

PERTH AND KINROSS COUNCIL

Community Safety Committee – 28 August 2013

Audit Scotland and Improvement Service Reports on Future Delivery of Trading Standards Services**Report by the Depute Director (Environment)**

This report considers the Audit Scotland, 'Protecting Consumers' report and the Improvement Service's "National Trading Standards Team: Critical Friend Report", and their impact on the future delivery of Trading Standards in Perth and Kinross

1. BACKGROUND / MAIN ISSUES

- 1.1 The local authority Trading Standards function is part of a network of organisations which seek to protect the consumer from unfair practices, and ensure a fair and equitable trading environment for businesses. Most Trading Standards regulatory functions are reserved to the Westminster Parliament.
- 1.2 In 2011, the UK Government announced a review of the consumer protection landscape. It was considered that there were too many public, private and voluntary organisations involved in consumer protection, forming a complex landscape, which was difficult for the consumer to understand.
- 1.3 The objectives of the reforms were:
 - to reduce the number of public funded bodies involved in consumer advice and representation;
 - strengthen the effectiveness of consumer enforcement; and
 - deliver more cost efficient consumer protection, closer to the consumer front line.
- 1.4 To achieve these objectives the Government proposed that in future, responsibility for each aspect of consumer advice, representation and enforcement should rest mainly with one of three key institutions: the Citizens Advice Service; Local Authority Trading Standards Services and the proposed new Competition and Markets Authority.
- 1.5 Although this represented a significant change to several organisations, local authority Trading Standards functions were largely unaffected by these changes at that time.
- 1.6 In April 2012, as a result of the UK Government's consumer protection landscape review, the Department of Business Innovation and Skills (BIS) entered into a partnership agreement with COSLA to develop an enforcement structure for Scotland that would take on national casework from the Office of Fair Trading when its duties transferred to Local Government in 2013. COSLA also assumed financial responsibility for existing BIS funded national

teams, namely the Illegal Money Lending Unit (IMLU), hosted by Glasgow City Council, 'Scambusters' (Scamb) and the E-Crime Unit (ECU) hosted jointly by North Lanarkshire and Dundee Councils. These teams were formed to take a Scotland wide approach to these key areas of consumer protection, working with local Trading Standards staff as necessary.

- 1.7 The newly formed COSLA Consumer Protection Task Group commissioned the Improvement Service to provide a Critical Evaluation of the existing national team structures (IMLU, Scamb and ECU) and bring forward a blueprint for the future structure including its relationship with local authority Trading Standards services.
- 1.8 An interim report from the Improvement Service was submitted to the Task Group in December 2012. It recommended a move towards a single national team, Trading Standards Scotland (TSS), to lead and coordinate enforcement activities on the three BIS funded work streams (IMLU, Scamb and ECU) and the development of a 'board' structure for governance. Both recommendations were accepted by the Consumer Protection Task Group and agreed by COSLA. Work has begun in amalgamating the teams under the management of the newly appointed Chief Officer. It should be noted that there was no change to local authority Trading Standards teams.
- 1.9 Concurrently, an audit carried out by Audit Scotland of all 32 Scottish Authorities, was carried out to assess the ability of Local Authority Trading Standards Services, to protect consumers from the unfair and potentially unsafe practices of businesses. This culminated in the 'Protecting Consumers' report in January 2013.
- 1.10 The Audit Scotland report identified weakness in the current national framework. These included staffing levels, lack of coordination, lack of national priorities, and low profile of the service in local authorities. The report made suggestions about changes which could be made to improve the situation.
- 1.11 The final report from the Improvement Service, 'National Trading Standards Team: Critical Friend Report' was presented to the Consumer Protection Task Group in April 2013 and addressed the situation on the national casework inherited from the OFT and the need for a development strategy to improve the service (in relation to IMLU, Scamb and ECU). The report also took into account the issues raised in the Audit Scotland 'Protecting Consumers' Report, concerning the long term viability of Trading Standards in Scotland, and the challenges this presents to COSLA and councils in their inheritance of national casework from central government. COSLA subsequently held a summit meeting of senior local authority officials on 20 June 2013, outlining proposals in relation to recommendations made by both the Improvement Service and Audit Scotland.

- 1.12 This report highlights the recommendations of these two reviews, for the areas that relate to the Council's Trading Standards service, and its interaction at national level. The report depicts actions already being undertaken by the Council, and also highlights future actions for the Council to ensure it is a strong position to work in partnership, to deliver the best possible protection to consumers and legitimate businesses in Perth and Kinross.

2. PROPOSALS

Recommendations from the Improvement Service Critical Friend Report

- 2.1 The majority of the Improvement Service's final evaluation concentrates on the three national teams, recommending the creation of a Development Strategy split along operational and strategic lines.
- 2.2 The report also discusses the need for local and national public education and awareness raising to prevent consumer detriment and exploitation as well as suggesting a need for early detection and early intervention. The main recommendations of the review, the Council's current activities, and future proposed actions are detailed in Appendix 1.
- 2.3 The report also recommends that to take forward actions in the report, programme management and communications resources would be required, with a proposal that the costs be shared between Councils, at a level of £7,000 per organisation. This suggestion would seem sensible in principle, however there are insufficient details provided so far by the Improvement Service to make a final judgement on what this funding would pay for, and what outcome the Council would gain for making this contribution.
- 2.4 It is also worthwhile highlighting the following points raised by the Improvement Service report:
- *"When [in 2010...elected] members were asked to prioritise services, Trading Standards come out lowest priority. When members were asked to prioritise outcomes, outcomes associated with Trading Standards were among the highest priorities (e.g. 'preventing older people being conned or scammed'; 'preventing financial exploitation of deprived households and communities'; 'creating a safe trading environment where people are not ripped off')."*
 - *"A key role should be to develop that narrative and champion the role of Trading Standards within the new focus on outcomes and prevention. This is a matter of urgency as budget erosion across the next decade on the scale identified by Audit Scotland across the last decade would substantially damage the integrity and capacity of the system."*

Recommendations from the Audit Scotland, 'Protecting Consumers' Report 2012

- 2.5 Audit Scotland last examined council services, and their effectiveness in protecting consumers, in 2002 when they published their report "Made to Measure". At that time they criticised the capacity and resources of Trading Standards services in Scotland.
- 2.6 The 2012 audit (which generally repeats the findings of the 2002 report) examined the main activities of council Trading Standards services (and the food safety work of environmental health services). This included evaluating how effectively Local Authorities identify the risks to consumers and prioritise their activities to address them; assessing how efficiently and effectively councils protect consumers.
- 2.7 The report did not single out any individual local authorities, but concentrated on the Trading Standards service as a whole across Scotland.

Key findings of the report were:

- The long-term viability of Local Authority trading standards services is under threat and urgent action has to be taken to address this immediately
- Councils are targeting their resources at their perceived highest risk areas and reducing work on the lower risks weakening the ability to gather local intelligence about emerging risks to consumers
- Trading standards services lack national coordination, service standards & priorities
- Trading Standards have no national system of performance reporting

The key recommendations in the report in relation to local authorities are detailed in Appendix 1.

- 2.8 The majority of the proposals and recommendations in the report related to bodies outwith the local control of Trading Standards in Perth and Kinross, as they address recommendations for improving Trading Standards services on a national basis,
- 2.9 The recommendations relevant to Perth and Kinross Council, with proposed actions are also detailed in Appendix 1.
- Enhancing and developing the Perth and Kinross trusted trader scheme the 'Better Business Partnership'.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The Committee is asked to:

- (a) Note the outcomes of the Audit Scotland “Protecting Consumers” and Improvement Service Critical Friend Reports in relation to the overall review of Trading Standards services in Scotland.
- (b) Commit to working with COSLA, other Local Authorities, Trading Standards Scotland and the Tasking Group Board in order to improve consumer protection measures currently provided locally and nationally.
- (c) Note the request for £7,000 revenue funding as part of shared developments of programme projects and communications, and remit the decision on whether to commit this funding to the Executive Director (Environment) once further information is available from the Improvement Service.

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Approved

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| Barbara Renton | Depute Director (Environment) | <i>Barbara Renton</i> |
| Date 24/7/13 | | |

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

| Strategic Implications | Yes / None |
|---|-------------------|
| Community Plan / Single Outcome Agreement | Yes |
| Corporate Plan | Yes |
| Resource Implications | |
| Financial | None |
| Workforce | None |
| Asset Management (land, property, IST) | None |
| Assessments | |
| Equality Impact Assessment | Yes |
| Strategic Environmental Assessment | Yes |
| Sustainability (community, economic, environmental) | Yes |
| Legal and Governance | Yes |
| Risk | None |
| Consultation | |
| Internal | Yes |
| External | Yes |
| Communication | |
| Communications Plan | No |

1. Strategic Implications

Community Plan / Single Outcome Agreement

1.1 This report contributes to the local outcomes of:

- Our Communities and people experiencing inequalities will have improved quality of life, life chances and health
- Our people will have improved health and wellbeing

Corporate Plan

1.2 The Council's Corporate Plan 2013 – 2018 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:

- i. Giving every child the best start in life;
- ii. Developing educated, responsible and informed citizens;
- iii. Promoting a prosperous, inclusive and sustainable economy;
- iv. Supporting people to lead independent, healthy and active lives; and
- v. Creating a safe and sustainable place for future generations.

1.3 This report contributes to objectives ii, iii, iv and v.

2. Resource Implications

Financial

- 2.1 The revenue funding of up to £7,000 can be met from the Environment Service budget.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome: Assessed as **relevant** and the following positive outcomes expected following implementation

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 In respect of this proposal no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt

Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.

Legal and Governance

- 3.6 The Head of Legal Services has been consulted in the preparation of this report.

Risk

- 3.7 There are no corporate risks associated with the proposals contained within this report.

4. Consultation

Internal

- 4.1 The Head of Legal Services and the Head of Democratic Services have been consulted on the content of this report and are in agreement with the proposals.

2. BACKGROUND PAPERS

The undernoted background papers were relied upon:

- Critical Friend Report – Report by the Improvement Service (Appendix 2)
- Protecting Consumers – Report by Audit Scotland (Appendix 3)

3. APPENDICES

- Appendix 1 – National Report Recommendations, and Perth and Kinross Council Actions
- Appendix 2 – Critical Friend Report
- Appendix 3 – Protecting Consumers Report

National Report Recommendations, and Perth and Kinross Council Actions

1a) Improvement Service – Critical Friend Report

| Recommendation | Existing PKC Activity | Future PKC Proposed Actions |
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| The key priority is to improve the working relationship between the national teams and local trading standards services | PKC Trading Standards refer relevant issues to national teams, and update the national intelligence gathering database (MEMEX) as issues arise. | Officers very prepared to work closely with national team |
| Integrate and consolidate intelligence analysis at national level | PKC officers currently inputting information and interrogating from MEMEX | Greater co-ordination at national level would be welcome, for PKC officers to act on intelligence issued for local Councils |
| Memorandum of Understanding (MOU) to be developed between the national management and local services laying out in depth the nature of the intelligence requirement and the duties and responsibilities of each party within the intelligence system | No action required at present. | Participate in development of national MOU, either directly or via professional Institute and Society of Chief Officers of Trading Standards Scotland |
| There are embedded perceptions about the efficiency, effectiveness and impact of the national teams to date. It would be sensible, and good for reputation, to undertake a rigorous self assessment with the teams that includes input from stakeholders. This would be linked to developing improvement plans. | No action required at present. | Contribute to self assessment of national teams, as required |

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| Recommend a paper is prepared that maps the partners potentially and actually engaged in enforcement and preventative work, their current relationships with the national teams and local trading standards, and now the national capacity can better support joint working at national and local level. | No action required at present. | Paper detailing the landscape of partners' involvement would be welcome. From that, we could develop a local level map of partners and how it links to the National Group. |
| It may be sensible for the Task Group to write to all Councils and ask them to raise the issue of how the Police plan to work with the Council to protect communities from scams and financial exploitation as part of the scrutiny process. | PKC and Police Scotland currently work closely together on issues such as SCAM awareness and referring issues to each other. | Response can be prepared detailing our proactive work |
| Enforcement capacity at national and local level is constrained and, in itself, cannot conceivably achieve positive outcomes in terms of consumer protection, and prevention from exploitation and abuse. Within the new community planning framework, these outcomes are central to community safety and resilience and are the responsibility of all partners. The potential of this needs captured and developed. | Several examples of Trading Standards working with other Council Services and Police Scotland. Protecting people in vulnerable circumstances is a themed area in the Corporate Plan and Community Plan | Scope to build on existing good partnerships through Community Plan theme "Creating a Safe and Sustainable Place for Future Generations" |
| Early detection and early intervention to prevent problems and issues developing depends on presence and contact. Again, risk assessment and inspection is an important part of this. However, often Trading Standards become aware of problems only after the event, and it is critical that services with larger | Trading Standards risk assess all the premises they have enforcement responsibilities for. Trading Standards working with other Services which have larger field staff – Community Care, Social Work (SCAM Awareness); Education, Safe Taysiders | Scope to build on existing good partnerships Developing, and exploring new, information sharing processes, utilising Neighbourhood Watch Alert Portal, Social Media (tweets), council web alerts and press releases. |

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| field staff resources and routine contact with the public are linked in. (E.g education; social housing; social work; health and social care). This would require awareness and skills training for these workforces so that they are capable of early detection and at initiating early interventions. | Providing Scams Awareness training opportunities for other services working with vulnerable people | Continuously developing tactical contacts with social work, carers, victim support, CAB etc. to provide an holistic approach to tackling scams and the effects of scams on the vulnerable |
| Given declining real wages and the likely impact of Welfare Reform on vulnerable communities, the risks to financial stressed households of financial exploitation and unfair trading are likely to rise across the next period. My very strong recommendation is that the national Chief Officers in conjunction with COSLA and SCOTS prepare a five year prevention strategy that covers all the dimensions of prevention noted above. In doing so, they should connect with the other Council services and partners who would need to be engaged in the delivery of the plan. | In recent years Trading Standards work has moved towards protecting more vulnerable groups, evidenced by joint working on SCAM awareness with police and Community Care | Once national plan is developed, PKC will develop its own plan for local interventions |

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| <p>A second key development area is the Boards support for identifying other areas where shared service or shared capacity would be relevant. This could supporting two or three local Trading Standards services to move to a shared service or shared management arrangement at local level. It could include regional specialists that support all the Councils with a part of Scotland. It could include integration of support qualified across Trading Standards, environmental health etc. Finally, it could include functions that should be done once and well on behalf of all 32 Councils. (e.g the design and support of campaigns).</p> | <p>PKC Trading Standards already shares services:</p> <ul style="list-style-type: none"> • Weighbridge test vehicle shared by 14 Councils • Metrology (weights and measures) test laboratory shared with Dundee City and Angus Councils <p>Dundee City, Angus and PKC have recently embarked on a scoping review to look at further shared services in Trading Standards</p> | <p>Make progress with shared service scoping review</p> |
| <p>Elected Members can champion at local level. Providing regular briefings, masterclasses, and e-learning materials to Elected Members on key trading standards issues and outcomes would support this. Clear communications should be developed with the new Police Scrutiny Committees, and with Community Safety Partnerships, to ensure effective sharing around protection, prevention and enforcement is in place.</p> | <p>Several communications channels such as Annual Performance Committee reports; Business Management and Improvement Plans; articles in Council newsletters and other publications; media releases.</p> | <p>Explore how Elected Members would like further briefings and learning materials.</p> |
| <p>Finally, the Task Group/Board needs to champion the national role in driving and supporting change. The current national capacity is very limited and needs better resources to have impact. In other areas (procurement, scientific services, roads)</p> | <p>No action required at present.</p> | <p>PKC is preparing to commit to part funding this initiative, to ensure better co-ordination and prioritisation on key target issues</p> |

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| shared capacity has been resourced by councils contributing on a pro-rata basis related to their share of GAE. Programme management and communications resources would be essential to taking forward the recommendations made above. An average contribution of £7000 per councils would provide a good basis for securing those resources. | | |
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1b) Audit Scotland Protecting Consumers Report

| Recommendations for Councils | | |
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| Work with the FSA in Scotland, and in future, the new Scottish Food Safety organisation to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective food safety service over the next 5-10 years, and take action to address any shortfalls identified | Perth and Kinross Council's Regulatory Services review (2011) developed a workforce plan, which includes giving opportunities for existing staff to train as Trading Standards Officers and developing a "Regulatory" Modern Apprenticeship programme (the first in Scotland) | Review arrangements after one year Two Modern Apprenticeship posts being recruited |
| Ensure they have access to, and make use of, intelligence to help determine their local priorities and contribute intelligence to information systems that support the work of other Scottish and UK councils, and the national teams | PKC use MEMEX (national intelligence database) | Developing our use of MEMEX to identify trends in scams, and disseminate the information quickly via groups such as Neighbourhood Watch |
| Develop a clear direction for the future of their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way | Achieved through Service Business Management and Improvement Plan, and Trading Standards Team Plan | Review future plans, as national picture evolves following Audit Scotland and Improvement Service reviews |

