3) that the recommendation to fully engage with COSLA's review of trading standards be endorsed and that it be noted that approval will be sought in due course from Community Services Committee on the response in relation to any redesign of trading standards services.

3. Background

- 3.1. Consumers depend on councils having effective food safety and trading standards services. They can face some serious risks when they buy goods and services. Some risks have increased owing to more Internet shopping and pressures on individuals' and businesses' budgets in the current economic climate.
- 3.2. Audit Scotland was asked by the Accounts Commission to prepare a report on the levels of protection afforded to consumers in relation to Trading Standards services and Environmental Health's Food Safety services in Scotland. The report was written in general terms from a national perspective and also contained some comparative data on the services provided. Copies were placed in the Members' Libraries and a copy can also be viewed at www.audit-scotland.gov.uk
- 3.3. The report considers how well councils are identifying the risks faced by consumers and whether councils are prioritising their activities appropriately, against a backdrop of declining resources.

4. 'Protecting Consumers' – Key messages

- 4.1. Audit Scotland's starting point in the report is a general concern for the long-term viability of councils' trading standards services because of reductions in staffing levels and the consequent loss of expertise. It points out that, in 2002, only eight councils had fewer than eight full-time equivalent trading standards posts but that by 2012 this had risen to 15 councils.
- 4.2. Audit Scotland points to a lack of coordination of trading standards services across Scotland and a need for a central body to determine common approaches to issues such as standards of service, assessing risks to consumers, performance management and benchmarking.
- 4.3. The report acknowledges that the generally reduced level of resources available to councils requires trading standards services to carefully prioritise their regulatory activities. Audit Scotland points out that consumer protection, therefore, depends on effective gathering and sharing of intelligence on doubtful trading practices because most businesses operate across council boundaries and often on a UK wide basis. The report suggests that the reduction in consumer advice and support services in some parts of Scotland has weakened councils' ability to gather local intelligence about the risks consumers face.
- 4.4. In the report, Audit Scotland considered whether councils' consumer protection services have been targeting their limited resources on the highest risk areas and reducing their work on the lowest risks in line with the well established principles of better regulation. The report concludes that services are being well targeted, particularly in relation to food safety, but suggests that there is a need for greater consistency across Scotland in the way that trading standards services assess risks to consumers.
- 4.5. The report points out that these service pressures are happening at a time when risks faced by consumers have increased because of greater use of the internet to purchase goods and services. The value of retail sales online has trebled in the UK between 2007 and 2011. The recession has also increased risks to consumers as they look for lower prices and businesses seek to reduce costs.
- 4.6. The report states that councils' food safety services have not suffered staff reductions to the same extent as trading standards. However, Audit Scotland has concerns about a loss of experience and a lack of professional training posts in both services.
- 4.7. In terms of national coordination, in contrast to its comments about trading standards services, the report points to the key role played by the Food Standards Agency (FSA) in developing national standards and priorities, providing a shared performance framework and in carrying out periodic audits of services.
- 4.8. The report points out that a new agency is currently being established to take over the functions of the FSA in Scotland. In contrast, Audit Scotland's view is that trading standards provision lacks coherence and national coordination. The report suggests that changes in the organisation of trading standards services across the UK provide the opportunity to provide strong national coordination either through councils agreeing to share services or through provision of national service.

5. Protecting Consumers – Key Recommendations for Councils

- 5.1. The report makes five recommendations for councils. Each recommendation is considered in turn below together with comment in respect of South Lanarkshire Council's position.

Food safety workforce planning and skills

- 5.2. **Recommendation 1:** Councils should work with the FSA in Scotland to develop a workforce strategy which identifies staffing levels and skills required to sustain an effective food safety service over the next five to ten years.

