

Ken Daly
Trading Standards Manager
Dundee City Council
1 Highland Chief Way
Dundee

Telephone: 01382 436263
Fax: 01382 436226
E-Mail: ken.daly@dundee.gov.uk
Web: www.scotss.org.uk

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Tom Young,
Policy Officer,
COSLA,
Rosebery House,
9 Haymarket Terrace,
EDINBURGH, EH12 5XZ.

Dear Tom,
Retail Enforcement Pilot

I refer to your recent query regarding SCOTSS' view on the DTI sponsored Retail Enforcement Pilot, and I am pleased to be able to respond on this emerging initiative.

The Society believes that effective delivery of regulatory services such as Trading Standards is fundamental to the wellbeing of Scottish communities, both in economic and citizen protection terms. Any changes to working practices that can be shown to add value to the way we operate will of course be embraced by SCOTSS members.

I outline below some comments on the REP that are intended to be positive, there are many aspects which are to be applauded, however I feel on balance that we need more information on outcomes before we can fully endorse it.

Yours sincerely

Ken Daly
Chairman SCOTSS

RETAIL ENFORCEMENT PILOT

It is worth noting that this pilot has only been 'live' since January this year, and any results to date are unlikely to be conclusive, certainly where Scotland is concerned. Regulatory services in Fife Council have agreed to pilot the scheme in Scotland, although an implementation date has not yet been fixed. We would wish to wait until this has been concluded before making any final judgement, however some observations can be made on the information that has come out of the existing English pilots.

The scheme started in late 2004 and it is clearly driven from a business friendly 'Hampton' angle, rather than a compliance assessment angle. SCOTSS would be concerned if this emphasis undermined regulatory compliance, or public confidence in it.

The theory behind the REP of better coordinated inspection programmes is not new to Scottish authorities, where joint Trading Standards and Environmental Health services have existed in most authorities since 1996, including the development of shared database facilities. Some authorities have already gone further with professional officers from one function passing information to their colleagues in others, and undertaking inspections where appropriate, for example with the recent smoking ban.

The REP model appears to bring efficiency benefits at a sub-high risk level, by envisaging regulators inspecting premises where they are high risk for their own function, and at the same time completing a checklist for other functions that might assess the premises as posing a lesser risk. In theory this means that other regulators do not need to carry out a visit providing *nothing is flagged on the checklist*. In fact the REP even allows for inspections by more than one regulator on the same visit where both might view the premises as high risk.

SCOTSS feels there is little empirical evidence to suggest that businesses in Scotland feel over burdened by Trading Standards and Environmental Health visits, especially where they pose a medium or low risk. Trading Standards services operate a uniform two year inspection frequency for medium risk premises, and five years for low risk. We are not convinced this presents a significant burden upon business, especially when the opportunity for giving advice to small and medium sized enterprises is taken into account. Indeed COSLA's own Regulatory Services and Business Interface focus group meetings have confirmed this. There is also a view that many traders see an appropriate and proactive inspection regime as protecting their interests, through ensuring a 'level playing field' and protecting them from unfair competition.

If we also consider that regulatory services will more and more seek to follow Hampton principles, spending more time on high risk areas, then the efficiency gains from the REP approach will logically be diminished. In any event the number of enforcement visits over the year that are carried out in terms of a risk assessed programme, and are hence relevant for the REP, are usually less than the number of other visits to premises, perhaps in response to complaints, to take samples, or for other purposes.

An interesting aspect is also how the REP model performs in terms of geography - while it may have some effect in populated areas such as Bexley or Stratford-upon-Avon, it

may be less relevant when conducting inspections in sparsely populated areas of Scotland. It may make more sense for enforcement officers who have to travel a fair distance to visit businesses in Highland or Scottish Borders for example, if they visit the lower risk premises for their discipline at the same time as they are visiting the high risk. Otherwise SCOTSS feels this may place a far greater burden on the local authority.

SCOTSS has some concern over the contents of the Trading Standards 'checklist' as it appears in the REP toolkit. It seems arbitrary and weak in content and we are not clear that it would provide sufficient quality of information on the management and operation of the business that would be needed to judge the risks and the potential detriment.

It may also be that businesses may derive more confidence from an REP type checklist inspection than is warranted. A Trading Standards Officer could tick a box indicating a fire extinguisher is present without knowing that it is the wrong type for the premises or the products kept within it.

We would also like further information on the use of self assessment as a replacement for inspection. We are not convinced that it is an appropriate tool in a regulatory environment, and it may in fact create a bigger burden on business than an expert officer visit, when advice can also be delivered if necessary. Increasing the number of forms to be filled in by business appears to be somewhat at odds with current thinking.

There are resource issues around the effort needed to bring enforcement officers 'up to speed' on aspects of each others enforcement responsibilities, and to equip them with the knowledge and skills to apply it consistently. This will be a significant burden on each service at a time when resources are stretched in training our own officers. The DTI clearly funded the services engaged in the pilots, and SCOTSS would like to see a commitment to provide similar funding for all authorities that embrace this approach.

There are some clear positives about this initiative, any enhancement of the access and availability of information for business is to be welcomed, as are better approaches to sharing of information between regulators. SCOTSS also welcomes a review of current risk assessment systems, and a joint risk and performance evaluation approach may be an appropriate approach.

Finally SCOTSS is unclear if the results from the pilots actually suggest they merit being declared as successful. We would look for further and ongoing examination of outcomes, especially from a representative Scottish pilot, and perhaps an endorsement from other regulators, for example the Fire Services that were involved in the Pilot.