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| that appropriately reflects the risks, national and local priorities and the needs of local communities | Moving to a new premises Risk Assessment scheme (based on the scheme devised by the Association of Chief Trading Standards Officers) which will form the basis of a comparable national measure of premises risk assessment (with nationally agreed inspection frequencies and targets if agreed by TSS / COSLA) | |
| Councils should ensure their work on lower risk areas is sufficient to prevent them becoming more serious risks | Ensuring that local intelligence relating to local businesses is not lost, monitoring daily all notifications from the national complaints service, Citizens Advice Consumer Helpline; with one officer tasked with identifying complaint trends to allow pro-active advice to be given to local traders | Recommendations noted, but difficult to achieve with 28% savings made to the team since 2012. The team's work is now focussing on higher risk priorities. Emerging risks would be identified by local networks, professional institute, MEMEX and intelligence coming from national bodies. |
| Councils should ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public | Performance is managed via Team Plans, Business Management and Improvement Plans Benchmarking actioned through statutory Performance Indicators | More work required on benchmarking however this would be pending establishing national service standards and reporting mechanisms. |
| COSLA and Councils should Work together to ensure strong national co-ordination for trading standards in Scotland that includes: • Maintaining effective links with UK wide arrangements | No action required at present | Much of this work will come from the national review, prompted by the Audit Scotland and Improvement Service reports. PKC will monitor these developments and amend our activities accordingly |

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| <ul style="list-style-type: none"> Analysing intelligence to identify national risks Agreeing national priorities Developing national service standards and keeping these under review Establishing a system for scrutinising and publicly reporting Councils performance against these standards | | |
| <p>In developing arrangements for national co-ordination, explore a full range of options for redesigning trading standards services including:</p> <ul style="list-style-type: none"> Greater use of more formal joint working Creating fully shared services Establishing a national service | <p>PKC Trading Standards already shares services:</p> <ul style="list-style-type: none"> Weighbridge test vehicle shared by 14 Councils Metrology (weights and measures) test laboratory shared with Dundee City and Angus Councils <p>Dundee City, Angus and PKC have embarked on a scoping review to look at further shared services in Trading Standards</p> | Progress with shared service scoping review |
| <p>Liaise with the Scottish Government on the future of trading standards services where this involves organisational or service issues for which it has responsibility</p> <p>Develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective trading standards service over the next 5-10 years and take action to address any shortfalls identified</p> | <p>Issues at local level are raised via the Society of Chief Officers of Trading Standards Scotland</p> <p>Perth and Kinross Council's review (2011) developed a workforce plan, which includes giving opportunities for existing staff to train as Trading Standards Officers</p> <p>Addressing workforce planning issues by upskilling a Trading Standards Technician to progress towards a formal Trading Standards</p> | <p>Will continue to raise issues at national level, as these arise</p> <p>Review arrangements after one year</p> <p>Two Modern Apprenticeship posts being recruited</p> |

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| | qualification and developing a Modern Apprenticeship in Regulatory Services for implementation in Perth and Kinross with a view to this being more widely adopted throughout Scotland. | |
| Ensure that Councillors are fully informed and supported to make decisions about the future of services to protect consumers | Several communications channels such as Annual Performance Committee reports; Business Management and Improvement Plans; articles in Council newsletters and other publications, media releases. | Explore what and how Elected Members would like further briefings and learning materials |
| Work with the Citizens Advice Service and others to increase awareness and understanding among consumers of where they can get advice and help when buying goods or services, particularly when things go wrong. | Trading Standards and local Citizens Advice work together – referring cases to each other | Continuously developing tactical contacts with social work, carers, victim support, CAB etc. to provide an holistic approach to tackling scams and the effects of scams on the vulnerable |



NATIONAL TRADING STANDARDS TEAM: CRITICAL FRIEND REPORT (DRAFT)

COLIN MAIR, CEO, IMPROVEMENT SERVICE

Introduction

1. This study was commissioned at the end of October 2012 to examine, on a 'critical friend' basis, the inherited national arrangements that COSLA has to manage under its Grant Agreement with the UK Government Department of Business, Industry and Science. These include:
 - (a) The existing Scottish Scambusters, ecrime and Illegal Money Lending teams.
 - (b) The leadership of Intelligence Led Protection and Enforcement in Scotland.
 - (c) Continued working with the UK Government to ensure that protection and enforcement functions previously undertaken by the OFT in Scotland are transitioned and sustained.

An interim report was submitted in December 2012.
2. Since the submission of the interim report, things have moved very quickly for Trading Standards. The task force itself has agreed that a "Board" arrangement should be developed this year to govern and oversee Trading Standards Scotland (TSS). An executive structure to manage the current national teams, and the development of TSS, has been agreed and implemented with a Chief Officer, and Deputy Chief Officer appointed. Key decisions have been made about the intelligence system necessary to deliver results and to link national and local capacity together, and discussions have been initiated with the Police to secure better intelligence sharing and joint working in areas of mutual interest.
3. As importantly, the Audit Scotland report has been published and usefully delineates the scale of the issues and challenges faced by Trading Standards. The issue of erosion of budgets and capacity needs urgent consideration, as does the workforce profile of Trading Standards across Scotland which implies a substantial outflow of staff, skills and expertise across the next 5 – 10 years, with very few new entrants in training. Although the precipitating factor in looking at national capacity has been the changes to OFT initiated by the UK Government, the task group and the Board, when formed, needs to respond to other needs and opportunities for shared capacity in Scotland.
4. The future framework for community planning has been agreed and guidance issued on future expectations and requirements. This embeds an emphasis on improving outcomes through prevention, and on targeting the most vulnerable communities and improving their resilience. Although the contracted enforcement teams and functions are important, protecting communities implies prevention, and the preventative effort needs targeted on the most vulnerable households and communities. COSLA is co-author of the "Statement of Ambition" that commits to using the "totality of resources" to prevent harm and improve life for those communities, and this needs thought through in

the context of Trading Standards and TSS. The shift to prevention from reaction, and using all intelligence to target communities at risk, are key elements of this.

5. The rest of this report addresses these issues under two headings: the inheritance (where we are now); and development strategy (where we need to get to). The analysis is fairly bluntly expressed, not out of hostility or contempt, but because the need for change is compelling and urgent.

Section 1 The Inheritance

6. The interim report, based on interviews and documentary analysis, raised a number of issues about the inherited arrangements that the task force and COSLA needed to address. (see appendix 1). In summary:
 - (i) Perceived lack of clarity and transparency on the criteria used by Simlu and Scambusters to decide and prioritise caseload.
 - (ii) Weak communication and poor working links between national teams and local TSS.
 - (iii) An intelligence framework that was variably resourced and supported at local level, and where intelligence analysis was poorly communicated and disseminated from national to local level.
 - (iv) Lack of clarity about the impact of the work of national teams and, particularly, the extent of consumer detriment they were able to address given their limited resources.
 - (v) The lack of focus on prevention as opposed to enforcement.
7. The interim report saw all of these as linked to the lack of a coherent governance framework for these teams in Scotland, and the lack of any integrative management function at national level. It recommended rapid development of a 'Board' to oversee national capacity, and to address the operational and strategic issues identified. It also recommended that an integrated management of national capacity be put in place to line manage the national teams, support the proposed Board, and improve communications and relations with local trading standards. Both these recommendations have been agreed by the Task Group, and COSLA Leaders, so the infrastructure for improvement is in place.
8. It makes sense, therefore, to build on that and focus on the key operational and strategic tasks that the new Board and T.S.S. management will need to address. The key operational tasks can be summarised as follows:
 - (i) Stabilising and improving the relationships between national teams and local trading standards. Getting the intelligence framework right and working well is central to that.
 - (ii) Undertaking a robust self assessment of the national teams, including stakeholders in the process, and publishing an improvement and development plan.
 - (iii) Through that, creating a coherent and transparent performance framework for national capacity in Scotland that goes beyond the narrow requirements of reporting to B.I.S.
 - (iv) Consolidating enforcement and intelligence relationships with the Police and agreeing a framework for productive joint working.
9. That will address key operational issues in providing a competent enforcement and intelligence capacity at national level. It does not address, however, strategic issues of

prevention, improving outcomes, and addressing the wider shared capacity opportunities in consumer protection in Scotland. There would be little point in creating a Board simply to oversee the current national teams: it needs to be a vehicle for wider strategic change and development, and linked to wider developments such as Community Planning.

10. The key operational and strategic developments needed are mapped out in the next section. The aim is to respect the current contractual responsibilities to B.I.S. with respect to enforcement, and the 'enforcement gap', while moving the system more towards prevention, improved outcomes and sustainability. The development proposals have implications for the nature of the Board, and for the role of the Board, which are picked up in the conclusion.

Section 2 Development Strategy: Getting the Operational Framework Right

The Intelligence System

11. The key priority is to improve the working relationship between the national teams and local trading standards services. From interviews, and the documentary analysis, there was little understanding of how the national teams worked, why they took on the caseload they did, and what real impact they had. The irony of this is that, in theory, national teams and local services are linked by their common participation in the intelligence system (Memex). In principle, this should make sharing intelligence and analysis relatively easy but in reality it does not appear to work. Analytical capacity at national levels is limited and fragmented across national teams: local intelligence inputs are variable in frequency and quality. How either are used in tasking and prioritisation is less than transparent.
12. For these reasons, I am supportive of the role of the national deputy Chief Officer in attempting to integrate and consolidate intelligence analysis at national level. I am also supportive of the national Chief Officers view that clearer protocols and guidance around the intelligence system is necessary. However, I think both may put the cart before the horse. There are quite significant issues over the perceived credibility and utility of the intelligence system, and related issues of commitment and resourcing that need to be addressed first. There is also a classic 'chicken and egg' problem. There is little incentive for local services to invest in inputting to the system if the analysis they get back is not useful: analysis at national level can only be useful if local input is regular, consistent and reliable.
13. It would be unwise to snatch at a quick solution here. My proposal would be that a Memorandum of Undertaking (MoU) be developed between the national management and local services laying out in depth the nature of the intelligence requirement and the duties and responsibilities of each party within the intelligence system. This should be formally signed by COSLA (or the Board if it exists) and each council. To get to the MoU, a short life working group should be established including representation from the national teams, local trading standards, other local services that may be able to provide or benefit from intelligence (e.g. Social Work and Social Care) and the Police (see below). It should report back to the Task Group with a draft MoU within 3 months.
14. This may seem to slow progress but the issues with the current system need explored, analysed and resolved. Future requirements need thought through, agreed and 'owned' by all participants and potential participants. (For example, the Police are unlikely to share intelligence if not satisfied with the integrity of the system). As intelligence led, risk based and targeted enforcement is necessary given resource constraints, time should be allowed to get this right and fully accepted by all

stakeholders. Simply making changes at national level, or issuing protocols, is unlikely to pull stakeholders together in this way.

Self Assessment and Improvement Planning

15. Working together to design an MoU for the intelligence system will potentially improve relationships in itself. However, there are embedded perceptions about the efficiency, effectiveness and impact of the national teams to date. As they are now 'under new management', it would be sensible, and good for reputation, to undertake a rigorous self assessment with the teams that includes input from stakeholders. This would be linked to developing improvement plans.
16. There are a number of self assessment frameworks available, largely EFQM based, that enable organisations or teams to examine their resource deployment and service processes against outcomes. All require that such assessment is evidence based and so are useful in identifying evidence and performance gaps. All create space for staff and stakeholder input. The IS has developed the Public Service Improvement Framework (PSIF) with 'Investors in People' and 'Quality Scotland', and uses it as the self assessment tool for 24 councils, and 18 Community Planning Partnerships. It has just been endorsed by the European Quality Foundation as the public service assessment model for Europe. We would be happy to organise and facilitate self assessment with the national teams at no cost.
17. A self assessment including all staff and stakeholders, properly facilitated, allows an honest and objective assessment of strengths, weaknesses, and performance gaps that links directly to improvement planning. A variety of improvement planning tools exist to ensure the link with evidenced self assessment is rigorous. Including stakeholders improves relationships, and obliges them also to distinguish between perception and evidence. Done well, it also links cause and effect. (e.g. instability in staffing to inconsistency in performance). The new Chief Officers will have to assess the teams anyway, so it would be wise to do it in a structured and systematic rather than adhoc way. I would recommend this is done prior to the summer so that clear improvement plans are in place for the autumn.

The Performance Framework

18. A critical focus that will need to come out of that review will be on the outcomes that the national teams are supposed to achieve, and on a performance management and reporting framework that creates clarity and transparency around that. To date, performance reporting has been limited to caseload and activity data with only very periodic reporting of the results of that activity. Outcomes from intelligence analysis and dissemination are not reported at all, even though they may be instrumental in results achieved by local services and partners.
19. Given the overarching purpose of protecting consumers and preventing detriment, any performance framework has to start from that and assess activity and performance in that context. Enforcement is only part of that equation and, on present reporting, it is impossible to assess its impact on minimising risk and preventing detriment. There is no baseline evidence on the scale and distribution of detriment, no evidence on the % of detriment these small teams actually address, and no clear criteria to establish whether the cases actually pursued are priority cases (or simply the cases that arose). This is wholly unsatisfactory for assessing value for money and it is worth noting that, through small beer in other contexts, spending on national capacity here is, in effect,

over 4% of total current spending on trading standards, (if the Audit Scotland report is accurate).

20. This is not a critique of the current teams, although it emphasises the importance of improving the intelligence base. The current teams were set up on an enforcement model, and have pursued that. There has been no requirement to report on prevention of detriment, targeting of vulnerable and high risk communities etc. The new dispensation allows a more distinctively Scottish approach to be put in place that accommodates B.I.S. reporting requirements within a broader framework.
21. Three practical steps may facilitate this. First, the self assessment proposed above will necessarily require teasing out the key outcomes that are being pursued. This should be captured, codified and presented to the Task Group/Board for agreement, along with an assessment of the other elements that need to be in place, over and above the national teams, to deliver on those outcomes. Second, the funding available for a study of consumer detriment (£10,000) should be deployed in that context. If the outcomes are clear, where is risk against these outcomes most likely to occur and which communities are most likely to be affected? Answering these questions will be more important than undertaking another generic study of detriment which is unlikely to add much to existing UK government studies. This will allow a clearer sense of where and for what the national teams should be accountable, and where the wider system needs to take responsibility.
22. This will inevitably lead to a third step which is reviewing the balance of preventative and enforcement activities in achieving outcomes, and the roles and responsibilities of the national teams. They cannot be held solely responsible for either side of that equation, but the performance framework should capture what they can do in supporting others and forming partnerships that improve impact on outcomes. I would recommend a paper is prepared that maps the partners potentially and actually engaged in enforcement and preventative work, their current relationships with the national teams and local trading standards, and how the national capacity can better support joint working at national and local level.

Relationship with the Police

23. The intelligence, surveillance and enforcement capacity of the national teams will always be limited, and a positive working relationship with the Police will be necessary to ensure capacity and impact. Efforts have been made over time to achieve a MoU with ACPOS on intelligence sharing and enforcement. These have been unsuccessful. The advent of the new Scottish Police Authority, and the single force, creates an opportunity to look in a systematic way at both division of labour and joint working between Trading Standards and the Police.
24. Initial discussions with the Police suggest that the links between their role and the role of the national teams is well understood. It is also recognised that scams and illegal money lending are often linked to serious and organised crime. The caution was as to whether this end of the work would attract much priority among local Police Commanders, or in the Police performance framework. As the purpose of the new force explicitly includes community resilience and well being, and patterns of illegal activity are highly interrelated at local level, it should attract priority.
25. My recommendation would be that an early meeting is sought between the Chair of the Task Group and the National Chief Officer and the Chair of the Scottish Police Authority and the Chief Constable to initiate exploration of:

- (i) Arrangements for sharing intelligence
 - (ii) Arrangements for sharing investigative and surveillance resources
 - (iii) Protocols to ensure effective arrangements for joint enforcement, where that is necessary
 - (iv) Development of a formal partnership agreement or MoU to underpin and regulate intelligence sharing, joint investigation and joint enforcement
26. Past efforts to do this have faltered because they did not get to the top level, and no timescales were set for concluding agreements. With COSLA support, this discussion should start at the top and a clear timescale for concluding a partnership agreement should be put in place. Equally, as a contingency measure, councils have a defined role in law in scrutinising and approving local policing plans. It may be sensible for the Task Group to write to all councils and ask them to raise the issue of how the Police plan to work with the council to protect communities from scams and financial exploitation as part of the scrutiny process.
27. This relationship is critical for intelligence, investigation and enforcement. (A number of these working on national teams are ex Police Officers). The Police have very well resourced intelligence, investigative and enforcement capacity in comparison to Trading Standards. The absence of a Partnership Agreement or MoU to cement this relationship is daft. The time is right to do this now with the new authority just beginning and national capacity in Trading Standards being enhanced.

Getting Strategy Right

28. The work recommended to improve the operational framework can also contribute to strategy development as well: The clarification and prioritisation of outcomes; the differentiation of the role and responsibilities of the current national teams from the role of council services and partners in delivering outcomes; the mapping of existing and potential partners. If our view that the board needs to have a wider role than simply the governance of national capacity is accepted, then these considerations link to these key areas for strategy development which are examined in turn below.

Preventing Consumer Detriment and Exploitation

29. Enforcement capacity at national and local level is constrained and, in itself, cannot conceivably achieve positive outcomes in terms of consumer protection, and prevention from exploitation and abuse. Within the new community planning framework, these outcomes are central to community safety and resilience and are the responsibility of all partners. The potential of this needs captured and developed.
30. The dimensions of prevention are typically seen to include: public education and awareness raising; providing services that divert or minimise risk; early detection and intervention in problems or issues; intervention once issues or problems have arisen to prevent further damage. All of these can be focused on individuals or communities and can be delivered separately or in a linked up way. These dimensions are generic but apply reasonably well to the trading standards context.
31. Public education and awareness raising might include campaigns to draw attention to the risks of illegal loans, or to financial scams that are occurring in an area. Recent reviews in the health area suggests that general broadcast campaigns, e.g. in newspapers, work very poorly and largely reinforce the awareness of those who already well understood the risk. Customised, face to face or 'situated' communication

works best with vulnerable and at risk groups. Furthermore, information works best if allied to practical steps the recipient can take to manage their situation. (e.g. pointing financially excluded families to the councils crisis loan fund if they urgently need a loan, rather than simply telling them to avoid illegal money lenders).

