

Assessment of: Creation of a Joint Trading Standards Service across Devon, Somerset, Torbay and Plymouth areas

Service: Devon, Somerset and Torbay Trading Standards

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1. Description of project / service / activity / policy under review

The creation of a Trading Standards Joint Service arrangement, whereby Devon County Council (DCC) delivers the Trading Standards functions for Somerset (SCC), Torbay (TC) and Plymouth Councils (PCC), subject to the agreement and signing by the parties, of a detailed legally binding formal agreement, pursuant to Section 101 of the Local Government Act 1972.

2. Reason for change / review

The four authorities face similar challenges in ensuring that their services continue to meet customer needs at a time of significant financial pressure, regulatory change and increasing demand and expectations. Each of the four authorities is engaged in reviewing all service delivery areas under programmes of change designed to deliver new operating models.

In May 2013, Devon County Council (DCC) and Somerset County Council (SCC) formed a single service, known as the Devon and Somerset Trading Standards Service to cover the local authority areas of Devon and Somerset. This agreement enables Devon to discharge Somerset's Trading Standards functions under Section 101 of the Local Government Act 1972 and the Somerset staff transferred across to DCC under a "TUPE" agreement.

The initial agreement with SCC was for a period of 10 years and when Torbay joined to form Devon, Somerset and Torbay Trading Standards Service on 01 May 2017, the agreement was for a period which brought it into line with the termination date of the agreement with SCC (so that renewal of a tri-partite arrangement could be considered simultaneously). An umbrella agreement, between all three councils, sat above this to ensure that a full, tri-partite joint service was created.

Plymouth City Council are now engaged in formal discussions with the other three councils with regards to forming a four-council joint service, which would then cover all of the Heart of the South West Local Enterprise Partnership (HotSW) geographical area.

As all the current agreements are due to expire on 30 April 2023, it is proposed that, rather than introducing further interim agreements to incorporate Plymouth, a new, single legal agreement is negotiated between the four councils. It is proposed that this would be for an initial period of 10 years, with appropriate provisions in place to both enable the agreement to be terminated early or to be extended beyond the initial 10 years.

3. Aims / objectives, limitations and options going forwards (summary)

The key objectives of the proposed expanded Joint Service are to:

- Provide a single, standardised, outcome focussed Trading Standards Service across all the Authorities,

- To provide a more flexible and resilient service which is able to accommodate future changes more readily (in role, legislation, scope or budget) and provide improved career development opportunities for staff;
- To effectively meet statutory requirements and potentially enhance elements of the service (for example through greater specialisation);
- To deliver a better customer experience;
- To deliver an initial and ongoing financial saving for the parties.

The option to continue with separate services was considered and it was felt that the net benefits of a joint service significantly outweighed those of separate services.

Staff, elected member, partner and key stakeholder engagement has been undertaken in developing the Full Business Case and this supports the above view.

At the formation of the initial Joint Service between DCC and SCC, one of the core objectives was the provision of a framework which would allow for further expanding the scope of the service either geographically and/or by broadening the range of functions within its remit. This would potentially allow for a sustainable model of service delivery at a time of significant financial pressure on regulatory services. The opportunity for expansion through working with Plymouth would help develop and promote that objective. It would also create a joint regulatory service with the same geographical footprint as the Heart of the South West, Local Enterprise Partnership, facilitating a comprehensive business support service closely linked to the Growth Hub and other linked programmes.

It is also felt that there might be further opportunities to provide managed services or commissioned services for a number of other authorities in the South West region.

The governance approach (for DCC to discharge the functions of PCC under s101 and of the Local Government Act agreement) was chosen for the following reasons:

- A proven model widely viewed as successful.
- Low implementation cost.

- Effectively meets the objectives of the Joint Service.
- Legally robust (not least because of the nature of the prosecutions undertaken by Trading Standards which often carry custodial sentences).
- Ensured an appropriate level of governance without risking either a lack of local control or an unnecessary burden of cost and time.

Consideration was given to the length of time over which budgets for the joint service should be set. The Joint Service Review Panel agreed that 3 years was an appropriate length of time. This balances the need for a degree of operational stability whilst ensuring that the Service can still effectively respond to uncertain funding pressures in the future. This funding set-up is not unique and longer-term budgets have been set for other “arms-length” local authority delivery models.

Whilst uncertainty still remains on some costs, for example in relation to ICT and some other apportionments, the payback period for establishing a Joint Service (excluding pension costs) is expected to be less than one year

4. People affected and their diversity profile

Trading Standards staff (within both DCC and PCC) will be affected. PCC staff will TUPE across to DCC. The Joint Service will maintain offices in Devon, Somerset, Torbay and Plymouth.

