

Committee(s):	Date(s):
Port Health & Environmental Services	13 May 2014
Subject: Consumer Rights Bill	Public
Report of: Remembrancer	For Information
Summary	
<p>This Report provides a summary of those matters of most interest to your Committee. The Bill:</p> <ul style="list-style-type: none"> • Consolidates and make some changes to enforcers' powers to investigate breaches of consumer law; • Provides greater flexibility to take action on breaches of consumer law. 	
Recommendation	
<ul style="list-style-type: none"> • That your Committee note the contents of this Report. 	

Background

1. With its origins in the 2006 Davidson Report on the transposition of EU Directives into domestic law and a University of East Anglia study on the complexity of rules in this area, the Bill is designed to consolidate and make minor amendments to consumer legislation. In addition, over several years, the Government has consulted widely on reforming consumer law.
2. Following an emerging trend in the legislative process, the Consumer Rights Bill was initially published as a draft Bill and was scrutinised by the Business Innovation and Skills select committee. The eventual Bill, which had its Second Reading on 28 January 2014, retained the broad themes of the earlier draft.
3. The Bill consolidates a large number of Acts that regulate trader to consumer contracts. Among the more notable Acts replaced by the Bill are the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 and the Unfair Contract Terms Act 1977. The Bill re-states existing provisions regarding, for example, the quality of goods sold, the requirement that goods are fit for their purpose and the definition of a hire-purchase agreement.
4. Of interest to the City is the consolidation and expansion of trading standards officers' powers of investigation and enforcement in relation to breaches of consumer law – provisions which are currently contained in over 60 pieces of legislation.
5. Reflecting on the Bill's long gestation period, Business Secretary Vince Cable told MPs that "It has been widely consulted on outside and inside the House and our understanding is that it is welcomed by both business and consumer

groups. There has been some constructive criticism from inside the House during domestic scrutiny and we have taken on board the large majority of the suggestions". During the Bill's second reading in the Commons, he described the Government's intention as being to "set out in one place key consumer rights and what consumers are entitled to. The measure covers goods, services and, for the first time, digital content such as e-books and software".

6. Labour's consumer affairs spokesman, Stella Creasy, criticised what she regarded as the Bill's shortcomings in failing to extend consumer protections – "it makes the Secretary of State a consolidator, not a champion of consumer rights". Adrian Bailey, the Labour chairman of the Business, Innovation and Skills Select Committee, told MPs that "although I do not think that this is the most ambitious of Bills—it is essentially a consolidating Bill, and it has a long way to go before it can realise the visionary objective of transforming consumers' awareness—I think that it is a step in the right direction, and that if the Government accepted the Select Committee's other recommendations, they would take a few more steps in the right direction".

Trading Standards Enforcement

7. The Bill proposes a change in relation to the notice required from trading standards officers when they wish to conduct a planned routine inspection. In the future officers will be required to give advanced notice in the majority of routine inspection cases. Advanced notice will be excused in cases where the officer believes evidence may be lost or destroyed if notice is given.
8. Under the Bill, the existing separate power to enter premises with a warrant is continued with a new clarification that a court must be satisfied that goods or documents may be concealed or interfered with if notice of the inspection were given.

Cross Border Enforcement

9. Touching on the City's interests, the Bill is intended to tackle questions about which authority has jurisdiction in an instance where there is an investigation that crosses two or more authority boundaries. The Bill would clarify that officers in one authority do not require formal authorisation from those in another authority to entitle the officers to operate in that other authority's area.

Trading Standards Remedies

10. Criminal sanctions are the tool currently available to trading standards officers when tackling a breach of consumer law. The Bill proposes a shift away from criminal prosecution and towards an extension of the current power, under the Enterprise Act 2002, for officers to bring civil cases against rogue traders. The Government explained the re-calibrating of civil remedies as being designed to provide more remedies for the victims of rogue trading. Under the Bill, officers will have a power to bring a county court case when one or more of the following three outcomes may be achieved: consumer

redress, a reduction in the likelihood of future breaches and/or to provide more information to consumers.

11. Claims for redress will, under the proposals, be brought by officers and must be based on consumer loss as a result of a breach of consumer law. There are two grounds upon which an officer would be able to bring a redress claim. First, where consumers have suffered loss. Under this ground, an officer is entitled to ask the court to award compensation to the consumer(s) and, if the breach relates to a contract, the redress may offer the consumer(s) an option to terminate the contract. The second ground allows officers to bring a claim for redress where the affected consumers cannot be readily identified – officers would be entitled to bring a claim in the collective interests of consumers. Individual consumers will not usually be within the scope of either of these provisions and the Bill maintains a consumer's right to pursue a private civil claim for breach of a consumer contract.
12. The types of claims envisaged under these two heads include those that order a trader to appoint a compliance officer, to implement a complaints handling process or to publish details of a breach. The Bill is not prescriptive about the kinds of orders available in claims under these heads.
13. The Bill envisages that the trader and the officer would agree a resolution of the dispute. If a trader refuses to agree a resolution with the officer, proceedings may be taken in the civil courts for an enforcement order. Under the Bill, a court may order a trader to stop engaging in conduct in question, order compensation for consumers who have suffered loss due to a breach of consumer law and/or make orders to ensure greater compliance with consumer law.
14. The Bill proposes that if goods are seized the owners must be allowed reasonable access, although officers may recover reasonable costs of allowing such access.

Consultation

15. The Director of Markets and Consumer Protection has been consulted in and contributed to the preparation of this report.

Conclusion

16. Following a long-running consultation the Bill proposes an overhaul of consumer law in the UK through the consolidation of a dozen pieces of legislation. If brought into force in its current form, the Bill would place new restrictions on some inspections but it would provide officers with wider and more flexible enforcement powers.
17. The law on consumer rights will continue to develop as there are a small number of European measures due to be introduced over the short-term, such as regulations relating to distance selling and consumer contract cancellation.

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