32. The provision of services that divert or minimise risk would include providing improved access to money advice or social banking for financially excluded communities, or the routine monitoring and inspection work done to ensure a fair and reliable consumer environment. Some of these services are within Trading Standards but many potentially lie with other services or partners.
33. Early detection and early intervention to prevent problems and issues developing depends on presence and contact. Again, risk assessment and inspection is an important part of this. However, often Trading Standards become aware of problems only after the event, and it is critical that services with larger field staff resources and routine contact with the public are linked in. (E.g. education; social housing; social work; health and social care). This would require awareness and skills training for these workforces so that they are capable of early detection and at initiating early interventions. They also potentially important providers and recipients of intelligence, and this needs taken account of in consolidating and improving the intelligence system.
34. Intervention after the event through investigation and enforcement remains important to minimising harm, maintaining deterrence, and maintaining public confidence. This depends, however, on capacity at local and national level, and the Audit Scotland report raises doubts about that. The earlier report in 2010 by Consumer Focus Scotland contained data from a Mori poll that suggested that only 2% of the population has ever had contact with Trading Standards, and that only a very small minority were aware of their existence. Over half the sample were aware of Citizens Advice and saw them as the main source of support. Awareness and 'brand recognition' may be critical to credibility and impact, and may also influence the flow of intelligence from the public.
35. Given declining real wages and the likely impact of Welfare Reform on vulnerable communities, the risks to financially stressed households of financial exploitation and unfair trading are likely to rise across the next period. My very strong recommendation is that the national Chief Officers in conjunction with COSLA and SCOTS prepare a five year prevention strategy that covers all the dimensions of prevention noted above. In doing so, they should connect with the other council services and partners who would need to be engaged in the delivery of the plan. This plan should be submitted to the Task Group/Board but should also seek endorsement through COSLA Leaders and the National Community Planning Group. The IS is happy to provide research, analytical and project management support to this exercise.

Developing Shared Capacity in Trading Standards

36. It was suggested above that the establishment of a Board creates opportunities that go well beyond simply the governance of the national teams. The Audit Scotland report identifies real issues about the resourcing and sustainability of current arrangements. If a new Board is created, it needs to have responsibility for ensuring the integrity and sustainability of Trading Standards in Scotland. The limited shared capacity represented by the national management and teams needs developed to support workforce planning and succession planning, and to support the more effective sharing of resources and expertise across the system.

37. Two key development priorities can be rapidly identified. There is a pressing need to create a shared framework for the recruitment, training and development for the future core of officers that will be needed and it seems logical that the new Board should lead on this. Such a framework needs to be based on an estimate of future requirements; a clear view of the balance of academic and in work training, and a quantification of the educational and training support that needs to be in place to ensure a sustainable and high quality workforce. It will need to cover CPD and specialist training as well as initial training. I would recommend that this is a key development priority for the new Board.
38. I emphasise they should lead this but not necessarily directly seek to provide this themselves. Councils retain the responsibility for ensuring they have appropriate staff in place and need to financially support this development. Other partners may be able to provide elements of basic or specialist training (e.g. the Police on intelligence; surveillance and investigation techniques). The Board, however, needs to be the catalyst that ensures a shared framework is put in place as this has been discussed repeatedly over the years but little progress has been made.
39. A second key development area is the Boards support for identifying other areas where shared service or shared capacity would be relevant. This could include supporting two or three local Trading Standards services to move to a shared service or shared management arrangement at local level. It could include regional specialists that support all the councils within a part of Scotland. It could include integration of regulatory services within a council, and the creation of generic assistants who can support qualified staff across Trading Standards, environmental health etc. Finally, it could include functions that should be done once and well on behalf of all 32 councils. (E.g. the design and support of campaigns). A range of ideas have again been proposed and explored over time but relatively little progress has occurred.
40. Given the constraints across the next five years, I recommend that the Board Commission a shared capacity scoping paper and action plan that establishes and actions short, medium and longer term opportunities and identifies the resources and support necessary for delivery. This will need to be done with the full involvement of councils, and support for the exercise should be drawn from across the system, including the IS. Again, the role of the Board is to galvanise and drive change, not to provide all the resources necessary for change.

Championing Trading Standards

41. The IS undertook a study in 2010 of Elected Members priorities across Scotland. When members were asked to prioritise services, Trading Standards come out lowest priority. When members were asked to prioritise outcomes, outcomes associated with Trading Standards were among the highest priorities (e.g. 'preventing older people being conned or scammed'; 'preventing financial exploitation of deprived households and communities'; 'creating a safe trading environment where people are not ripped off'). This suggests something of an identity crisis for Trading Standards but it also suggests that a powerful narrative about outcomes can be created that would engage decision makers in councils and Community Planning Partnerships.
42. A key role for the new Board should be to develop that narrative and champion the role of Trading Standards within the new focus on outcomes and prevention. This is a matter of urgency as budget erosion across the next decade on the scale identified by Audit Scotland across the last decade would substantially damage the integrity and capacity of the system. Good regulatory outcomes tend to be 'taken for granted', and

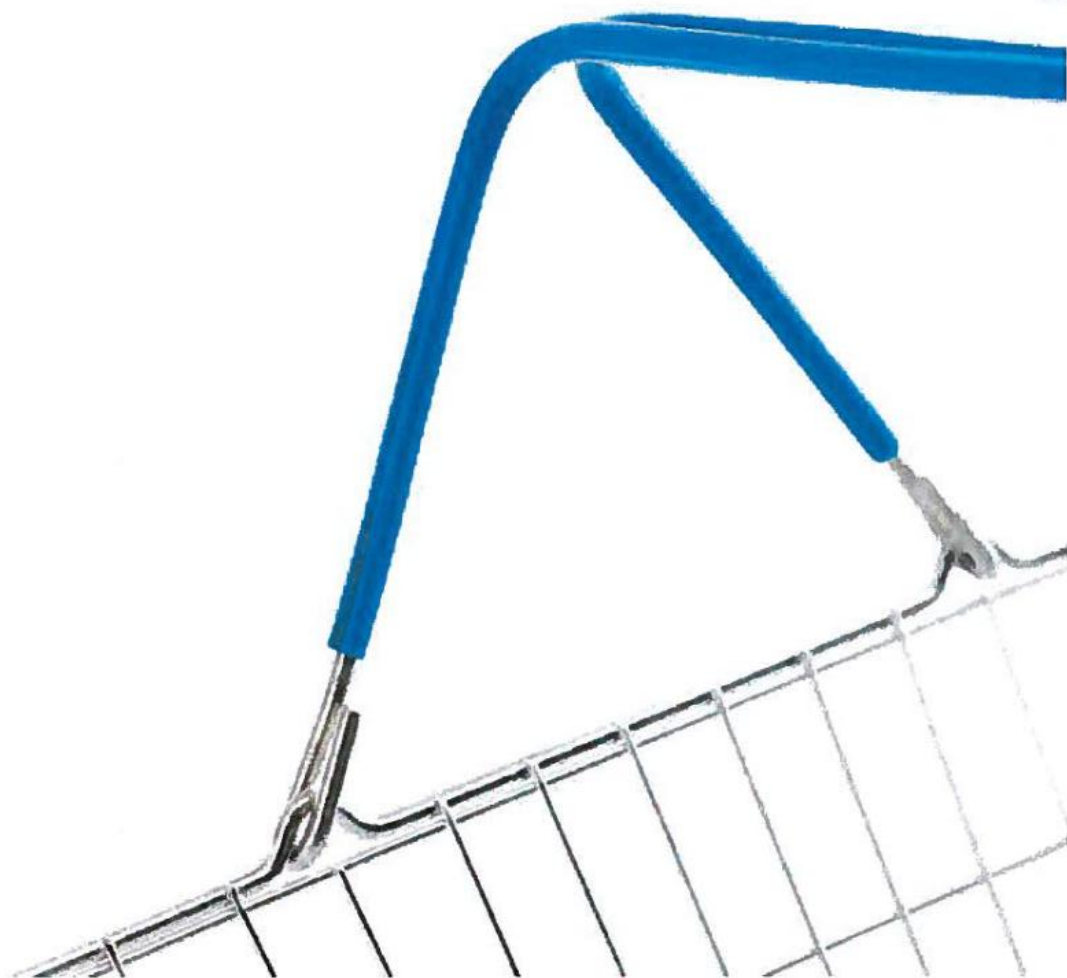
the resources necessary to maintain them underestimated. It often takes major failures to draw attention to this, as recent food safety scares illustrate.

43. Clearly Trading Standards need to get their own act together, and the proposals about prevention planning and shared services made in this report should help demonstrate that. Other practical steps would include devising the new Board to have wide representation across councils so that knowledgeable and well briefed Elected Members can champion at local level. Providing regular briefings, masterclasses, and e-learning materials to Elected Members on key trading standards issues and outcomes would support this. Clear communications should be developed with the new Police scrutiny committees, and with Community Safety Partnerships, to ensure effective sharing around protection, prevention and enforcement is in place.
44. More contentiously, it would be useful to organise and facilitate a collective response to the Audit Scotland Report. If an individual council received a report as challenging as this one, it would be under an obligation to produce an improvement plan to address the issues raised. An 'Action Plan for Trading Standards in Scotland' could include the practical steps recommended above but it needs to include also commitments by all councils to support a process of change and Improvement. I would recommend that such a response be produced.
45. Finally, the Task Group/Board needs to champion the national role in driving and supporting change. The current national capacity is very limited and needs better resources to have impact. In other areas (procurement, scientific services, roads) shared capacity has been resourced by councils contributing on a pro-rata basis related to their share of G.A.E. Programme management and communications resources would be essential to taking forward the recommendations made above. An average contribution of £7000 per councils would provide a good basis for securing those resources and I would recommend a sum around this scale is agreed. Without the relevant resources, it is doubtful that the new Board and the national Chief Officers could deliver on all the recommendations above.

Conclusion

46. There have been a large number of reviews of Trading Standards and very little change has actually happened. This time, no change will mean we are going backwards. The operational development recommendations in this report are essential to improving the value of the current national teams, and to improving relationships with local Trading Standards. If they are not taken forward, I am unclear as to whether there is much point to the national teams.
47. The strategic recommendations are critical to outcomes, prevention, and a sustainable system of Trading Standards. They presume a Board with a broad responsibility for developing shared capacity for Trading Standards in Scotland, and for developing strategic partnerships to support that. If a Board of that sort and with that empowerment is not wanted, then alternative ways of ensuring sustainability should be explored by COSLA.

Protecting consumers



Prepared for the Accounts Commission
January 2013

The Accounts Commission

The Accounts Commission is a statutory, independent body which, through the audit process, requests local authorities in Scotland to achieve the highest standards of financial stewardship and the economic, efficient and effective use of their resources. The Commission has four main responsibilities:

- securing the external audit, including the audit of Best Value and Community Planning
- following up issues of concern identified through the audit, to ensure satisfactory resolutions
- carrying out national performance studies to improve economy, efficiency and effectiveness in local government
- issuing an annual direction to local authorities which sets out the range of performance information they are required to publish.

The Commission secures the audit of 32 councils and 45 joint boards and committees (including police and fire and rescue services).

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

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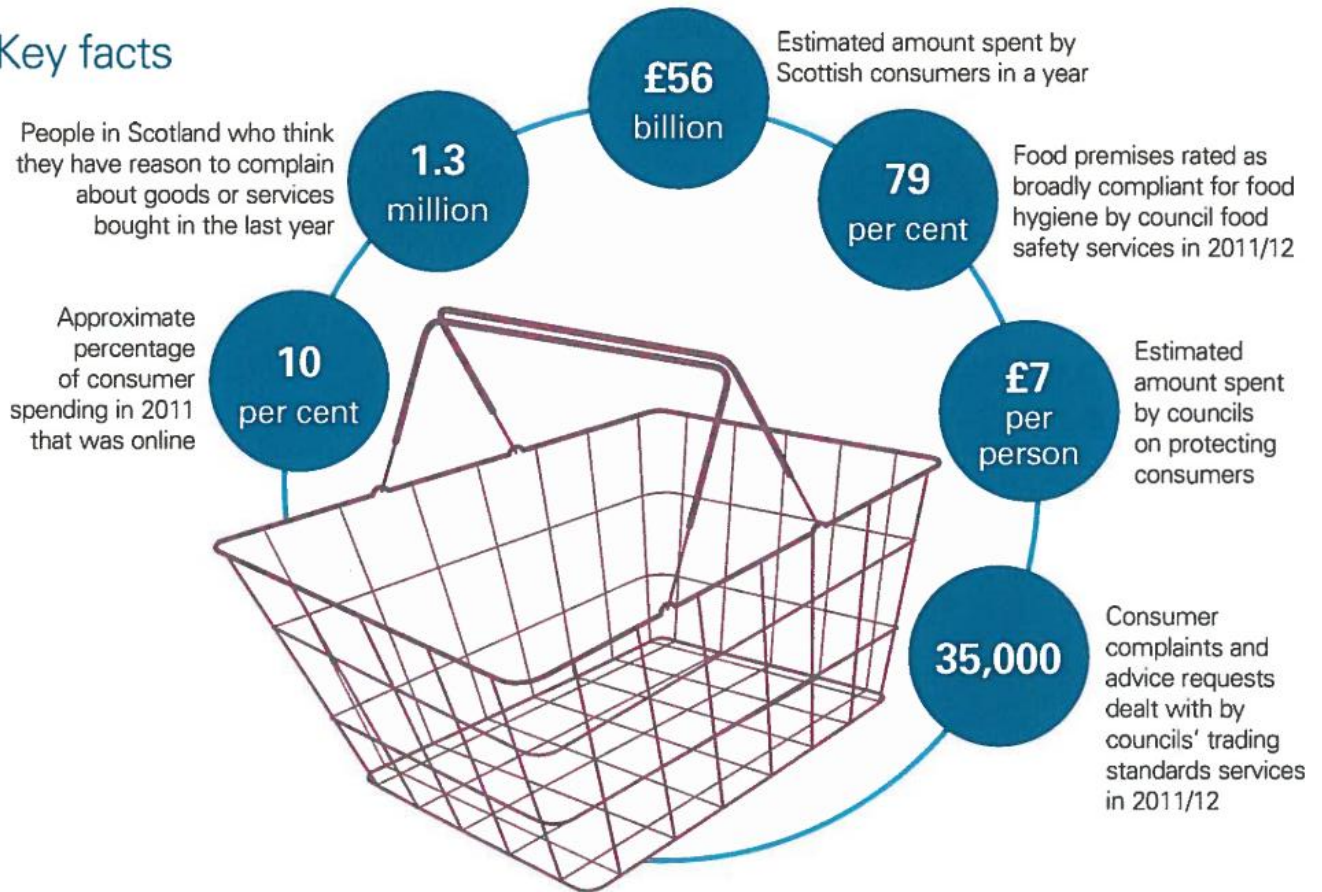


Exhibit data

When viewing this report online, you can access background data by clicking on the graph icon. The data file will open in a new window.

Summary

Key facts



As consumers, we expect what we buy to be safe and sold fairly and honestly

Background

1. Scottish consumers spend about £56 billion a year.¹ As consumers, we expect what we buy to be safe and sold fairly and honestly. If we buy food from a shop, cafe or restaurant, we expect the food to be as described on the label or menu and safe to eat. If we buy a pair of sunglasses described as giving protection from ultraviolet light, we trust them to protect our eyes.

2. When things go wrong, consumers can lose money; miss out on important services; be disappointed or inconvenienced; lose confidence in suppliers; experience stress or anxiety; or risk injury, illness or even death.² Every year, an estimated 1.3 million people in Scotland think they have reason to complain about the quality of products or services they have bought.³ Although many complain directly to the retailer and have their problem sorted out, over half a million either do not complain to the retailer or take no further action after failing to have the issue resolved.

3. More people are shopping on the Internet and this has introduced new risks, such as web-based scams or new sellers being unaware of consumer protection laws that allow people to change their minds about a purchase. In addition, changes in consumers' and businesses' behaviour due to the current economic climate have heightened some risks as people seek lower prices and some businesses seek to reduce their costs by cutting corners.

4. A range of Scottish, UK and EU legislation aims to protect consumers from harm. Businesses must comply with these laws and councils are responsible for making sure they do. Councils also work with consumers through their trading standards and food safety services to help avoid problems or resolve them when they happen.

About our audit

5. The aim of our audit was to assess how well councils protect consumers from unfair treatment or being put at risk by the businesses they buy goods or services from, and to identify any scope for improvement.

6. We last examined council services to protect consumers in 2002 when we published a report on trading standards services in Scotland.⁴ We recommended then that councils, particularly those with small trading standards services, consider joining up services and working together more to increase their capacity and develop their services.

7. In this audit, we examined the main activities of council trading standards services and the food safety work of environmental health services. This included evaluating how effectively councils identify the risks to consumers and prioritise their activities to address them, and assessing how efficiently and effectively councils protect consumers.

8. We did not examine council activities not connected to direct transactions between consumers and businesses, such as animal health and welfare, debt counselling, environmental protection and public health.