The Trading Standards Service serves both consumers and businesses throughout the geographic areas, with its key role being to protect consumers and to maintain a fair and equitable trading environment in which local businesses can thrive.

In the Trading Standards service, PCC currently employ 9.2 FTEs (including one vacant post) and Devon employ 65.46 FTEs. Plymouth’s service is part of the Public Protection Service along with Environmental Health & Licensing.

5. Stakeholders, their interest and potential impacts

Staff of the current Devon, Somerset and Torbay Trading Standards Service and staff of Plymouth Trading Standards. In the Trading Standards service, PCC currently employ 9.2 FTEs (including one vacant post) and Devon employ 65.46 FTEs. Plymouth's service is part of the Public Protection Service along with Environmental Health & Licensing.

Consumers and businesses across the geographic areas covered by the proposed joint Service. Businesses and consumers across the current Devon, Somerset and Torbay areas are not expected to experience any adverse effects due to the proposal.

6. Research used to inform this assessment

Full details of the research carried out is within the Full Business Case.

7. Description of consultation process and outcomes

Extensive consultation has been undertaken in developing the full business case. This includes DST TSS and PCC TSS staff, who have been involved from the very outset. A formal TUPE consultation will be undertaken with PCC staff commencing as soon as PCC Cabinet has agreed in principle to the Joint Service. Recognised Trade Unions have been appropriately involved. Staff views across both current services have helped inform the development of this proposal, and no significant issues have arisen from the staff consultation.

Members have been consulted through appropriate governance processes, including JSRP review of both the outline business case and the full business case. In addition, members in each of the councils will be involved in the formal agreement process.

The Duty to Consult under the Best Value Statutory Guidance has been fully met. A wide consultation was undertaken with those who use or are likely to use the services provided by the authority, those who have an interest in the area within which the functions are carried out (including local voluntary and community organisations and small business organisations). This closed on 26 June 2020. Over 50 such local, regional and national bodies were written to, including local business associations, national government agencies, the Police, non-governmental consumer groups and advice agencies (e.g. CABx). All responses received were positive.

8. Equality analysis

Giving Due Regard to Equality and Human Rights

The local authority must consider how people will be affected by the service, policy or practice. In so doing we must give due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations.

Where relevant, we must take into account the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, sexual orientation, race, and religion and belief. This means considering how people with different needs get the different services they require and are not disadvantaged, and facilities are available to them on an equal basis in order to meet their needs; advancing equality of opportunity by recognising the disadvantages to which protected groups are subject and considering how they can be overcome.

We also need to ensure that human rights are protected. In particular, that people have:

- A reasonable level of choice in where and how they live their life and interact with others (this is an aspect of the human right to 'private and family life').
- An appropriate level of care which results in dignity and respect (the protection to a private and family life, protection from torture and the freedom of thought, belief and religion within the Human Rights Act and elimination of discrimination and the promotion of good relations under the Equality Act 2010).
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/avoidable death).
- The Equality Act 2010 and other relevant legislation does not prevent the Council from taking difficult decisions which result in service reductions or closures for example, it does however require the Council to ensure that such decisions are:
 - Informed and properly considered with a rigorous, conscious approach and open mind, taking due regard of the effects on the protected characteristics and the general duty to eliminate discrimination, advance equality and foster good relations.
 - Proportionate (negative impacts are proportionate to the aims of the policy decision)
 - Fair
 - Necessary
 - Reasonable, and
 - Those affected have been adequately consulted.

Characteristics	Potential or actual issues for this group. [Please refer to the Diversity Guide and See RED]	<p>In what way will you:</p> <ul style="list-style-type: none"> eliminate or reduce the potential for direct or indirect discrimination, harassment or disadvantage, where necessary. advance equality (to meet needs/ensure access, encourage participation, make adjustments for disabled people, 'close gaps'), if possible. foster good relations between groups (tackled prejudice and promoted understanding), if relevant? <p>In what way do you consider any negative consequences to be reasonable and proportionate in order to achieve a legitimate aim?</p> <p>Are you complying with the DCC Equality Policy?</p>
All residents (include generic equality provisions)	No negative impacts anticipated from this proposal	<p>All residents will retain locally based staff in their areas, and be able to make contact via the current routes. The overall service will be able to draw on a wider pool of skills and knowledge across the whole area, enabling a more effective service to the public.</p> <p>We will draw on best practice from across the areas, thereby enhancing provision to all residents.</p>
Age	No negative impacts anticipated from this proposal	
Disability (incl. sensory, mobility, mental health, learning disability, neurodiversity, long term ill health) and carers of disabled people	No negative impacts anticipated from this proposal	<p>The joint service will have greater resources to create and provide advice materials in alternative formats such as Easy Read, thereby making advice more accessible.</p> <p>Current work plans include promotion of mental health, for example a current project to support the mental health and wellbeing of the farming community. It is anticipated that projects such as this would be rolled out over the whole joint service area.</p>