- 5.2.1. Environmental Services strongly support this recommendation. Steps have already been taken to enable technical officers employed within the service to undertake the post graduate qualification they need to become Environmental Health Officers. Employees undertake the course alongside other duties through distance learning. Similar arrangements are available to enable Fair Trading Officers to undertake the professional trading standards qualification.
- 5.2.2. Audit Scotland commended the co-ordination network that currently exists for food safety in Scotland and it is worth noting that no additional charge is levied to local authorities for this activity. The food safety co-ordination network does rely on officers committing their time to these activities. South Lanarkshire Council's Environmental Services Manager is currently chair of the Scottish Food Enforcement Liaison Committee and this demonstrates the Council's long standing commitment to national enforcement liaison and co-ordination activity. The Food Standards Agency Scotland met with COSLA in August in order to address the recommendation within the report to develop a 5-10 year plan to sustain an effective food safety enforcement service.

Use of intelligence information

- 5.3. **Recommendation 2:** Councils should ensure they have access to, and make use of, intelligence to help determine local priorities. They should contribute to national intelligence to support the work of other councils across Scotland and the UK.
- 5.3.1. Environmental Services support this recommendation. Our services both use and contribute to national intelligence information regarding food safety and trading standards. Trading standards also have a data sharing agreement with Trading Standards Scotland to access and input information into the National Intelligence Database which quickly alerts the service to potential scams and poor trading practice.

Providing a clear direction for consumer protection services

- 5.4. **Recommendations 3:** Councils should develop a clear direction for their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way which reflects local risks, national and local priorities and the needs of local communities.
- 5.4.1. A risk based approach to regulatory activities in line with the Government's 'Better Regulation Agenda' has been in place in South Lanarkshire for many years and was the basis of a major best value review of the service in 2008. The direction of the service is reviewed in the light of factors such as new legislation and guidance, budget pressures, previous year's performance and Council wide priorities through the annual Resource Planning process.
- 5.4.2. The reduction in staffing levels referred to in the report is reflected within South Lanarkshire where the full-time equivalent staff numbers have reduced by 3.4 for trading standards and by ten in Environmental Health since 2008. This is a reduction of 12.9% overall. South Lanarkshire differs from the national trend in that Environmental Health has experienced a larger reduction in staff than Trading Standards. Due to staff reductions, officers do target their efforts towards premises and activities presenting the highest risk to consumers – this approach is entirely appropriate and has been recognised as so by the FSA and the Health and Safety Executive.
- 5.4.3. While South Lanarkshire Council's trading standards is shown in the report as having the second highest staffing level in Scotland at 24 FTEs, it should be borne in mind that the service is still providing the same range of services to consumers that it did in 2008. By contrast, some councils have reduced staffing alongside a reduction in their service levels e.g. by providing advice only to consumers who live in their area or by no longer providing advice on certain types of trade (e.g. mobile phone complaints).
- 5.5. **Recommendation 4:** Councils should ensure that work on their lower risk areas is sufficient to prevent them becoming more serious risks.
- 5.5.1. Environmental Services is satisfied that it has the right approach to assessing risk. For food safety, the service applies FSA guidance and is subject to periodic audit by the agency. Risk in relation to trading standards is assessed using guidance previously produced by the former Local Authority Coordinators of Regulatory Services (LACORS). Both services maintain contact with lower risk businesses through targeted mailing and occasional visits to trading premises. Local data sharing arrangements with Citizens Advice Scotland (CAS) also provides intelligence information which can provide early warning of increased risk to consumers.

Performance monitoring:

- 5.6. **Recommendation 5:** Councils should ensure they monitor performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report regularly to councillors, senior management and the public.