Key messages

- The long-term viability of councils' trading standards services is under threat and urgent action is needed to strengthen protection for consumers. These are small services compared to other council services, spending about £21 million a year, or less than 0.2 per cent of councils' budgets. They have a low profile among councillors and senior managers and have experienced greater than average staff reductions in the last four years. Staff reductions in food safety services, which spend an estimated £13 million, have been less severe. There are concerns about loss of experience and expertise, and too few training posts, in both services. These pressures on services come at a time when risks have increased owing to greater use of the Internet for buying and selling and pressures on individuals' and businesses' budgets in the current economic climate.
- Councils are rightly targeting their limited resources at the highest risk areas and reducing their work on the lowest risks. Targeting resources in this way relies on good intelligence. However, trading standards services do not assess risks on a consistent basis, and a reduction in consumer advice and support means that, in some areas, councils have weakened their ability to gather local intelligence about risks to consumers. This also means that some consumers may not get the help they need when things go wrong, and already

1 *Family spending, a report on the 2010 living costs and food survey, 2011 edition*, Office for National Statistics, 2011. *Mid-2011 population estimates Scotland*, General Register Office for Scotland, 2012. Excludes the costs of services provided by other parts.

2 *Consumer detriment: assessing the frequency and impact of consumer problems with goods and services*, Office of Fair Trading, 2008.

3 *Consumer awareness research*, TNS BMRB, Audit Scotland, 2012.

4 *Made to measure: an overview of trading standards services in Scotland*, Audit Scotland, 2002. www.audit-scotland.gov.uk/work/local_national.php?year=2002

over a third of consumers do not know where to go to seek help for some types of problem.

- The Food Standards Agency (FSA) in Scotland has supported the development of national standards and priorities and a reporting framework for councils' food safety services. The FSA also audits councils' performance. National coordination is significantly weaker for trading standards services, which no longer have national standards and priorities or a national system of performance reporting. Individual council trading standards services have adopted their own approaches to managing performance. This lack of consistency makes it difficult for councils to benchmark their performance and demonstrate that they are delivering efficient and effective services to their communities and making the best use of their resources. However, changes to the organisation of trading standards services at the UK level present the Convention of Scottish Local Authorities (COSLA) and councils with an opportunity to establish strong national coordination in Scotland and improve these services by organising them more effectively.

Recommendations

Councils should:

- work with the FSA in Scotland and, in future, the new Scottish food safety organisation to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective food safety service over the next 5–10 years, and take action to address any shortfalls identified
- ensure they have access to, and make use of, intelligence to help determine their local priorities, and contribute intelligence to information systems that support the work of other Scottish and UK councils, and the national teams
- develop a clear direction for the future of their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way that appropriately reflects the risks, national and local priorities and the needs of local communities
- ensure their work on lower risk areas is sufficient to prevent them becoming more serious risks
- ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public.

COSLA and councils should:

- work together to ensure strong national coordination for trading standards in Scotland that includes:

- maintaining effective links with UK-wide arrangements
- analysing intelligence to identify national risks
- agreeing national priorities
- developing national service standards and keeping these under review
- establishing a system for scrutinising and publicly reporting councils' performance against these standards
- in developing arrangements for national coordination, explore a full range of options for redesigning trading standards services, including:
 - greater use of more formal joint working
 - creating fully shared services
 - establishing a national service
- liaise with the Scottish Government on the future of trading standards services where this involves organisational or service issues for which it has responsibility
- develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective trading standards service over the next 5–10 years, and take action to address any shortfalls identified
- ensure that councillors are fully informed and supported to make decisions about the future of services to protect consumers
- work with the Citizens Advice Service and others to increase awareness and understanding among consumers of where they can get advice and help when buying goods or services, particularly when things go wrong.

Part 1. Organisation



There is a lack of national priorities,
standards and reporting in trading standards

Key messages

- 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.
- There are national standards and priorities and a reporting framework for food safety through the work of the Food Standards Agency (FSA) in Scotland, which also audits councils' performance. National coordination is significantly weaker for trading standards services, which no longer have national standards and priorities or a national system of performance reporting. However, changes to the organisation of trading standards services at the UK level present the Convention of Scottish Local Authorities (COSLA) and councils with an opportunity to establish strong national coordination in Scotland and improve these services by organising them more effectively.

Consumers can face serious risks when they buy goods and services

9. Scottish councils consider the main risks facing consumers to be:

- cross-contamination, when harmful bacteria are transferred from raw ingredients to ready-to-eat food
- illness or disease as a result of poor food-handling practices, such as storing food at the wrong temperature or not cooking it correctly

- scams, which deceive consumers into paying for goods or services that either do not meet their expectations or do not exist
- doorstep crime, where consumers are pressured into buying something, or misled about the price or need for services by someone who calls at their door uninvited. This is often someone who has no fixed business address (an itinerant trader). The services often involve property repairs or improvements, such as roof repairs or home insulation
- Internet fraud or problems with buying through the Internet, where consumers may be unaware of their rights and private sellers unaware of their obligations.

10. Vulnerable people are especially at risk. For example, older people are often the target for doorstep crime and the effects of food poisoning are potentially more severe for people with poor health, older people and babies. Less confident consumers may also find it harder to resolve problems themselves when they happen.

Some risks are greater owing to increasing use of the Internet and the effects of the current economic climate

11. People are increasingly shopping on the Internet. The share of UK retail sales attributed to the Internet more than trebled between 2007 and 2011, and in 2011 about £1 in every £10 spent by consumers was spent online.⁵ This introduces additional risks to a large number of people. These include Internet scams and buying from new sellers who are unaware of the laws that allow people to change their minds about a purchase.

12. Changes in consumers' and businesses' behaviour due to the current economic climate have heightened some risks. These changes include:

- consumers seeking lower prices and therefore more likely to buy from unknown sellers which may result in their buying fake or substandard goods or services
- businesses seeking to reduce their costs by cutting corners (eg, selling cheap goods that do not meet safety standards, using misleading advertising or pricing, switching off fridges overnight to save electricity costs, using out-of-date food rather than throwing it away, employing untrained staff).⁶

13. In addition to these direct consequences for consumers, there are other, indirect risks, including:

- negative impact on the local economy, when the number of legitimate businesses decreases because they can no longer compete with businesses that trade unfairly
- increase in serious and organised crime, when illegal trading becomes a source of funding for criminal activity.

Councils use various approaches to ensure that businesses comply with the law

14. Councils protect consumers in a number of ways, from providing information and advice to taking legal enforcement action ([Exhibit 1](#)). Most businesses do not set out to defraud or harm their customers but many need information, advice and training from councils to help them comply with the law. Councils inspect businesses and, where necessary, take enforcement action to stop businesses from trading unfairly or failing to meet standards.

⁵ Statistical bulletin – retail sales, Office of National Statistics, February 2012.

⁶ Information from group discussions with trading standards and environmental health managers and officers, Audit Scotland, 2012.

Exhibit 1**What councils do to protect consumers**

Councils undertake a range of activities, from educating businesses and consumers to taking legal action.¹

Helping to comply

Informing and educating



- Councils provide information to businesses to help them understand what the law requires.
- Councils provide information to consumers to help them avoid problems, for example hygiene education in schools and how to avoid scams.

92,414

businesses assessed for trading standards risks

50,670

food premises assessed for food hygiene risks

Training and advising



- Councils give training and advice to help businesses comply with the law.
- Councils give advice to consumers about how to deal with problems, for example getting a repair, replacement or refund for faulty goods or services they have bought.

6,413

requests from businesses for advice from trading standards

Inspecting and investigating



- Councils monitor businesses' compliance with the law through:
 - routine inspection visits or other contact
 - testing/sampling
 - consumer and business complaints
 - other investigations and intelligence.

9,755

food samples taken

21,228

trading standards inspections

Enforcing the law



- Councils take action to enforce the law by:
 - seizing goods
 - issuing improvement notices and enforcement orders
 - preparing cases for the procurator fiscal
 - contributing evidence to regional/national cases.

20,819

enforcement actions²

126

prosecutions started

Notes:

1. All data relates to 2011/12.

2. Includes 17,092 food hygiene written warnings and 2,212 food standards written warnings.

Source: Audit Scotland; Local Authority Enforcement Monitoring System data and unpublished data provided by Scottish councils, Food Standards Agency

This includes ensuring that shops do not sell unsafe products; do not sell age-restricted products such as tobacco or fireworks to underage people; and that restaurants and other food-related businesses handle and prepare food safely. Where necessary, councils can prepare cases for prosecution by the procurator fiscal.

There are national standards and priorities and a reporting framework for food safety

15. Councils' two main services to protect consumers are supported by different national systems. The Scottish Government has a devolved responsibility for implementing food safety legislation, including European Union regulations. It does this through the FSA in Scotland. The Agency liaises with councils' food safety services, the Society of Chief Officers of Environmental Health in Scotland (SOCOEHS) and the Royal Environmental Health Institute of Scotland. It also has in place a liaison committee (the Scottish Food Enforcement Liaison Committee) with these organisations (Exhibit 2). The Agency works with the Committee to identify national priorities, set national standards through a Food Law Code of Practice and provide information and guidance for enforcement work. It also collects data, audits councils against the standards and expects them to bring reports to the attention of elected members.⁷ This system has resulted in a relatively consistent approach to enforcement and performance reporting across Scottish councils.

16. The UK Government has announced changes to the responsibilities of the UK Food Standards Agency, which will come into effect in April 2014.⁸ The Scottish Government will create a new Scottish food safety organisation, separate from the UK

body, which will operate from April 2014. This change is unlikely to affect significantly the day-to-day operation of councils' food safety services, as the new body is expected to continue the same national coordination role.

There is a lack of national priorities, standards and reporting in trading standards

17. In contrast, there is a lack of national priorities, standards and reporting in trading standards. Responsibility for most non-food consumer protection legislation is reserved to the UK Government. Although Scottish ministers have requested that it too should be a devolved matter, there has been no decision yet.⁹ In 2002, the Department of Business, Innovation and Skills, which was then the Department of Trade and Industry, introduced a national performance framework for trading standards. It required councils to have a trading standards service plan and performance standards, and to report their performance using national performance indicators. The UK Government stopped using the framework in 2008 and only a minority of Scottish councils continue to use the framework locally, with nine councils still reporting a key indicator on whether businesses comply with trading standards laws.

18. The Office of Fair Trading (OFT) has responsibility for enforcing certain consumer laws at a UK level, and it liaises with council trading standards services about its priorities and activities (Exhibit 3, page 10). However, it does not have an equivalent role to the FSA in Scotland in agreeing priorities, setting standards or auditing local trading standards services. No national risk-based priorities have been agreed in Scotland since 2008. The absence of any national standards and performance reporting framework for

trading standards has resulted in an inconsistent approach to enforcement activity and performance reporting.

19. The UK Government has announced plans to rationalise the number of organisations involved in protecting consumers. The OFT's functions will be distributed between local trading standards services, the Citizens Advice Service (comprising Citizens Advice Scotland and Citizens Advice England and Wales), a new Competition and Markets Authority and the Trading Standards Institute.¹⁰ The Citizens Advice Service will also take over the role of representing consumers' interests from Consumer Focus Scotland, which will have different responsibilities from April 2013.

20. These reforms increase the need for national coordination of local trading standards services as councils take on the OFT's previous responsibility for tackling some national and cross-boundary threats. The UK Government funds regional trading standards teams and coordinator posts across the UK, with Scotland included as one region. Three teams, hosted by individual councils, operate in the Scottish region. They comprise:

- Illegal Money Lending Unit – hosted by Glasgow City Council, to tackle those who lend people money without a credit licence ('loan sharks')
- Scambusters – hosted by North Lanarkshire and Dundee City Councils, to address cross-boundary scams that are beyond the resources of individual trading standards services to address
- E-crime Unit – hosted alongside the Scambusters team, recently set up to tackle online scams and frauds and other cross-boundary e-crime issues.

⁷ European Regulation (EC) No 882/2004 specifies the general approach that national and local authorities must take to monitor food and feed businesses' compliance with the law.

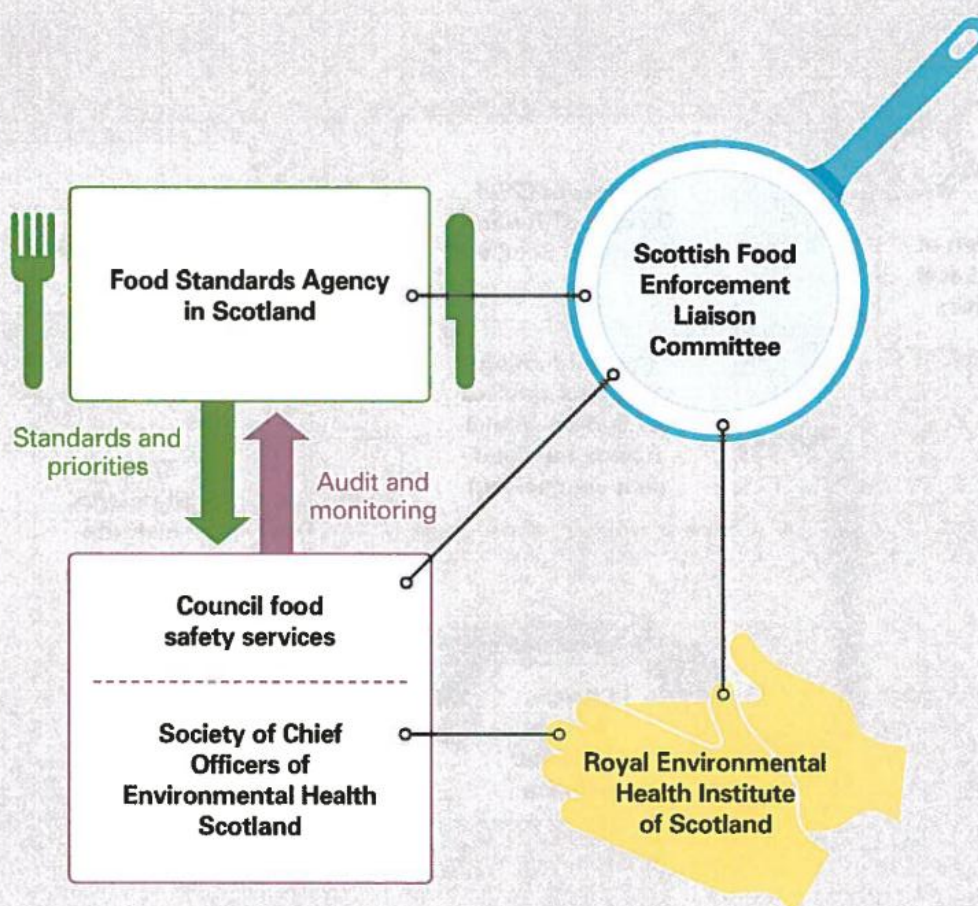
⁸ *Written Ministerial Statement – Machinery of Government changes*, Prime Minister, 20 July 2010.

⁹ Letter from Scottish Minister for Energy, Enterprise and Tourism to UK Minister for Employment Relations, Consumer and Postal Affairs, 22 September 2011.

¹⁰ *Empowering and protecting consumers, Government response to the consultation on institutional reform*, Department for Business Innovation and Skills, UK Government, April 2012.

Exhibit 2**Organisation of food safety in Scotland**

The Food Standards Agency in Scotland provides a focus for national coordination of priorities, standards and performance reporting, and audits councils' food safety services.



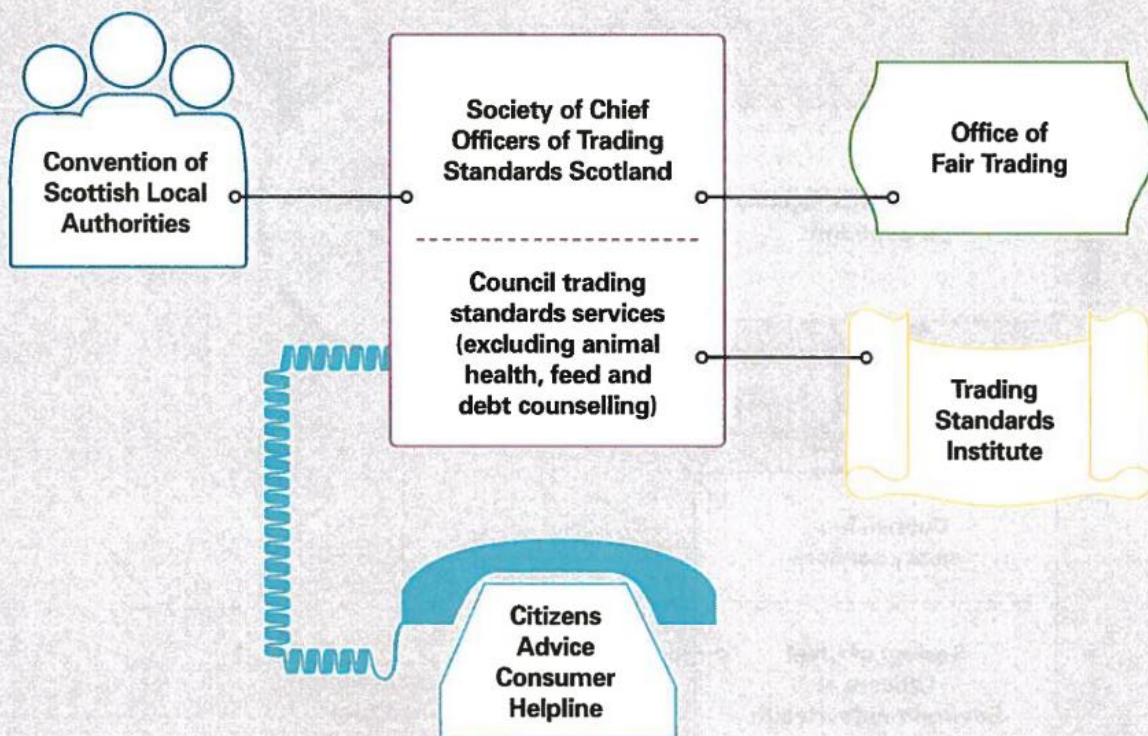
The Food Standards Agency in Scotland liaises with the Royal Environmental Health Institute of Scotland, the Scottish Food Enforcement Liaison Committee and councils to:

- provide information and guidance
- agree Scottish priorities, standards and performance reporting
- set standards through a code of practice
- audit and report councils' performance
- report to council chief executives and senior managers, with an expectation that audit reports will be brought to the attention of elected members.

