

## **DTI Consumer Strategy**

### **Decisions**

1. The Board is asked to endorse the key messages contained in Appendix 1 to form the basis of the LACORS response to the DTI Consultation Paper “Extending Competitive Markets – Empowered Consumers; Successful Businesses”.

### **Actions**

2. Officers to prepare a full response to the consultation paper and submit to the DTI by 31<sup>st</sup> October 2004.

**Action by:** LACORS Secretariats

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## DTI Consumer Strategy

### Summary

1. To establish the key messages from local government to be contained within the response to the DTI's recent consultation paper "Extending Competitive Markets – Empowered Consumers; Successful Businesses".

### Background

2. Following a major review in 2003/4, the DTI has published a consultation document making various proposals and posing questions about their consumer policy for the next 5 – 10 years.

### Draft Strategy

3. The strategy proposes circumstances when market intervention is required; the use of the OFT Code Approval scheme as the single brand to help consumers identify reputable traders; provision of information about a traders history to consumers; changes to utilities regulators and simplification of the legislative framework. In general terms we agree with most of these.
4. The DTI have been very critical of the delivery of local trading standards services. Accusing them of being "patchy" and "Inconsistent". They had looked at models which included regional and national delivery but have concluded that the service is best to remain in local government but with changes in relation to central coordination, priority setting and performance management. Whilst welcoming their conclusions we feel that the importance and positive aspects of local services are not recognised properly within the report. We also have challenged central government to deliver on the proposed commitment to join up better at the centre and to ensure that their priorities for the trading standards service are set in an appropriate and consistent manner.
5. A detailed response will be prepared by the closing date of 31<sup>st</sup> October 2004 but at this stage we wish to get political agreement for the key messages to be contained in that response. Further operational and technical detail will be added following feedback from officers.

### Implications for Wales

6. The strategy and issues within it are subject to UK-wide legislation and therefore the recommendations would have an equal impact for Wales as for England.

## **Financial/Resource Implications**

7. To date the resource implications of the proposals are not known. When the DTI finalise the strategy and more details are known LACORS will identify any resource implications for local government.

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## **KEY MESSAGES FOR THE LOCAL GOVERNMENT RESPONSE TO THE DTI CONSULTATION PAPER ON THE CONSUMER STRATEGY**

LACORS generally welcomes the Consumer Strategy and the focus DTI has given to important area of effective markets, consumer protection and trading standards, and is pleased to see that the DTI recognises that Trading Standards Services are best delivered by local government.

### **MARKET INTERVENTION**

In any analysis of where market interventions are required there must be recognition of those areas which could cause problems as well as those that already have and that there should be recognition of the levels of consumer detriment within such analyses.

### **IDENTIFYING REPUTABLE TRADERS.**

A single brand to help identify good traders would offer clarity to consumers, provided that there is effective publicity and good uptake of the scheme. The OFT Code Approval scheme should be well placed to achieve this.

It is agreed that the principle of local authority trader schemes being OFT approved is right if that is going to be the single brand. LACORS wants to work with the OFT on a framework local authority scheme. If local authorities, with existing schemes, have to change them then any transitional costs should be met by Government.

### **TRADER INFORMATION**

Information about traders (including court judgements and prosecutions) should be available in one place to consumers as suggested. There would be significant resourcing needs in setting up and maintaining such a system. However to be effective consumers must be given a steer as to how much “weight” to put to such information. (E.G. there are very prosecutions each year but this does not mean that there are no problems with a company. Also a very large multi national would have had more actions taken than a single outlet retailer). To empower consumers the information must be read in context.

Data held by other government agencies needs to be included and the data should then be freely available to local authorities.

Whilst understanding the concerns of businesses and the legal difficulties, we feel the issue of providing complaints and other related data to the public should be given further consideration.

## **UTILITIES REGULATION**

Any changes to the structure of existing utilities regulators must deliver same or better levels of regulation and consumer protection as the existing bodies. The principle of extending ombudsmen schemes to other utilities seems sensible and would offer enhanced consumer protection in those areas.

We feel consideration should be given to the role of local authority trading standards services in the regulation of utilities. Trading Standards have a key role within their local area to deal with whole community concerns. Often problems with utilities are key concerns to local communities but cannot be resolved by local services.

## **CHANGING THE LEGISLATIVE FRAMEWORK**

We welcome clearer legislation which is helpful to everyone. We commend the DTI for opting for the most radical solution of sweeping away the existing framework and starting afresh but believe that rationalising and simplifying existing legislation may in fact be more deliverable. Any changes should not remove existing important domestic consumer protection measures.

We would caution against simplified legislation being seen as a solution in its own right. The English legal system is very different to other European countries. Our system relies on literal interpretations of the law. We run the risk of simply replacing detailed regulations with detailed statutory guidance and legal precedent.