- 5.6.1. Community and Enterprise Resources' Resource Plan includes ten measures relating to food safety and trading standards, six of which are also reported as Connect measures. All these measures are reported internally on a quarterly basis and twice yearly to Community Services Committee. These measures are complemented by no fewer than 41 separate measures within Fleet and Environmental Services' Service Action Plan. Quarterly reports on all measures are available on the Council's website through the IMPROVe system.
- 5.6.2. Food safety measures are reported annually to the FSA. A range of indicators are reported but the key measure used by food safety services nationally is of local food businesses' level of 'broad compliance' with statutory standards. This is an outcome measure, which correlates strongly with the effectiveness of food safety services' approach to inspection, regulation and general support of local food businesses. In 2012/13 South Lanarkshire achieved a broad compliance rate of 86.5% (86.9% in 2010/11 and 86.3% in 2011/12). The Scottish average quoted in the Audit Scotland report for 2011/12 was 79%.
- 5.6.3. It is accepted that there is a need to improve benchmarking of measures for trading standards. Although some performance measures for trading standards are available on a national basis, different levels of service in each authority make it difficult to get a true comparison across authorities. This is evident in the number of consumer enquiries recorded by each authority. In 2012/13, South Lanarkshire Council responded to 1,606 enquiries; this was 7% of enquiries dealt with by trading standards services in Scotland as a whole compared to our population share of 5.9%. (Glasgow City Council dealt with 1,586 and City of Edinburgh Council 1,280)
- 5.6.4. Both APSE and the Improvement Service are aiming to develop better benchmarking indicators for trading standards services. Environmental Services supports this development and will engage in benchmarking activity as this develops.
- 5.6.5. The Local Government Benchmarking Framework indicator for environmental health and trading standards showed South Lanarkshire ranking fourth lowest in Scotland for 2011/12 in terms of service costs per 1,000 population.

6. Protecting Consumers – key recommendations for COSLA and councils

- 6.1. The report also makes six recommendations for COSLA and councils to consider jointly. Four recommendations relate to the organisation of trading services in Scotland and these are summarised below. The report makes two further recommendations relating to consumers' awareness of how to access these services and the involvement of elected members in decisions.

National coordination for trading standards services

- 6.2. **Summary of recommendations:** COSLA and councils should:

- ◆ work together to ensure strong national coordination (in terms of links to UK wide arrangements, analysing intelligence, agreeing national priorities, services standards and performance reporting)
- ◆ explore a full range of options for redesigning trading standards services (including consideration of more formal joint working, creating fully shared services or a national service)
- ◆ liaise with Scottish Government in terms of its devolved responsibilities for trade and regulation

- ◆ develop a workforce strategy to sustain an effective service for the next five to ten years

- 6.3. COSLA has already formed a Trading Standards Scotland Team to work with councils on the issues raised in the report and this has led to a proposal to extend the remit of Trading Standards Scotland to include co-ordination of all trading standards activity within Scotland. It was proposed that Scottish local authorities would need to make a financial contribution for this enhanced level of service from Trading Standards Scotland. No specific details were provided and these would need to be considered in due course to determine if the new service would provide value for money.
- 6.4. COSLA is proposing to undertake a strategic review of Trading Standards and Environmental Services will fully engage with the review. Any proposals to redesign Trading Standards needs to be considered carefully both from a national and local perspective and Environmental Services would recommend that any response to COSLA in this respect is approved by the Community Services Committee.

Consumer awareness of how to access consumer advice services

- 6.5. **Recommendation:** COSLA and councils should work with the Citizens Advice Service and others to increase awareness and understanding among consumers of where they can access consumer advice and assistance.
- 6.6. Environmental Services are already working effectively with Consumer Advice Scotland (CAS) which provides a 'first line' of advice for consumers. CAS refer more complex consumer problems to trading standards. Consumers who contact the Council are directed to the service by the Council's Customer Contact Centre. The service also has a comprehensive presence on the Council website and regularly contributes to the South Lanarkshire Reporter and local media.

Involvement of elected members

- 6.7. **Recommendation:** Ensure that councillors are fully informed and supported to make decisions about the future of services to protect consumers.
- 6.8. The Audit Scotland report provides a list of eight questions for councillors to consider in relation to its findings. A response to each of these questions has been prepared from Environmental Services' perspective and is attached at Appendix 1 to this report.

7. Employee Implications

- 7.1. There are no employee implications.