Exhibit 3

Organisation of trading standards in Scotland

In trading standards, there is no national coordination of priorities, standards and performance reporting, and councils are not routinely audited.



The Office of Fair Trading liaises with councils to provide information and guidance but it does not:

- agree Scottish priorities
- set standards for council services
- audit and report councils' performance
- report to councillors or senior council managers.

21. There is also a regional coordinator post managed by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS). It is funded partly by the Scottish Government for work on underage tobacco sales and partly by the UK Government. The post cannot reasonably undertake all the strategic national coordination functions that would ensure more consistent services operating to agreed standards. However, there is potential for this post to be an integral part of future arrangements to support better national coordination in Scotland.

Changes to the organisation of trading standards at the UK level present an opportunity to ensure strong coordination in Scotland

22. During 2012, COSLA set up a task group led by elected members to examine and propose how national trading standards enforcement responsibilities will operate in Scotland from April 2013. This is when the OFT transfers these responsibilities to local trading standards services, represented by COSLA.

23. Under similar circumstances in England and Wales, a National Trading Standards Board was established in April 2012, with membership comprising one head of service or chief officer from each English region and Wales. Its role is to:

- lead and support national and cross-boundary enforcement action
- develop systems to share intelligence
- maximise coordinated and collaborative work between local trading standards services.¹¹

24. Following proposals by the Task Group, COSLA has agreed to create a shared national enforcement team for 2013/14 to fulfil specific national enforcement functions in Scotland. It will operate as a small central team in COSLA, along with three distinct units created from the three current national teams (see paragraph 20). A chief officer will be appointed to lead the team and work towards COSLA's longer-term intention of having an amalgamated national team in place for April 2014.

25. This initiative presents an opportunity to establish how national enforcement responsibilities will operate. It also has the potential to establish a strong national trading standards coordination function to help improve the quality and efficiency of services. It would need to work closely with local trading standards services, partner organisations (eg, police and fire services, HM Revenue and Customs), national consumer and business representatives, and the coordination work of England, Wales and Northern Ireland to:

- analyse intelligence to identify national or cross-boundary risks
- agree national priorities for all Scottish local trading standards services
- develop national service standards and keep them up to date to reflect changes in risks and consumers' and businesses' behaviours
- establish a system of reporting and scrutinising performance against these standards.

Recommendations

COSLA and councils should:

- work together to ensure strong national coordination for trading standards in Scotland that includes:
 - maintaining effective links with UK-wide arrangements
 - analysing intelligence to identify national risks
 - agreeing national priorities
 - developing national service standards and keeping these under review
 - establishing a system for scrutinising and publicly reporting councils' performance against these standards.

¹¹ National Trading Standards Board, *Annual Business Plan 2012-2013*, Trading Standards Institute, 2012.

Part 2. Resources



Council services to protect consumers have a low profile among councillors, senior managers and community planning partners

Key messages

- The long-term viability of councils' trading standards services is under threat and urgent action is needed to strengthen protection for consumers. These are small services compared to other council services, spending about £21 million a year, or less than 0.2 per cent of councils' budgets. They have a low profile among councillors and senior managers and have experienced greater than average staff reductions in the last four years. Fifteen councils now have eight or fewer trading standards staff. Staff reductions in food safety services, which spend an estimated £13 million, have been less severe. There are concerns about loss of experience and expertise, and too few training posts, in both services.
- The numbers of staff working in councils to protect consumers do not necessarily reflect the number of local businesses or the relative risks they pose to consumers. Some differences may be due to the lack of a common approach to risk assessment in trading standards, but there are other factors that may explain differences. These include the types of business in an area and the number of complaints from consumers. It is difficult to know whether the variation is due to these factors or to differences in how efficiently councils use their resources.
- Some collaborative working between councils is informal. Although this may work well

when there are adequate resources, it is at risk from individual council decisions to reduce spending by withdrawing the resources they contribute. Nearly a quarter of councils have considered the feasibility of sharing services but only one full shared service exists (Stirling and Clackmannanshire trading standards).

Councils spend less than £7 a year on protecting each consumer

26. Council services to protect consumers are small in comparison with the estimated £56 billion that consumers spend each year and the seriousness of some of the risks. In 2011/12, councils spent about £34.1 million directly on services to protect consumers, including both trading standards and food safety services.¹² This represents less than £7 for every person in Scotland and less than 0.3 per cent of councils' total expenditure. Close to 80 per cent of this spending is on staff costs, with the rest spent on accommodation, equipment, sampling and testing, and other expenditure. Spending per head is very small compared with, for example, waste management, on which councils spend nearly £100 per head every year.¹³

27. Trading standards services earned just over £1 million last year in income. This came mainly from statutory fees for petroleum, poisons and explosives licences; metrology (weights and measures) verification and calibration; and from fees paid by businesses joining 'trusted trader' schemes. Food safety services earned approximately £400,000.¹⁴ Sources of food safety income included issuing export and other certificates, food hygiene training, sale of 'Cooksafe' books, and

certificates of compliance for street traders.

28. There are approximately 620 members of staff (full-time equivalent, FTE) across Scotland working on trading standards and food safety. That is a little over one member of staff for every 10,000 people in the country. Individual councils have between 4.5 (Eilean Siar) and 45 (North Lanarkshire) staff. However, there are large variations between councils in the number of staff they deploy per 10,000 population. Glasgow City Council has 0.65 FTEs per 10,000 people and Shetland Islands Council has 3.56. The resources required relate more to the number and type of businesses in an area, the respective risks they pose to consumers and a range of other local factors than solely to population size.

There is inconsistency in the way councils assess trading standards risks

29. There are over 100,000 businesses known to trading standards services and an unknown number of rogue and itinerant traders. Thirty of the 31 trading standards services assess the risk of each as being high, medium or low on the basis of the nature of the business and how it is operated and managed.^{15, 16} Businesses are not required to register with the council so the exact number of businesses at any given time is not known. Over 1,500 (1,517) businesses in Scotland (1.6 per cent) have been assessed as high risk for trading standards. This excludes rogue and itinerant traders, which often pose a very high risk to consumers. Individual councils report between 0.5 per cent (Inverclyde, Fife and Stirling and Clackmannanshire) and 5.9 per cent (Argyll & Bute) of their businesses as being high risk (Exhibit 4, overleaf).

¹² Unpublished data provided by councils to Audit Scotland, 2012. Excludes the costs of services provided by other parts of the council which are not recharged to the service, in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) Service Reporting Code of Practice 2012/13.

¹³ *Local government financial returns 2010/11*, Scottish Government, 2012.

¹⁴ Not all councils were able to separate their food safety income from their environmental health income, and made estimates instead.

¹⁵ Stirling and Clackmannanshire Councils operate a single shared trading standards service.

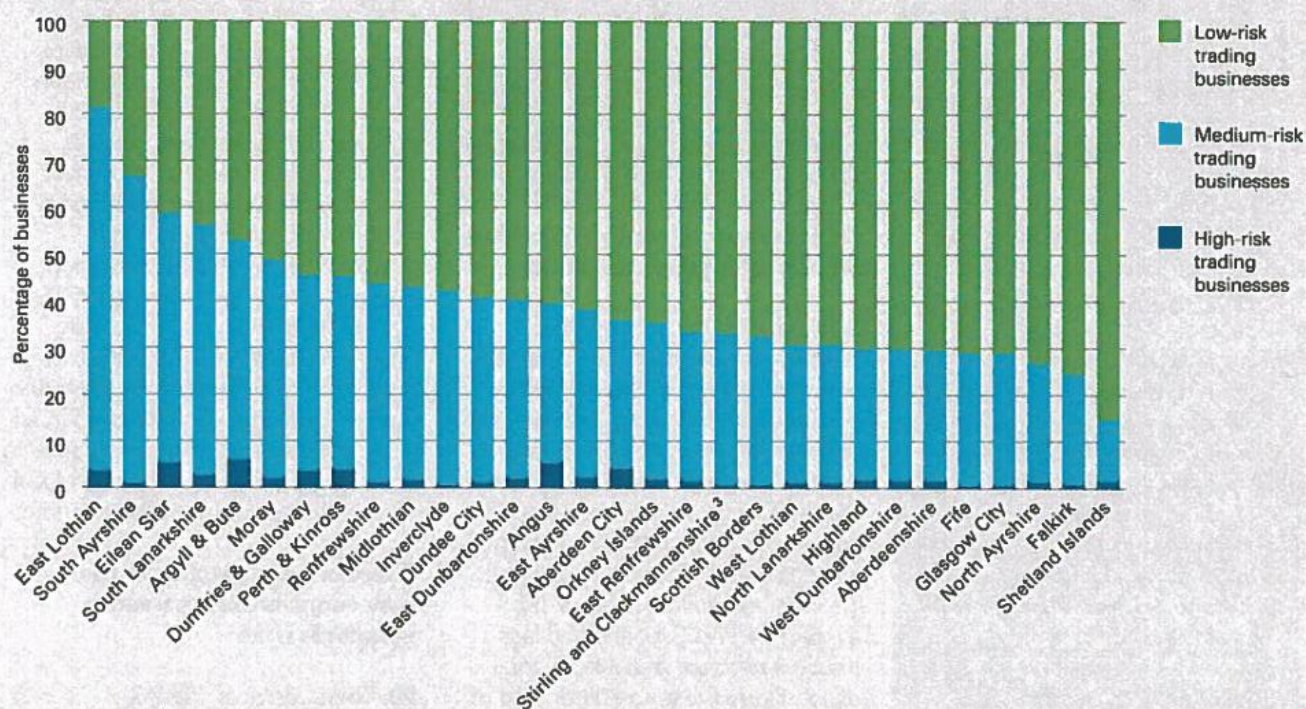
¹⁶ City of Edinburgh Council does not formally assess every business into these three categories, taking a geographical approach to programming its work instead.

Exhibit 4

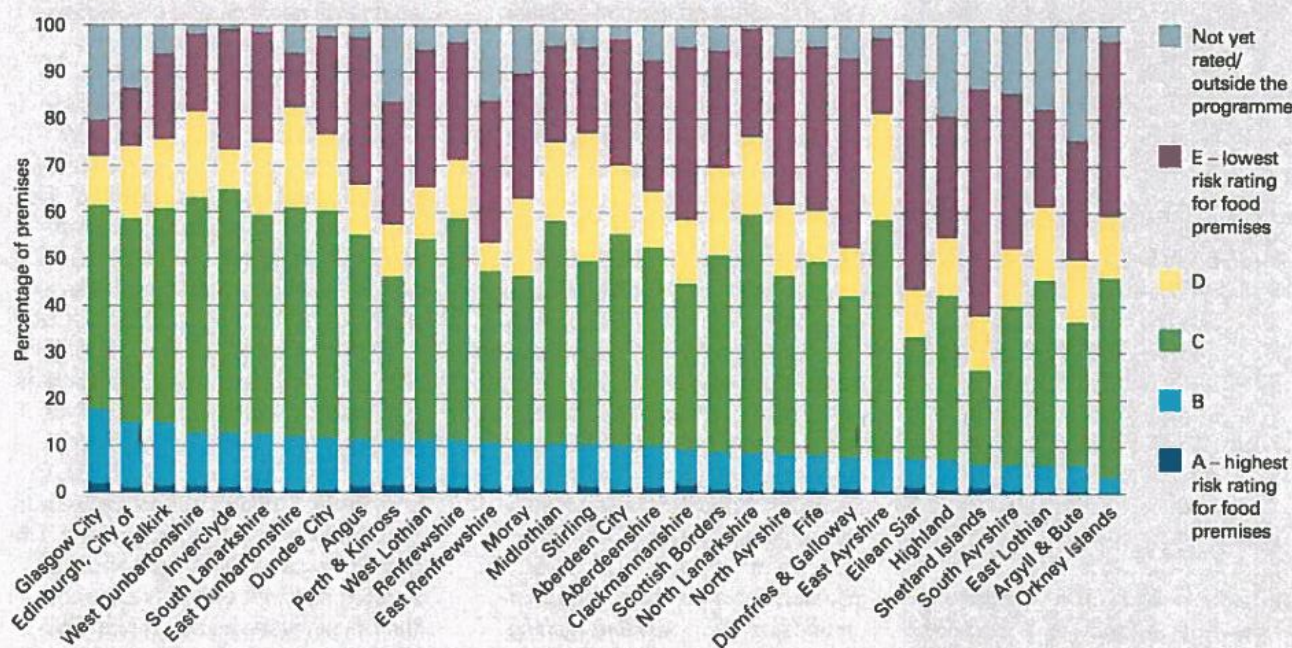
Risk rating of businesses and food premises, 2012

The profile of assessed risk varies across councils, in both trading standards and food hygiene.¹

Trading standards²



Food hygiene⁴



Notes:

1. Charts are sorted by the proportion of highest risks (rated high or medium by trading standards; rated A or B by food hygiene).
2. City of Edinburgh Council does not formally assess every business into these three categories.
3. Stirling and Clackmannanshire Councils operate a joint trading standards service.
4. Premises are assessed separately for food hygiene and food standards. This shows only food hygiene to illustrate the variation across councils.

Source: (Trading standards) Audit Scotland. (Food hygiene) Unpublished data provided by Scottish councils, Food Standards Agency

30. However, councils are not required to use a standard risk assessment scheme. The way they assess risk is based on the general principles of a UK scheme developed over ten years ago. It was designed to determine how often to inspect each type of business, rather than supporting a range of activities to target the highest risks.¹⁷ Responsibility for the scheme was transferred to the OFT in 2007, which is piloting a revised scheme in collaboration with councils across the UK. If the new scheme is to help councils target risks effectively, it must be more sensitive to the hazards a business might present to consumers; who and how many people are likely to be affected by a failure; and confidence in the business based on previous experience and local intelligence.

31. Arrangements for risk assessment are different for food safety because all food businesses must register with the council when they start their business. Councils follow a standard risk assessment approach, which is part of the FSA Food Law Code of Practice. Using this approach, councils allocate food premises a risk-rating between A and E for food hygiene, where A is the highest risk and E is the lowest (and between A and C for food standards, A being the highest risk and C the lowest). The risk-rating depends on risk factors that include the nature of the food handled; the hygiene and structure of the premises; confidence in management; and vulnerability of customers. Of the 56,251 registered food premises, 6,089 (11 per cent) have been assessed as being high risk (518 risk-rating A, and 5,571 risk-rating B) for food hygiene. Individual councils report between none and 1.8 per cent of food premises as risk-rating A and between 3.5 and 16.1 per cent as risk-rating B ([Exhibit 4](#)).¹⁸

32. Councils should not have a high percentage of businesses that have not yet been rated. However, there are two councils (Glasgow and Argyll & Bute) that have over 20 per cent unrated for food hygiene and a further six with between ten and 20 per cent.

The number of staff in each council does not necessarily reflect the risk profile of businesses

33. In food safety, the number of staff per 1,000 businesses varies between councils by a factor of nearly three (from 3.3 to 9.5 FTEs per 1,000 businesses). There is more variation in trading standards, where staff numbers per 1,000 businesses vary between councils by a factor of over five (from 1.5 to 8.1 FTEs per 1,000 risk-rated businesses).

34. Staff resources appear not to be related to the risk profile of businesses ([Exhibit 5, overleaf](#)). We found little correlation between staff numbers and a calculated risk profile indicator. The indicator is high for areas with a large proportion of businesses rated as high risk, and low for those with a large proportion of businesses rated low risk ([Appendix 1](#) explains how we calculated the risk profile indicator). There can be good reasons for this variation, other than differences in how risk is assessed, including:

- the number of complaints from consumers – these do not necessarily relate to the number of high-risk businesses
- the effectiveness of the service – a service which is successfully tackling non-compliance among businesses may have a relatively low risk profile as a result, and vice versa. We examine service performance in [Part 3](#) of this report
- the level of service councils choose to provide – councils that provide a full consumer advice and

support service will require more resources than those that do not

- different types of business in different council areas – some types of business pose more risk to consumers than others. For example, large markets like The Barras in Glasgow require more staff time than out-of-town, indoor shopping malls, where there are generally chain stores with clear policies and practices, and staff are trained on them. Also, cities may have a higher proportion of restaurants and take-away premises than more rural areas
- other enforcement responsibilities – for example, council food safety officers certify food to be exported before it leaves a manufacturing or processing plant. Not all councils have large food exporters
- home authority, or primary authority, responsibilities – under the voluntary ‘home authority’ principle, the council in whose area a company headquarters is located has responsibility for dealing with all UK trading standards complaints which derive from the policies pursued by the company’s headquarters. Councils may also choose to have a formal ‘primary authority’ agreement with a company, which gives the company a single point of contact for advice, wherever the company’s branches may be located
- rogue and itinerant traders – trading standards officers spend a significant proportion of their time tackling rogue and itinerant traders, who are not listed as known businesses
- geographic distribution and proximity of businesses – in some rural or island councils officers must spend more time travelling between businesses.