Characteristics	Potential or actual issues for this group. [Please refer to the Diversity Guide and See RED]	<p>In what way will you:</p> <ul style="list-style-type: none"> eliminate or reduce the potential for direct or indirect discrimination, harassment or disadvantage, where necessary. advance equality (to meet needs/ensure access, encourage participation, make adjustments for disabled people, 'close gaps'), if possible. foster good relations between groups (tackled prejudice and promoted understanding), if relevant? <p>In what way do you consider any negative consequences to be reasonable and proportionate in order to achieve a legitimate aim? Are you complying with the DCC Equality Policy?</p>
Culture and ethnicity: nationality/national origin, ethnic origin/race, skin colour, religion and belief	No negative impacts anticipated from this proposal	
Sex, gender and gender identity (including men, women, non-binary and transgender people), and pregnancy and maternity (including women's right to breastfeed)	Not relevant to this proposal	
Sexual orientation and marriage/civil partnership	Not relevant to this proposal	

<p>Characteristics</p>	<p>Potential or actual issues for this group.</p> <p>[Please refer to the Diversity Guide and See RED]</p>	<p>In what way will you:</p> <ul style="list-style-type: none"> • eliminate or reduce the potential for direct or indirect discrimination, harassment or disadvantage, where necessary. • advance equality (to meet needs/ensure access, encourage participation, make adjustments for disabled people, 'close gaps'), if possible. • foster good relations between groups (tackled prejudice and promoted understanding), if relevant? <p>In what way do you consider any negative consequences to be reasonable and proportionate in order to achieve a legitimate aim?</p> <p>Are you complying with the DCC Equality Policy?</p>
<p>Other relevant socio-economic factors such as family size/single people/lone parents, income/deprivation, housing, education and skills, literacy, sub-cultures, 'digital exclusion', access to transport options, rural/urban</p>	<p>No negative impacts anticipated from this proposal</p>	

9. Human rights considerations:

No adverse human rights impacts are anticipated from the proposal. Trading Standards already complies with human rights considerations and legislation through its investigation and enforcement work. The proposal will not cause any changes to this current position.

10. Supporting independence, wellbeing and resilience. Give consideration to the groups listed above and how they may have different needs:

In what way can you support and create opportunities for people and communities (of place and interest) to be independent, empowered and resourceful?

The current Joint Service already provides a wide range of advice and support to both businesses and consumers across the current area, enabling consumers to be empowered as to their legal rights, and enabling businesses to be well regulated, supported and thrive. The expanded Service would bring in an increased breadth of skills and knowledge, enabling an enhanced level of customer service to all stakeholders.

In what way can you help people to be safe, protected from harm, and with good health and wellbeing?

These are already key aims of the current Service – which would be extended across the whole expanded area. Our work ranges from protecting the public from “rogue” doorstep traders, through to tackling mass marketing scams, preventing unsafe products from entering the market, maintaining food standards and protecting young people from underage access to products such as tobacco and alcohol.

In what way can you help people to be connected, and involved in community activities?

Trading Standards already enables a wide range of stakeholders to be connected and involved in community activities – for example by our working relationship with the Farming Community Network, and with local Chambers of Commerce. We also work with vulnerable scam victims to ensure that they receive the support that they need from partner agencies. We intend to continue with and enhance this work.

11. Environmental analysis

An impact assessment should give due regard to the following activities in order to ensure we meet a range of environmental legal duties. The policy or practice does not require the identification of environmental impacts using this Impact Assessment process because it is subject to (please mark X in the relevant box below and proceed to the 4c, otherwise complete the environmental analysis table):

Devon County Council's Environmental Review Process	
Planning Permission	
Environmental Impact Assessment	
Strategic Environmental Assessment	

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
Reduce, reuse, recycle and compost:	No anticipated negative impacts	
Conserve and enhance wildlife:	No anticipated negative impacts	
Safeguard the distinctive characteristics, features and special qualities of Devon's landscape:	No anticipated negative impacts	
Conserve and enhance Devon's cultural and historic heritage:	No anticipated negative impacts	
Minimise greenhouse gas emissions:	No anticipated negative impacts	
Minimise pollution (including air, land, water, light and noise):	Some potential increase in staff travel, to carry out activities across the wider joint service area. We will aim to mitigate this by local staff carrying out tasks where available and suitable qualified / experienced.	
Contribute to reducing water consumption:	No anticipated negative impacts	