8. Financial Implications

- 8.1. There are no financial implications at this stage. Once Trading Standards Scotland provides details of the enhanced service an additional annual revenue cost may be incurred.

9. Other Implications

- 9.1. Currently the Scottish Government is in the process of introducing the Regulatory Reform Bill and is expected to make an announcement about the functions of the new Food Body that will replace the Food Standards Agency in Scotland. Both of

these could impact on Environmental Services and the functions performed to protect consumers.

- 9.2. The Scottish Government is considering introducing a Scottish Primary Authority scheme which will allow local authorities to work closely with businesses to improve their compliance. This enhanced service would be provided on a chargeable basis and would benefit consumers from the improved regulatory compliance of the business forming a Primary Authority partnership with a Council. Some businesses may choose not to enter into a Primary Authority partnership to avoid the costs associated with a formal agreement and some local authorities may decide to introduce charges for all business advice. Given the large number of business advice requests received by Environmental Services, it may be necessary to consider the need to introduce charges in respect of business advice in the future. It is recommended that this is reviewed after a Scottish Primary Authority scheme has been established.
- 9.3. The consultation on establishing a new food body for Scotland considered the transfer of some food and feed functions from local authorities to the new body. No decision has been taken on this yet, but any transfer of functions would need to be considered in relation to the overall impact on both Environmental Health and Trading Standards. The primary consideration should be that any change in function does not adversely impact on public health or consumer safety. Environmental Services will participate in any future consultations on the establishment of the new food body and contribute to any submissions in relation to the impact this may have on our ability to protect consumers.
- 9.4 There are no sustainability implications. Any potential risks will be mitigated against by continuing to consider the approach to service delivery taking account of any further changes in regulation.

10. Equality Impact Assessment and Consultation Arrangements

- 10.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore no impact assessment is required.
- 10.2. There is no requirement to undertake any consultation in terms of the information contained in this report.

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1 November 2013

Link(s) to Council Objectives and Values

- Council Value: Accountable, effective and efficient
- Council Priority Objective: Support the local economy by providing the right conditions for growth, improving skills and employability

Previous References

None

List of Background Papers

'Protecting Consumers' report by Audit Scotland

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Appendix 1 'Protecting Consumers' – questions for elected members

Question	South Lanarkshire position
Am I confident in the systems that the council has in place to assess the risks facing consumers in my area?	South Lanarkshire still has one of the most established and effective advisory and intervention services to assist consumer and business as well as links with a range of organisations. This provides good, timely intelligence of the risks arising in the area. This has been augmented by the increased access to the national Memex Intelligence database provided by Trading Standards Scotland. The routine inspection programmes for trading standards and food safety visits are risk rated using nationally recognised rating schemes. Environmental Services has well established systems for assessing risks to consumers.
Am I satisfied that the council's services to protect consumers are adequately resourced relative to the services provided and the level of risk facing consumers?	The Audit Scotland report at page 16, Exhibit 5 compares the relationship between the numbers of staff in relation to the risk profile of business in that area. It shows South Lanarkshire's Trading Standards is above the national average staffing with above average business risk profile. Environmental Health is below the national average staffing with above average business risk profile. However it should be noted that Audit Scotland did conclude that there is little correlation between staff numbers and the numbers of risk rated businesses and that other factors may cause the variation. A new statutory performance indicator has been introduced for 2013/14, "The cost of Trading Standards and Environmental Health per 1000 population" which may assist the Council in identifying if the service is adequately resourced. It would be appropriate to consider the impact of the most recent Best Value Service Review in conjunction with our placing in respect of the national indicator. Environmental Services directs resources to areas of highest risk and regularly reviews performance levels to ensure consumers are protected. There is no evidence to indicate recent reductions in resources have exposed consumers to greater risk.
Does the council have a workforce plan to ensure the viability of its services to protect consumers over the next 5–10 years?	Predicting the workforce requirements for that extended period in the current economic climate is a challenge; particularly as COSLA are considering a Scottish solution for Trading Standards that may impact upon local delivery and a new Scottish Food Body will be established by 2015. Environmental Services has trained technical staff to a level where they are able to undertake the professional qualifications required to practice as an Environmental Health Officer. Similar arrangements can be put in place for Fair Trading Officers. Environmental Services recruit suitably qualified staff and has internal training arrangements to broaden the qualification base of the existing establishment.
Does the information I receive about the council's services to protect consumers tell me how well it is performing relative to other councils?	National information is published in relation to food safety performance by the Food Standards Agency. South Lanarkshire has consistently been above the national average in respect of food businesses that are 'broadly compliant' with legal requirements. Similar reporting arrangements do not exist for Trading Standards. Currently, work is underway to establish national benchmarking arrangements for both Environmental Health and Trading Standards. Once established these will provide information comparing South Lanarkshire with other councils. Arrangements currently exist to compare Environmental Services food safety performance with other councils and work is underway to introduce national benchmarking information for Trading Standards and Environmental Health. Environmental Services will participate in the national benchmarking programmes and compare our performance with other councils across the full range of services we deliver.