There will be costs to local authorities in taking appeal cases under goal setting legislation. We would like provision of a central fighting fund similar to that provided by the Food Standards Agency to allow trading standards to take cases of general public importance and to decide on future precedent through the appeal court system? We also want revised legislation to allow local authorities to have access to central funds for taking their prosecutions as they did prior to 1985.

Government will have to be robust with industry in any new legislative framework not to allow sectoral exemptions to cause unnecessary complications in new legislation.

## **CONSUMER REDRESS**

We support the use of Alternative Dispute Resolution and welcome any improvements. However we believe that consumers should not be forced to undergo ADR and are therefore concerned at the mention in the report of the requirements for pre-action protocols.

## **REPRESENTATIVE ACTIONS**

We would support improved access to consumer redress via representative action. Whilst agreeing that the sequestration and redistribution of assets would provide additional consumer protection, we are concerned that there could be a huge financial and administrative burden in dealing with this. This requires much further detailed consideration especially if local authorities are to have any role within it.

## **IMPROVED COORDINATION WITHIN CENTRAL GOVERNMENT**

We welcome the formal recognition of the need for central government to join up but this will take much will at a high level to sustain as previous government initiatives in this regard have failed. However innovation in service delivery from local government is best developed and disseminated by the local government community and the professionals working within it rather than by a centralised structure.

It was agreed following a meeting with DTI and Sir Brian Briscoe and LACORS that there needs to be an effective central local partnership on regulatory services, and that local regulatory services need to be recognised within the “shared priorities”. We hope DTI will continue to press for this within central government.

## **HOW CENTRAL AND LOCAL GOVERNMENT CAN ALIGN PRIORITIES**

Agreement on priorities would be very helpful and would need to be done via the partnership arrangements proposed above. It is not tenable to change priorities on an annual basis we would suggest at least a 3 year programme. This should also determine only a few key national priorities local authorities must be left to determine other priorities.

All the local authority associations need to be engaged with this work and LACORS is able to provide central support for this as it represents LGA, WLGA and COSLA.

## **STRENGTHENED ARRANGMENTS FOR PERFORMANCE IMPROVEMENT OF TRADING STANDARDS**

Whilst understanding DTIs desire for minimum standards, we would want them to be developed in consultation with local government and with a clear acknowledgement for the need for local authorities to determine local priorities. We would also want such standards to be based on outputs and outcomes rather than inputs and be risk based. Minimum standards would all have to be agreed and accepted by all government departments with an interest in trading standards.

## **PARTNERSHIP WORKING**

We welcome the recognition that Trading Standards is best placed within local government and we are happy to work with central government, the devolved administrations and other partners, on behalf of local authorities, to deliver improvements.

We would encourage better joining up of trading standards services, both cross boundary and multi-disciplinary, in order to work on those areas where you can deliver better outcomes for its local communities by such joint working. We believe it is better for local authorities to join together by choice with other authorities as they see fit and to enter into collaborative arrangements to deliver specific outcomes, rather than via an imposed structure.

We would also ask DTI to recognise the important role that regional co-ordinators have played in delivering on this agenda, and as it seems central to the DTI vision, we would ask DTI to reconsider their decision to terminate funding for co-ordinators.

Enhanced partnership working and specialist regional teams can only be achieved by additional funding.

## **LEADERSHIP SKILLS**

We are pleased that DTI have recognised the extent of work undertaken by LACORS and TSI in relation to recruitment and retention. LACORS and EO have been successful in securing £1million capacity building fund to help develop this. We support proposals to improve leadership. However the government needs to engage other local government bodies such as the Improvement and Development Agency in this work as they have undertaken similar work in other areas.

## **OTHER ISSUES**

The strategy needs to recognise that the education of consumers should not be restricted to “consumer education” in traditional sense, but also needs to embrace health & social education, literacy and numeracy etc. and needs to link properly with other government policies in this regard.

We are pleased with the acknowledgement of the importance of the trading standards service. However the report focuses much attention on the negatives of current service provision. There were also many positive aspects which although not specified we presume the DTI has drawn upon these aspects in order to come to the conclusion that the service is best placed within local government. To give a more balanced picture we feel the final strategy needs to fully recognise the advantages of locally based services.

We question whether DTI has considered a requirement for all businesses to register with relevant local authority or sectoral regulator so it would be much simpler to join up all the data relating to a specific business by means of a business identification number. There would be significant costs associated with such a move but precedent exists in a number of areas including consumer credit and food businesses.

We welcome the recognition that local authorities focus on a cross cutting strategic agendas for their local communities and the increased role that trading standards services play within

this process is welcomed, and thus this reinforces the message that trading standards belongs at a local level.