Ensure resilience to the future effects of climate change (warmer, wetter winters; drier, hotter summers; more intense storms; and rising sea level):	No anticipated negative impacts	
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12. Economic analysis

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
Impact on knowledge and skills:	No anticipated impact	Combining knowledge and expertise, response abilities, and service delivery. The range and complexity of Trading Standards legislation requires a high level of professionalism and knowledge, competencies need to be maintained regardless of the size of the service. Smaller services struggle to maintain this.
Impact on employment levels:	No anticipated impact	No direct anticipated impact
Impact on local business:	No anticipated impact	<p>Providing a consistent approach across Devon, Somerset, Torbay and Plymouth, in particular for businesses that span the four local authority areas. The potential footprint of a joint service would mirror the Heart of the Southwest Local Enterprise Partnership and enable joint working with the Growth Hub and other LEP initiatives. Regulation, in particular regulatory business support, and the impact it can have on the local economy has been widely recognised and is part of the final detailed submission to MHCLG for ERDF funding for an enhanced Growth Support Programme.</p> <p>Being better able respond to exceptional demand such as in the case of major economic shock (e.g. Brexit and the current Covid-19 pandemic). These create new demands on the service in terms of business advice & support and increased market surveillance.</p>

13. How will the economic, social and environmental well-being of the relevant area be improved through what is being proposed?

What?	How?
<p>A service that can provide a better customer experience</p>	<p>Economies of scale making it possible to focus more resources on direct operational delivery. In addition, it would eliminate duplication of processes e.g. Enforcement Policies, Enforcement Concordat, regulation of Investigatory Powers Act oversight, Funding Bids, etc.</p>
	<p>Ability to better maintain locally based front-line staff and a dedicated intelligence capability (to support strategic and day to day activity) by combining management structures</p>
	<p>Ability to maintain a wide range of functional specialists supporting both business and consumer interests.</p>
	<p>Providing a consistent approach across Devon, Somerset, Torbay and Plymouth, in particular for businesses that span the four local authority areas The potential footprint of a joint service would mirror the Heart of the Southwest Local Enterprise Partnership and enable joint working with the Growth Hub and other LEP initiatives. Regulation, in particular regulatory business support, and the impact it can have on the local economy has been widely recognised and is part of the final detailed submission to MHCLG for ERDF funding for an enhanced Growth Support Programme.</p>
	<p>Through aiming to be a regional Centre of Excellence for Business Support</p>
	<p>Better alignment with our economic geography, in particular the Local Enterprise Partnership</p>
<p>A more resilient service</p>	<p>Combining knowledge and expertise, response abilities, and service delivery. The range and complexity of Trading Standards legislation requires a high level of professional and knowledge, competencies need to be maintained regardless of the size of the service. Smaller services struggle to maintain this.</p>
	<p>A larger service which is better able to meet complex (and often national) challenges and tackle, where necessary, major organisations</p>

	Greater capacity to deal with emergency situations such as an animal disease outbreak, product safety emergencies (e.g. petroleum or explosives), or loss of key officers and their specialist technical knowledge.
	Ensuring achievement of outcomes and statutory requirements when less funding is likely to be available
A more agile and flexible service	A service better positioned to respond to possible changes in role, scope or budget
	Better able respond to exceptional demand such as in the case of major economic shock (e.g. Brexit and the current Covid-19 pandemic). These create new demands on the service in terms of business advice & support and increased market surveillance.
	Exploring opportunities to generate income by charging other organisations for certain activities
A more outcome focussed service	A Service which has the capacity to monitor and measure outcomes, demonstrating the value of its activities.
	An operating model which better reflects corporate delivery policies and contributes more readily to corporate priorities.
	Unlike environmental health and licensing, which generally deal with problems on a local premises by premises basis, trading standards is much more focussed on organised criminal activity or, for more regulatory matters, on the business supply chain. Hence working across a larger geographical area has some natural advantages to achieving desired outcomes.

14. How will impacts and actions be monitored?

The work of the joint service will be discharged by DCC but jointly commissioned by DCC, SCC, TC & Plymouth Councils, ensuring that the objectives of all partner authorities are met. A Joint Service Review Panel will be established as the forum for consultation, discussion, resolution of issues and recommendations back to all parties on all aspects of delivery and strategy for the service. It will have no decision-making powers.