Am I confident that the council is using local intelligence effectively to guide how it uses its resources to protect consumers	South Lanarkshire Trading Standards use reports from the local complaints database to react to issues and to inform forward planning for targeted project work. We also use the Memex National Intelligence database and the local Flare premises and complaints database system. There are many examples of businesses, big and small, being subject to early intervention to prevent them becoming major problems by using this approach. Environmental Health also uses the Flare database in a similar fashion. Environmental Services is using local intelligence effectively.
Do my constituents know where to go for help when they have difficulties with a purchase that they cannot resolve themselves?	Environmental Services have comprehensive web pages for advice and self help and maintains a reasonably good profile through its work and publicises this well through press releases. In regard to Trading Standards, information on how to contact the service is clear on all publications, the Council's web site and is known to all contact centre staff. The service routinely issues press releases to help consumers and it is clear from these how further advice can be obtained. However, there has been a reduction in consumer education work and formal training activities (for example the discontinuation of routine food hygiene training) and publicity campaigns on relevant subjects. This has been offset with the launch of the 'Buy With Confidence' scheme and participation in promotional activities when resources permit. Every effort is made to ensure the public are aware of how to contact Environmental Services.
Is the council sharing intelligence with other councils where there are threats to consumers that cross council boundaries?	This is done by both Trading Standards and Environmental Health. Trading Standards are one of the twenty-three authorities referred to under paragraph 59 of the audit report as participating in the OFT sponsored intelligence sharing database called MEMEX. Trading Standards staff also participate in a variety of liaison networks. In regard to Environmental Health this is done through local and national liaison groups and by systems put in place by the FSA to allow issues that go beyond a local authority area to be effectively communicated. Environmental Services has regular meetings with other agencies working within South Lanarkshire to ensure consumers are protected. This demonstrates that Environmental Services is sharing intelligence with other councils.
How is the council working with other councils to protect consumers? Are these arrangements sufficiently robust and formalised?	In both Trading Standards and Environmental Health there are a range of national groupings/bodies designed to allow councils to work together on developing arrangements to protect consumers and protect public health. In virtually all cases these are formally constituted and/or are supported by the likes of the FSA, Scottish Government, COSLA or the professional institutes representing each service. Examples of joint working are sharing Animal Health expertise and mutual aid for complex investigations; working with NHS Lanarkshire and Police on initiatives to protect vulnerable adults from doorstep crime; and agreeing a joint health protection plan. No formal arrangements exist with other councils in respect of joint service delivery. However, Environmental Services has worked with other councils and national regulators on joint exercises to protect consumers. Most recently, Environmental Services participated in the national programme to inspect food businesses in relation to the horse DNA incident. Environmental Services works with councils and other regulators to protect consumers when necessary.