¹⁷ Local Authorities Coordinators of Regulatory Services (LACORS) Risk Assessment Scheme. Particular types of business are automatically assigned a high, medium or low risk rating. Trading standards officers may increase a business’s rating if they believe its practices pose a higher-than-average risk to consumers.

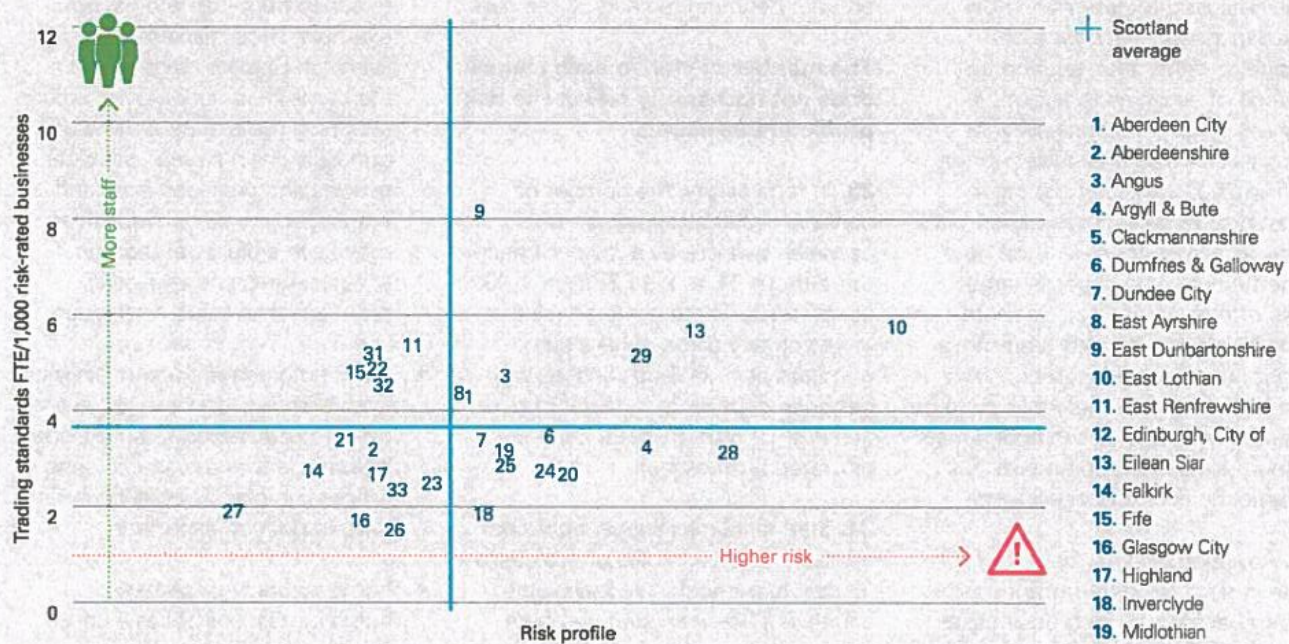
¹⁸ Unpublished data provided to the Food Standards Agency by Scottish local authorities, 2012.

Exhibit 5

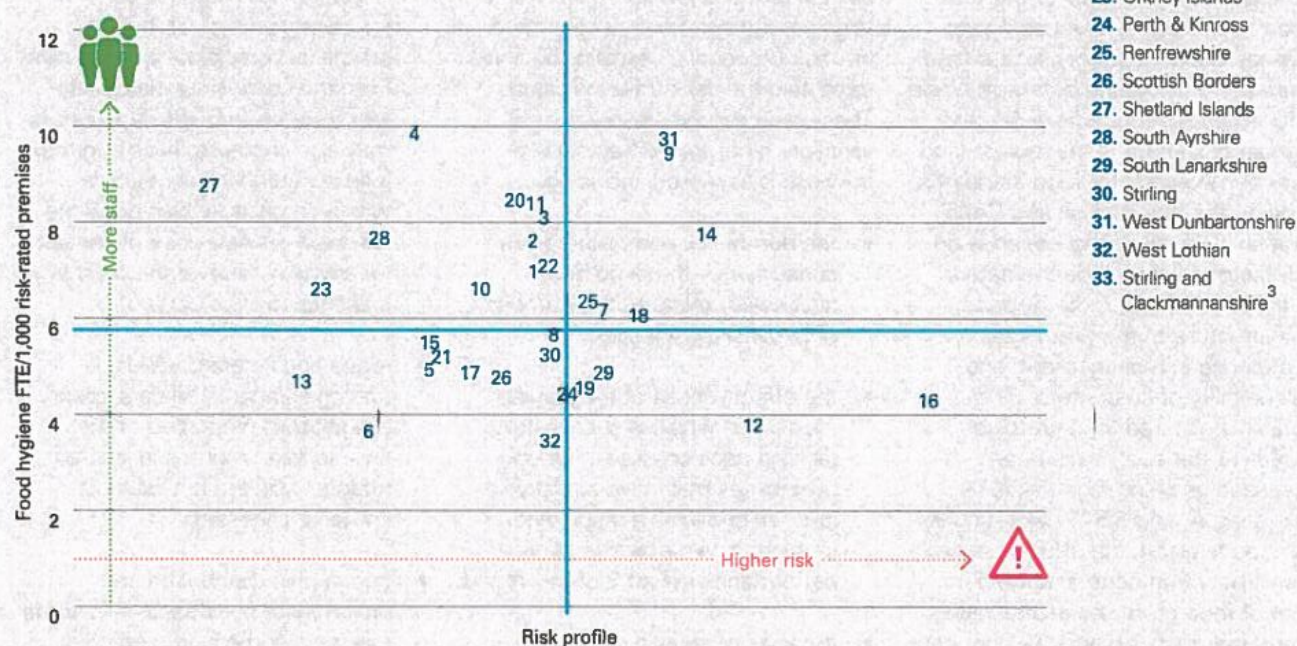
Relationship between number of council staff and risk profile of businesses, 2011/12

The staff resources allocated to consumer protection services do not relate directly to the risk profile of businesses.¹

Trading standards²



Food hygiene



Notes:

1. The vertical and horizontal lines indicate the average risk profile and number of staff. Therefore, councils to the right of the vertical line have a higher risk profile than the average. Councils above the horizontal line have a higher than average number of staff. See [Appendix 1](#) for the method of calculating the risk profiles.

2. Excludes City of Edinburgh Council which does not formally assess every business into the three categories.

3. Stirling and Clackmannanshire Councils operate a joint trading standards service.

Source: (Trading standards) Audit Scotland. (Food hygiene) Unpublished data provided by Scottish councils, Food Standards Agency

35. However, councils may choose to assess risk and take corresponding action in different ways. It is therefore difficult to know how much variation in staff numbers is due to the factors above and how much is due to differences, or efficiencies, in how they work. Without comparing their practices and performance with others, councils will find it difficult to fully satisfy themselves that they are allocating resources where they are most effective and in a way that appropriately reflects the risks and these influencing factors.

The long-term viability of trading standards services is under threat

Trading standards services have experienced greater-than-average staff reductions

36. The total number of employees (FTEs) in councils has fallen by ten per cent between 2008 and 2012 (from 227,800 to 204,900 FTEs).¹⁹ For trading standards and food safety, the decrease was 15 per cent and nine per cent, respectively.

37. However, there are concerns in both services about:

- rapid loss of experience and expertise – both services have lost nearly a third of their staff since 2008 through a combination of voluntary redundancies and turnover, but fewer have been replaced in trading standards
- an ageing profile of qualified trading standards staff – in 2006, 16 per cent of staff in post were under 30 years old but in 2012, only three per cent were²⁰
- insufficient numbers of new staff being trained and less in-post

training and development for current staff – across Scotland there are currently only three full-time training posts in trading standards and ten in food safety, seven of which are temporary.^{21, 22}

Nearly half of trading standards services may be too small to protect consumers effectively

38. In our 2002 audit of trading standards services, we found that the smallest services (with eight or fewer staff) had insufficient flexibility and range of expertise to meet all the accepted minimum standards.²³ Nearly half (15 of 32) of councils now have eight or fewer trading standards staff (FTE), compared with ten in 2002 (Exhibit 6, overleaf). Eight councils have five or fewer staff (FTE). If this trend continues, staff numbers in more councils will quickly fall below eight and gaps may appear or widen in services to protect consumers.

39. Although there are fewer food safety staff than trading standards staff, food safety services are more resilient to reductions than trading standards. This is because they sit within wider environmental health services, all of which are delivered largely by qualified environmental health officers. They are qualified to work on food safety as well as other areas of environmental health such as noise, air and water quality, pest control and health and safety. This gives food safety services greater flexibility, for example when there is an outbreak of food poisoning such as *E. coli* O157.

40. Our 2002 report found that the smaller services were less likely to be able to provide a full range of services to agreed standards. They relied on larger services, such as Glasgow City Council and Fife

Council, to provide specialist advice when needed; contribute more to joint work such as the work of the chief officers' society; and host shared equipment or services, such as scientific testing laboratories.

Work to protect consumers has a low profile within councils

41. Council services to protect consumers have a low profile among councillors, senior managers and community planning partners. For example, only four single outcome agreements contain any indicators that are delivered solely or mainly by services to protect consumers. However they do contribute to a range of wider outcomes, including economic development, community safety and public health (Exhibit 7, page 19).²⁴ Protecting consumers are predominantly preventative services and their contribution to achieving these wider outcomes may be overlooked. Less than half of the services have direct representation on community planning theme groups.

42. Food safety has a higher profile than trading standards because the risks are potentially more serious from food-borne outbreaks of disease or illness. Councillors and senior managers are aware that the risks to consumers from eating unsafe food are illness or even death. Although there are risks to health and life through unsafe trading standards (eg, dangerous products that could harm people or unsafe storage of flammable items), these risks are seen as lower, with the principal risk being financial loss.

¹⁹ *Joint Staffing Watch Survey: public sector employment in Scotland*, Scottish Government, 2012.

²⁰ Staff surveys in 2006 and 2012, Society of Chief Officers of Trading Standards in Scotland.

²¹ At April 2012.

²² Qualified environmental health officers may work in other environmental health services as well as food safety, so the ten training posts may not be confined only to food safety and there may be other environmental health training posts that train officers to work in food safety.

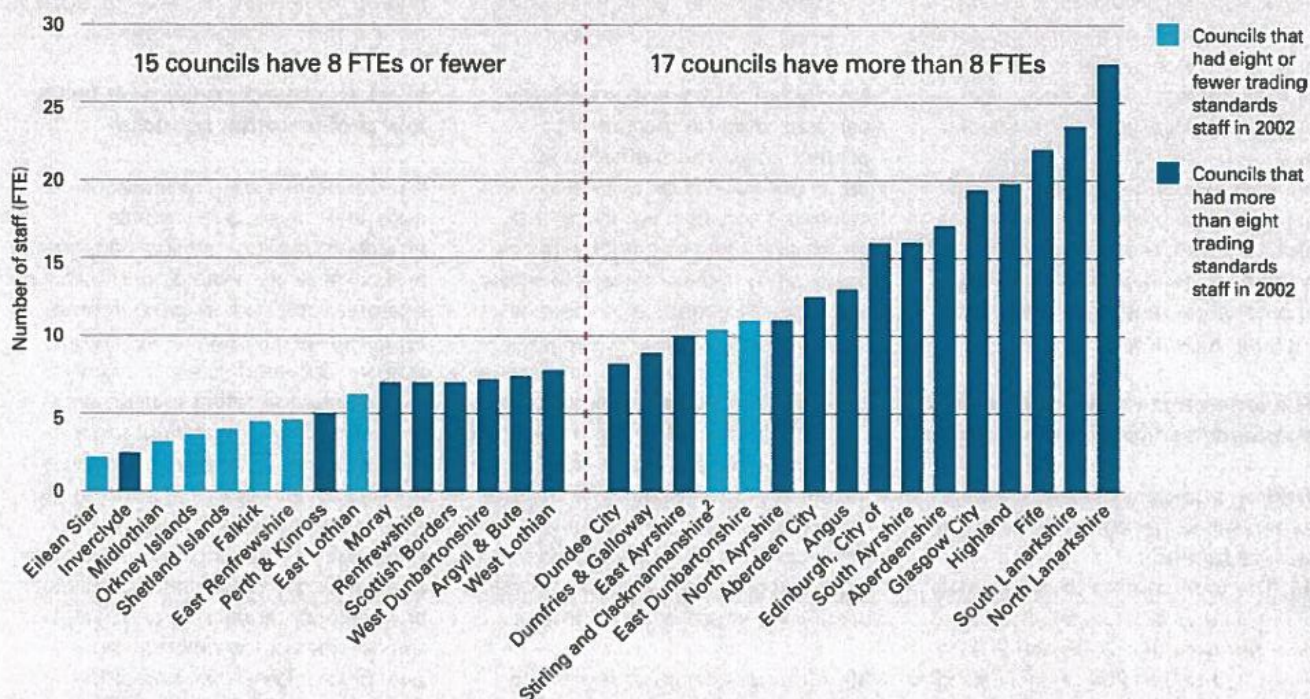
²³ *Made to measure: an overview of trading standards services in Scotland*, Audit Scotland, 2002. www.audit-scotland.gov.uk/work/local_national.php?year=2002

²⁴ Review of single outcome agreements available in summer 2012, Audit Scotland.

Exhibit 6

The number of council trading standards staff, 2012

Nearly half of councils now have eight or fewer trading standards staff.¹



Notes:

1. Staff include: Trading Standards Officers (TSOs) who hold the statutory weights and measures qualification, TSOs who do not hold the statutory weights and measures qualification, consumer advisers, trainees who are not included in the previous categories and administration and clerical staff.

2. Stirling and Clackmannanshire Councils deliver trading standards as a shared service between the two councils.

Source: Audit Scotland

Some collaborative working between councils is informal and may suffer as a result of local decisions about resources

43. Councils are working collaboratively across council boundaries on a number of specific projects, for example:

- sharing scientific testing laboratories
- sharing expensive or specialist equipment (eg, for weighbridge testing)
- advising and helping each other on specialist topics (eg, shellfish processing)

- working through SCOTSS and SOCOEHS liaison groups to develop guidance and respond to consultations.

44. A number of these joint working arrangements are informal; they do not have written agreements, and they depend on councils voluntarily contributing their share of expertise, staff time or other resources. While this has worked well for councils in the past, there are signs that some councils may withdraw their contribution to save resources (Case study 1, page 20) and the benefits of the collaborative working will be lost. For example, if an officer with specialist expertise was no longer able to share that with other councils, those councils might have to invest in buying expertise

elsewhere or developing it in-house, which may be inefficient for a specialism that is only occasionally required.

45. The risk to consumers may be higher if councils are unable to contribute resources to neighbouring councils in the case of an emergency, for example an *E. coli* O157 outbreak, or a large-scale event such as the Commonwealth Games.

Nearly a quarter of councils have considered sharing services but only one full shared service exists

46. There is one full shared trading standards service between Stirling and Clackmannanshire Councils. However, nearly a quarter of councils have explored the feasibility of

formally sharing services with other councils, including:

- Aberdeen City and Aberdeenshire Councils, where the two councils explored areas for joint working in trading standards that would improve the service provided by making more efficient use of existing resources
- the three Ayrshire councils (East, North and South), where detailed work was done to examine the costs and benefits of a shared regulatory service and the councils decided not to proceed.

47. Despite identifying potential benefits to the quality and range of services, the reasons given for not proceeding with a formal shared service include:

- significant 'back office' setup costs – short-term expense and disruption
- difficulties of arranging financial and support services and governance arrangements
- harmonisation of staff terms and conditions
- difficulties in agreeing which council will take the lead role, if that is the preferred approach
- increased travel time and costs
- no greater savings could be made by sharing services than by individual councils pursuing their own savings programmes.

48. These reasons are mainly short-term issues rather than being in the long-term interest of ensuring good-quality, consistent and improving services to protect consumers. Given the pressures on trading standards services, whose future viability is already under threat, COSLA and councils should explore a full range of options for significant redesign of these services in the near future, including:

- greater use of more formal joint working
- creating fully shared services
- establishing a national trading standards service.

49. Although the Scottish Government currently has no responsibility for trading standards legislation, it does have a role in these considerations where redesigning services might affect organisational or service issues for which it has responsibility, such as the sale of age-restricted products like tobacco to underage people.

Exhibit 7

Consumer protection indicators in single outcome agreements

Only four single outcome agreements contain any indicators that are delivered solely or mainly by consumer protection services.

Two SOAs had specific indicators on food safety:

- Percentage of higher risk businesses inspected on time (Falkirk).
- Increase in the number of compliant food premises (North Lanarkshire).

Two SOAs had specific indicators on trading standards:

- Percentage of consumer complaints and business advice requests completed within 14 days (the Accounts Commission statutory performance indicator) (East Ayrshire and Falkirk).
- Percentage of high- and medium-risk businesses inspected on time (Falkirk).

19 SOAs include indicators to which food safety and/or trading standards contribute, eg:

- encouraging business growth
- being safe from crime and danger
- reducing underage use of alcohol and tobacco
- reducing unmanageable personal debt through welfare/money advice
- responsive public services.

Food safety is also an integral part of all Joint Health Protection Plans.¹

Note:

1. Under the Public Health etc (Scotland) Act 2008, health boards produce and review joint health protection plans in consultation with the local authorities in their area, at least every two years. Source: Audit Scotland

Recommendations

Councils should:

- work with the FSA in Scotland and, in future, the new Scottish food safety organisation to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective food safety service over the next 5–10 years, and take action to address any shortfalls identified
- develop a new risk assessment scheme for trading standards

that is sensitive to local intelligence about businesses

- develop a clear direction for the future of their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way that appropriately reflects the risks, national and local priorities and the needs of local communities.

COSLA and councils should:

- develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective trading standards service over the next 5–10 years, and take action to address any shortfalls identified
- ensure that councillors are fully informed and supported to make decisions about the future of services to protect consumers
- in developing arrangements for national coordination, explore a full range of options for redesigning trading standards services, including:
 - greater use of more formal joint working
 - creating fully shared services
 - establishing a national service
- liaise with the Scottish Government on the future of trading standards services where this involves organisational or service issues for which it has responsibility.

Case study 1 West of Scotland Agreement

After local government reorganisation in 1996, those councils which had been part of the former Strathclyde Region signed up to the West of Scotland Agreement, under which all civil complaints would be dealt with by the trading standards service in the area where the trader was based (rather than being dealt with by the consumer's local service).

This gave traders greater consistency as they would generally only have contact with one trading standards service and it allowed the services to build a better knowledge of traders in their area.

The arrangement was an informal 'gentleman's agreement' and is reported to have worked well. However, when resources came under pressure, some councils decided to stop providing a service to non-residents and, although the Agreement is still in place, have now withdrawn from it. Glasgow City Council withdrew when it discovered 55 per cent of the complaints it dealt with were from people who did not live in the Glasgow City area. As a consequence, councils who remain within the agreement can find increased demands on their service.

Renfrewshire Trading Standards service, which remains part of the Agreement and whose area includes Braehead Shopping Centre, Hillington Industrial Estate and the Phoenix Retail Park, estimates it deals with 40 per cent more complaints than it would if it only responded to consumers living in Renfrewshire.

Source: Audit Scotland

Part 3. Performance



There is a point when reductions in activity mean the risks to consumers are more likely to happen

Key messages

- Councils are rightly targeting their limited resources at the highest risk areas and reducing their work on the lowest risks. In 2011/12, gradually improving levels of compliance with legislation among food premises support the case for extending this targeted approach.
- Targeting resources effectively at the highest risks relies on good intelligence to help identify the risks. But trading standards services do not assess risks on a consistent basis, and have reduced consumer advice and support. This means that in some areas councils have weakened their ability to gather local intelligence about risks to consumers.
- Not all consumers know where to seek help when things go wrong with a purchase. The reduction in consumer advice and support also means that not all consumers receive the help they need when they seek it. They can also be confused by the various 'trusted trader' schemes intended to help them. The schemes provide a list of traders with some assurance that they are to be trusted, but councils differ in the extent to which they validate traders' trustworthiness.
- Food safety data shows steadily improving performance for Scotland as a whole, although there is some variation among individual councils. Trading standards services do not report consistent and comparable information

about their performance and so levels of compliance with non-food consumer protection legislation across Scotland are unknown. Without reporting and benchmarking their performance, it is difficult for councils to demonstrate that they are delivering efficient and effective services to their communities and making the best use of their resources.

Councils are targeting their resources on the highest risk areas

50. Councils are doing fewer routine, cyclical trading standards inspections. But they are maintaining these for the businesses that pose the highest risks to consumers. Between 2010/11 and 2011/12, the 17 councils that reported trading standards data to the Chartered Institute of Public Finance and Accountancy (CIPFA) had in total reduced the number of inspections they did by nearly a fifth (17 per cent).²⁵ In food safety, the number of interventions (including inspections, monitoring, surveillance and other types of contact) decreased by four per cent and the number of food samples analysed decreased by 12 per cent.^{26, 27} In both services, the reductions were as a result of fewer enforcement activities with lower risk businesses.

51. The number of businesses assessed as high risk for trading standards has decreased from 7,600 to 1,517 between 2002 and 2012, and the number of highest risk premises (risk-rating A) for food hygiene has decreased from 1,985 to 518 over the ten years.²⁸ This reduction in the number of high risk businesses does not necessarily mean there has been a decrease in the risks, but may reflect a more targeted approach to risk assessment. This approach makes more efficient and

effective use of limited resources and is compatible with the principles of better regulation, which seek to minimise the impact of regulation on businesses that comply with the regulations.²⁹

52. Particular high risk areas that councils focus on include local markets, doorstep crime in vulnerable communities, test purchasing for underage sales and cross-contamination in food. Cross-contamination is a source of *E. coli* O157, which can result in people dying (Case study 2).

53. This targeted approach makes it important for councils to do other types of work besides inspections, such as sampling and test purchasing, and educating businesses and consumers, to ensure compliance with regulations among all businesses.

54. During 2011, 5,006 samples were analysed for pathogens (illness-causing organisms).³⁰ The pathogens tested for included Salmonella, Campylobacter and *E. coli* O157, but none of these was detected. Thirty-five samples contained other pathogens and follow-up enforcement action was taken. Samples of ready-to-eat foods tested for levels of bacteria found that six per cent were too high, mainly in cooked meats and poultry and sandwiches that were not pre-packed, suggesting poor food storage and handling practices. A further 4,188 samples were tested for chemical composition (such as fat content) and to identify undesirable substances and inaccuracies in labelling. Eighteen per cent were unsatisfactory, although the majority of these were due to incorrect labelling rather than the presence of undesirable substances or excess food additives. In these cases, food safety officers work with the establishments to improve practices.

²⁵ Chartered Institute of Public Finance and Accountancy, 2012.

²⁶ UK Local Authority Food Law Enforcement: 1 April 2011 to 31 March 2012, Food Standards Agency, paper to Board, 13 November 2012.

²⁷ Food sampling by Scottish local authorities summary reports 2010 and 2011, Food Standards Agency, 2011 and 2012.

²⁸ Statutory Performance Indicators and council data returns, Audit Scotland. Local Authority Enforcement Monitoring System data, Food Standards Agency.

²⁹ Proportionality, accountability, consistency, transparency and targeting, Better Regulation Commission, 1997.

³⁰ Food sampling by Scottish local authorities - 2011 summary report, Food Standards Agency, 2012.

Case study 2

Cross-contamination

Serious outbreaks of food-borne *E. coli* O157 occurred in central Scotland in 1996 and in south Wales in 2005. Twenty-one people died in Scotland; a child died and 31 people were hospitalised in Wales. The report of the public inquiry into the outbreak in Wales, chaired by Professor Hugh Pennington, recommended that: 'All food businesses must ensure that their systems and procedures are capable of preventing the contamination or cross-contamination of food with *E. coli* O157.'

Cross-contamination happens when harmful germs are transferred to food from other food, surfaces, equipment or hands. The risk of cross-contamination is greatest where ready-to-eat foods are contaminated by germs from foods that require cooking, for example, a loaf of bread sliced on a board that had been used to prepare raw chicken.

In February 2011, the Food Standards Agency published guidance for food businesses and enforcement authorities on how to control cross-contamination. The Food Standards Agency in Scotland and the Scottish Food Enforcement Liaison Committee have agreed an implementation strategy that allows local authorities to concentrate their resources on cross-contamination controls for a period of up to three years from April 2012. This is now a priority for all councils.

Source: Audit Scotland

Reductions in consumer protection work may lead to inadequate protection for some consumers

55. Ultimately there is a point when reductions in activity mean the risks to consumers are more likely to happen, although it may take some time for them to become apparent. The potential consequences for consumers of reducing resources beyond a certain point include:

- more frequent incidents of food poisoning or food-borne diseases
- more doorstep crime and scams
- an increase in businesses trading unfairly or unsafely
- a decrease in the number of legitimate businesses because they can no longer compete

- a consequent decline in the local economy and rise in crime and other associated problems
- vulnerable people suffering these consequences more than others.

56. In addition, less information and advice will make it more difficult for consumers to have their problems resolved. It is difficult to be precise about what the minimum resource should be for each council, or if any councils may already have fallen below the minimum (see paragraphs 33-35).

57. One example of potentially insufficient coverage of risks relates to constraints in out-of-hours working as councils try to save on costs. In this case, officers cannot visit businesses during the evening, when they are open to the public, so they may not see unsafe practices in, for example, late-night food take-away shops.

There are weaknesses in how councils gather and analyse local intelligence about trading standards risks to consumers

58. Councils identify and target risks using local intelligence. Their information may come from a number of sources, including inspections, consumer complaints or requests for advice, officers' knowledge and contacts, other businesses, other parts of the council (eg, licensing or housing) and other councils or organisations such as the police. The consumer helpline also records information about all advice requests it receives.

59. Councils have weakened their ability to identify and analyse trading standards risks to consumers in a number of ways, including:

- Councils that do not provide consumer advice have eliminated one important source of local intelligence about trading in their area.
- There has been a gap in access to information from the consumer helpline due to a change in responsibility from the OFT to the Citizens Advice Service on 2 April 2012. At 1 October 2012, six months later, 16 councils had not signed contracts with the Citizens Advice Service because of individual councils' difficulties with UK-wide data protection procedures. The longer this continues, the bigger the gap in intelligence.
- Not all councils systematically analyse information from the helpline, even when they did have access to it before April 2012.
- Only 23 of the 31 trading standards services currently have a licence to operate the OFT-sponsored intelligence-sharing database, MEMEX. Many trading standards issues that affect

one council also affect others. For example, rogue traders often operate across council boundaries and trends can start in one area before spreading to others. Good use of a single national intelligence database would allow this information to be shared across all councils efficiently. It would also be a single, comprehensive basis for analysing the risks and identifying national priorities.

60. Despite less intelligence coming from a declining number of consumer complaints (Exhibit 8), there is no apparent change in the number of consumers with cause for complaint.³¹ In our survey, and in a similar survey by Consumer Focus Scotland in 2009, 31 per cent of people said they had reason to complain about goods or services they bought in the previous 12 months.³² Of these, although 38 per cent resolved the issue with the retailer, 36 per cent did not complain

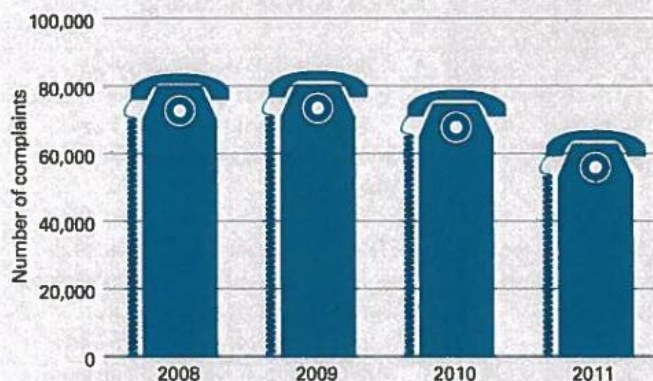
and a further five per cent took no further action after complaining to the retailer but failing to resolve the problem. The remainder were waiting for a response from the retailer (10 per cent), had contacted another agency or organisation for help (7 per cent) or had done something else (5 per cent). It is unclear why the overall number of consumer complaints is falling.

Not all consumers receive the help they need when things go wrong

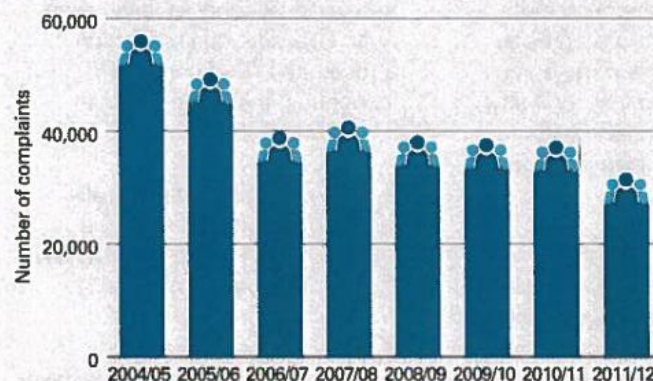
Exhibit 8

Number of complaints handled by the national helpline and councils
The number of consumer complaints dealt with by the consumer helpline and councils is falling.

Scottish consumer complaints handled by national helpline



Consumer complaints handled by Scottish councils



Source: Office of Fair Trading and Accounts Commission

61. In reducing their work on lower risks, six councils' trading standards services, covering 22 per cent of the Scottish population, no longer provide any advice or help to consumers for complaints about civil matters (often when consumers feel they have been misled or unfairly treated and want an exchange, repair or refund). However, they may help particularly vulnerable consumers or in cases where a lot of money is involved or many people are affected. Other councils generally do provide advice or help on civil matters but have a range of exceptions. For example, they may only help consumers with civil matters when there is also a criminal offence involved (eg, when someone buys an item that turns out to be defective, they might need help getting a repair, replacement or refund under civil law. If the trader sold the item knowing it may be defective or unsafe because it came from an unreliable source, they broke a criminal law and may face prosecution) (Exhibit 9).

62. Since April 2012, the Citizens Advice Service operates a national helpline, the Citizens Advice Consumer Helpline, funded by the UK Government, which provides advice to consumers on how to deal with problems. It is a continuation of the helpline previously run by the OFT, Consumer Direct, since 2008. Before that, each council provided this advice to consumers.

³¹ Consumer awareness research, TNS BMRB, Audit Scotland, 2012.

³² Up to standard? a review of trading standards services in Scotland, Consumer Focus Scotland, 2010.

63. Consumers who contact the Citizens Advice Consumer Helpline, but need further help or intervention to resolve civil problems, are referred to councils' trading standards services. If that council offers no consumer advice service, the consumers must seek help elsewhere, for example Citizens Advice Bureaux (CABs), trades associations, consumer organisations or websites, or the Scottish Court Service for help with small claims (under £5,000).

64. The potential increased demand on CABs comes at a time when councils are decreasing their financial support for local bureaux and demand is expected to rise significantly with reforms of the welfare system.³³ Fifty-eight per cent of CAB funding is from councils, and in 2011/12 the total funding for CABs fell by eight per cent in real terms since the previous year. It is also expected to decrease by a further two to three per cent (in real terms) in 2012/13.

65. There is also inconsistency in who councils will advise and help on civil matters. For example, Renfrewshire Council helps people who live or shop in Renfrewshire, but Glasgow City Council does not help consumers who shop in their area but live outside it (see [Case study 2, page 23](#)). There are other sources of help but these vary across councils and some consumers may be left without the help they need ([Case study 3](#)).

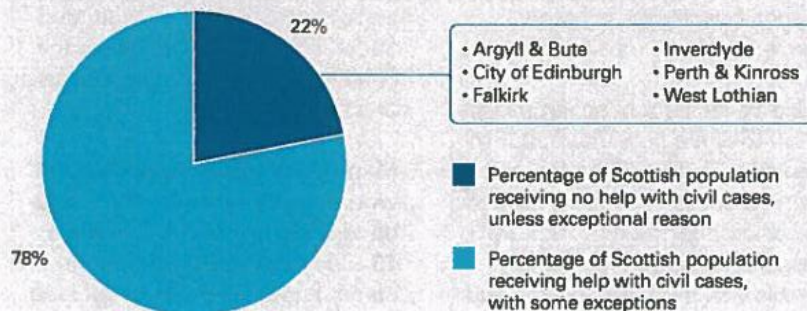
Consumers may be confused by the range of schemes to help them find a reliable business

66. There is also inconsistency and potential confusion for consumers in the help they get before buying services. Ten councils operate a 'trusted trader' scheme to help consumers choose a reliable business to buy services from, and a further ten are considering or planning to

Exhibit 9

Variation in support for civil matters

Nearly a quarter of people live in council areas where they do not necessarily receive support for civil matters.



Source: Audit Scotland. Population mid-year estimates 2011, General Register Office for Scotland

Case study 3

Consumers have different experiences when they need help, depending on where they live¹

Mrs Smith lives in Falkirk. She went shopping while visiting her sister in Midlothian. She bought a television which turned out to be faulty but the retailer refused to replace it or refund her money. She called the trading standards service in Midlothian. They gave her what advice they could over the phone but told her that she ought to contact her local trading standards service for more help.

So she turned to her local service at Falkirk. But Falkirk Trading Standards service has not provided a consumer advice service for complaints relating to civil matters since April 2011.² It gave her a list of organisations that could help her, including Citizens Advice.

Mrs Smith's sister suggested she call the Citizens Advice Consumer Helpline. The helpline advised her to take her case to the small claims court and offered to send her an email with the forms and information she would need. But Mrs Smith felt she would need help to do that so, because her local council no longer provides advice on civil matters, the helpline suggested she get in touch with her nearest Citizens Advice Bureau and gave her the contact details.

Mrs Jones lives in East Dunbartonshire. She also had a problem with a television she had bought. She called the trading standards service at East Dunbartonshire Council who advised her what she should do. When it became apparent she would have to take her case to the small claims court, it helped her complete the forms and arranged for the local Citizens Advice Bureau, with whom it has a formal service arrangement, to support Mrs Jones in the court.

Notes:

1. This is a fictional example for illustrative purposes.

2. It would be a civil matter unless the trader knew it was faulty when it was sold, in which case it may be a criminal matter.

Source: Audit Scotland

introduce one.³⁴ These schemes allow businesses to become members, usually subject to certain criteria and a code of practice, and list them on a website. Most schemes focus on businesses in home improvement and repair trades.

67. However, current schemes vary in how they are implemented. For example, only five of the ten current schemes publish customer feedback about individual traders. The level of assurance also varies; some councils visit the business and audit its records and procedures before listing it as a scheme member; others do not. This variety of approaches means consumers may not understand or may overestimate the assurance implied by membership of a scheme. Businesses may also suffer from the variety of approaches because they have to become members of a number of schemes, each with different prices and terms. It would be more helpful to both consumers and businesses if council schemes had a consistent approach across the country.

68. The fragmented approach to trusted trader schemes is in sharp contrast to the Food Hygiene Information Scheme (FHIS) for food businesses. It is a national scheme, designed and hosted by the FSA in Scotland and operated by councils. Food premises supplying food directly to the public are inspected on a consistent basis across all councils, and are encouraged to display a standard 'pass' or 'improvement required' certificate. The scheme is currently being rolled out across all council areas and is planned to be fully operational by 2014. So far, 23 councils have launched the scheme and 29,500 registered food premises in Scotland have been issued with FHIS certificates following inspection.³⁵

69. Stronger national coordination for trading standards might have prevented the current fragmented approach. But regardless of previous or future organisational arrangements, there is a need to review 'trusted trader' schemes and consider the need for a shared national approach or standards.

Many consumers do not know where to go for help when they have difficulty with a purchase

70. Currently, many consumers do not know where to go for help. For example, while over half of people (55 per cent) know to go to the council, or specifically to environmental health services, with a complaint about suspected food poisoning, fewer than half (38 per cent) would know to contact either trading standards or Citizens Advice about a second-hand car sale.³⁶ Over a third of people (37 per cent) would not know where to go for help if they bought something on the Internet which turned out to be not what was advertised (Exhibit 10).

71. Given the low awareness among consumers of where to go for help, there is a need to advertise it to increase awareness and use. This would increase the amount of local intelligence available to councils, and decrease the number of people who do not know where to go for help when they need it. It may also increase the number of cases each trading standards service has to deal with – about 35 per cent of all calls in the UK result in referrals to council trading standards services.³⁷

There are some inconsistencies in how councils regulate businesses

72. Businesses face some inconsistency between councils in the way that legislation is enforced. While councils generally carry out

risk assessments of food safety premises using the standards set out in the FSA Food Law Code of Practice, assessments of the trading standards risks of businesses do not use a standard approach. Therefore a business may be rated as high risk in one council area, with a routine annual inspection, but rated as medium risk in a neighbouring area, with less frequent or even no routine inspections or other contact (Exhibit 4, Part 2).

73. There are some inconsistencies in food safety too. Although a business is unlikely to be risk assessed differently by two different councils, there are differences in judgements about compliance with legislation. For example, mobile food traders must be licensed and inspected in every council area they work in. This means multiple inspections for those that operate across a number of council areas. It can be a source of frustration when food safety officers in different councils have different requirements. For example, in one area they may insist on two sinks, but in another they only require evidence of good hygiene practices to avoid the need for two sinks.

74. The work of the Scottish Government's Regulatory Review Group and COSLA's Regulatory Forum is seeking to address inconsistencies. COSLA's Regulatory Forum was set up in 2010 to try and address concerns among businesses about councils' different interpretation, implementation and enforcement of regulation. The Forum consists of a group of representatives from councils and businesses. Its recommendations are now part of proposed legislation on better regulation, which the Scottish Government consulted on between August and October 2012, and is expected to become law during the current parliamentary session.³⁸

34 Dundee, Fife, Renfrewshire and East Lothian Councils run the Trusted Trader™ scheme; South Lanarkshire, Stirling, Clackmannanshire and Eilean Siar Councils run the Buy with Confidence™ scheme; Angus and Perth & Kinross Councils each run other schemes.

35 At October 2012, Food Standards Agency in Scotland.

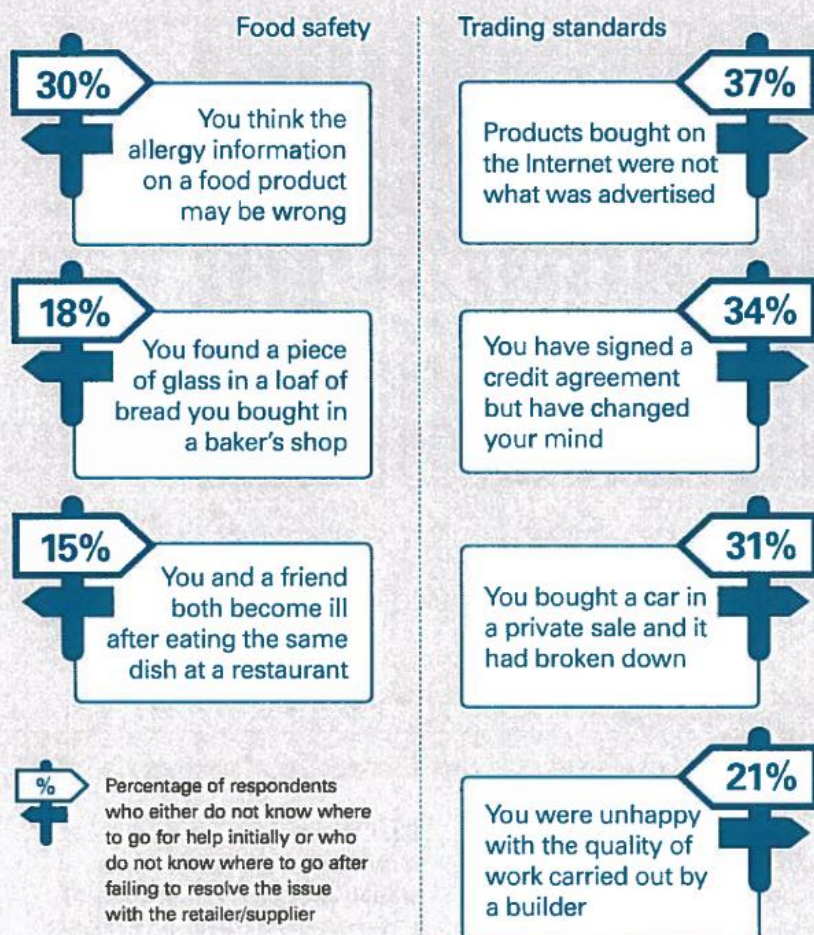
36 The Citizens Advice Service (comprising Citizens Advice Scotland and Citizens Advice England and Wales) recently took over responsibility for running a national consumer helpline, which provides advice to consumers and refers any matters that need further help to councils' trading standards services.

37 Citizens Advice Scotland.

38 Consultation on proposals for a Better Regulation Bill, Scottish Government, 2012.

Exhibit 10**Consumers' lack of awareness of where to go for help**

In some cases, about a third of people do not know where to go for help when they have a problem with goods or services they have bought.



Source: Audit Scotland

There is an effective performance reporting framework for food safety

75. Audit Scotland reports highlight that performance management across all services is an area where all councils can improve.^{39, 40} Performance management involves using information about services in order to improve them. If the information is not being monitored and reported, these

council services will find it hard to manage their performance.

76. All councils monitor and report a core set of performance measures for food safety as a result of the work of the FSA in Scotland. The measures include:

- percentage of businesses not yet risk-rated

- percentage of businesses visited or contacted as planned
- percentage of businesses that are broadly compliant with food hygiene law following an inspection visit or other contact.

77. In addition, 18 councils carry out satisfaction surveys among consumers and 25 among businesses they have had contact with, although the method they use varies.

78. It is hard to identify clear and measurable outcomes for consumer protection services (eg. identifying problems that have been prevented as a result of their work). Measuring business compliance is one way of estimating the impact of their work to protect consumers. If businesses comply with the law, consumers are protected from the risks addressed by legislation.

79. Food safety data collected by the Food Standards Agency shows steady improvements in performance for Scotland as a whole, but with some variation among individual councils. In 2011/12, 79 per cent of food businesses were broadly compliant with food hygiene law (Exhibit 11, overleaf). This is an improvement on 2010/11, when it was 77 per cent.⁴¹ However, this disguises variation across Scotland – of the 30 councils providing data, 16 had better compliance rates, five had worse and nine remained the same.⁴²

Performance reporting for trading standards services lacks coherence

80. Unlike food safety services, councils' trading standards services do not report consistent and comparable information about their impact and activities. This makes it difficult for councils to benchmark their performance with other

³⁹ *How councils work: an improvement series for councillors and officers. Managing performance: are you getting it right?*, Audit Scotland, 2012. www.audit-scotland.gov.uk/work/local_national.php

⁴⁰ Local audit reports, Best Value audit reports, overview reports and national performance audit reports, Audit Scotland.

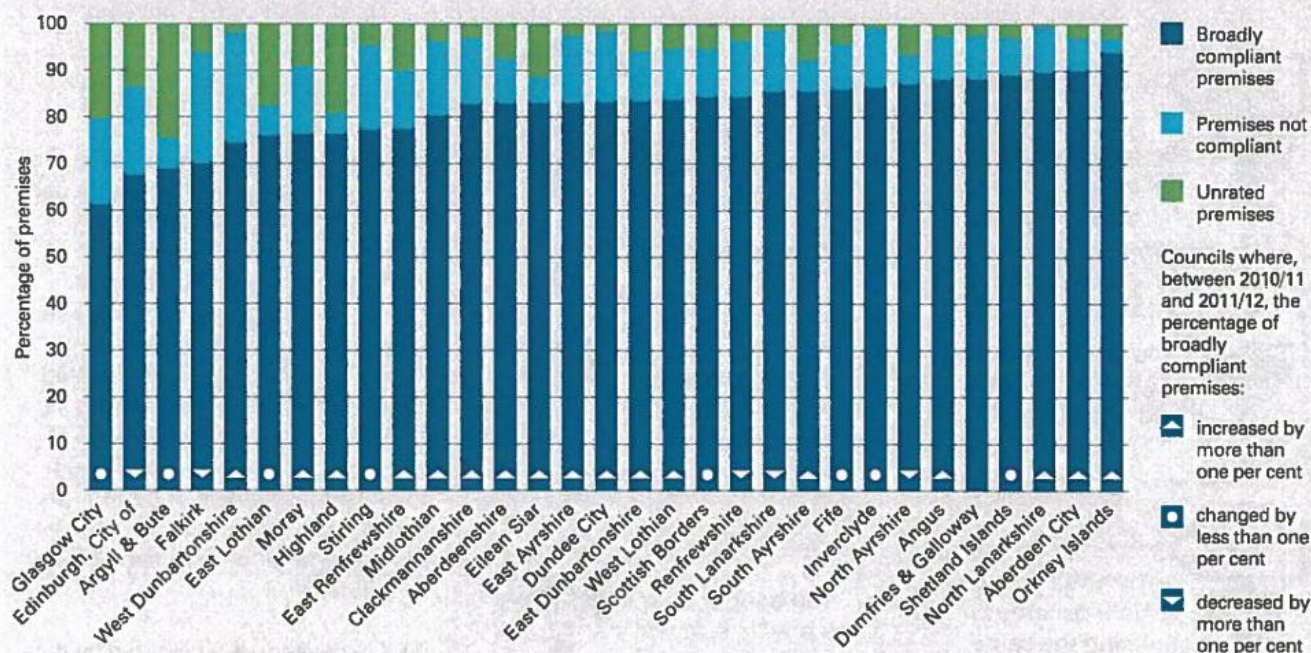
⁴¹ The 2011/12 figure of 79 per cent includes all councils except Perth & Kinross, which did not provide data. The 2010/11 figure of 77 per cent includes all councils except Perth & Kinross and Dumfries & Galloway, both of which did not provide complete data. If data from Dumfries & Galloway are excluded, the 2011/12 figure would be 78 per cent.

⁴² Counting only a change of one per cent or more in compliance rates.

Exhibit 11

Food premises broadly compliant with food hygiene legislation, 2011/12

The percentage of food premises that were broadly compliant with food hygiene legislation in 2011/12 varies from 61 per cent in the Glasgow City area to 94 per cent in the Orkney Islands.



Note: Perth & Kinross did not supply data for 2010/11 or 2011/12. Dumfries & Galloway did not supply complete data for 2010/11.
Source: Local Authority Enforcement Monitoring System data, Food Standards Agency

councils. Without reporting and benchmarking their performance, it is difficult for councils to demonstrate that they are delivering efficient and effective services to their communities and making the best use of their resources and continuously improving.

81. All councils report the long-standing statutory performance indicator (SPI) on the percentage of consumer complaints and business advice requests completed within 14 days. But they do not report other indicators consistently, although some monitor a range of indicators individually:

- 21 councils monitor the percentage of businesses inspected as planned

- nine councils monitor the percentage of businesses that are broadly compliant with the law following an inspection or other contact
- 12 councils estimate how much money they saved for consumers by helping them sort out problems
- four councils estimate how much money they saved for consumers by avoiding problems in the first place
- 25 councils carry out satisfaction surveys among consumers and 22 among businesses they have had contact with, although the method they use varies.

82. Although councils report business compliance for food safety, 22 councils stopped using this measure for trading standards after they were no longer required to report it to the UK Government.⁴³ In 2008, the latest year for which data was gathered, 95 per cent of high-risk businesses were found to be compliant for trading standards. But this excludes rogue and itinerant traders, who are a significant source of consumers' problems. They might better be identified through consumer complaints and local intelligence.

83. The fact that only nine councils continue to monitor business compliance without a requirement to report it serves to strengthen the argument for national coordination of standards and a performance reporting framework.

⁴³ Between 2004/05 and 2007/08, the Department of Trade and Industry gathered data from all UK councils under its Trading Standards Performance Framework. The measures were revised in 2008 for England and Wales but not for Scotland, where the Scottish Government's National Performance Framework was expected to incorporate appropriate measures.

Recommendations

Councils should:

- ensure their work on lower risk areas is sufficient to prevent them becoming more serious risks
- ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public
- work with the Citizens Advice Service and others to increase awareness and understanding among consumers of where they can get advice and help when buying goods or services, particularly when things go wrong
- ensure they have access to, and make use of, intelligence to help determine their local priorities, and contribute intelligence to information systems that support the work of other Scottish and UK councils, and the national teams.

COSLA and councils should:

- establish an effective system for analysing intelligence and agreeing national priorities for their work to protect consumers
- review 'trusted trader' schemes and consider the need for a shared national approach or standards.

Appendix 1

Audit methodology

Our audit had five main components:

- Desk research and analysis – we reviewed existing information to inform our audit including:
 - reviews, reports and relevant work carried out by the National Audit Office, Consumer Focus Scotland, Local Better Regulation Office, Audit Commission and other bodies
 - current information on UK and Scottish Government policies and policy initiatives
 - Single Outcome Agreements and Statutory Performance Indicators
 - data on activity and expenditure including Local Government Financial Returns, CIPFA statistics and the Food Standards Agency Local Authority Enforcement Monitoring System.
- Data return from councils – we issued a data return to all councils asking for information on the structure, activity, expenditure and performance of their trading standards service and the food safety function of their Environmental Health Service. To reduce the burden on councils, we liaised with CIPFA and, as far as practicable without compromising our needs, framed questions to ask for data in the same format.
- Survey of consumers – we used the TNS BMRB Omnibus, Scottish Opinion Survey, to research levels of awareness of the support available to consumers when they have a problem. A sample of just over a thousand adults from across Scotland were asked

whether they felt they have had cause over the past year to complain about goods or services and what action they took. They were then presented with various scenarios such as being unhappy with the quality of work by a builder or they found a piece of glass in a loaf of bread, and asked what action they would take. A report of this survey is available at www.audit-scotland.gov.uk.

- Group interviews – we carried out four group interviews and one videoconference with trading standards managers and officers, and the same with environmental health, from 25 councils. The groups discussed how councils identify and assess risks to consumers, how they prioritise activity to correspond with the risks

they identify and whether there is effective leadership for consumer protection services within councils and for cross-boundary work. The sessions also helped to identify good practice and case studies.

- Interviews with other organisations – we carried out interviews with representatives from a range of organisations including The Society of Chief Officers of Trading Standards in Scotland, The Society of Chief Officers of Environmental Health in Scotland, The Royal Environmental Health Institute of Scotland, Citizens Advice Scotland, Consumer Focus Scotland, COSLA, the Scottish Government, elected members and a range of organisations that work with trading standards or environmental health services.

Calculation of risk profile scores

The risk profile scores in [Exhibit 5](#) were calculated using the following formula, designed to weight the proportion of businesses in each category in a way that reflects the relative resource requirement:

Trading standards risk-rating score =

(percentage of risk-rated businesses rated as high risk x 5)
 + (percentage of risk-rated businesses rated as medium risk x 3)
 + (percentage of risk-rated businesses rated as low risk x 1)

Food hygiene risk-rating score =

(percentage of risk-rated premises rated as A x 10)
 + (percentage of risk-rated premises rated as B x 5)
 + (percentage of risk-rated premises rated as C x 2.5)
 + (percentage of risk-rated premises rated as D x 1)
 + (percentage of risk-rated premises rated as E x 0.25)

Appendix 2

Project advisory group members

Audit Scotland would like to thank the members of the project advisory group for their input and advice throughout the audit.

| Member | Organisation |
|----------------------------------|--|
| Sarah Beattie-Smith | Policy and Parliamentary Officer, Citizens Advice Scotland |
| Andrew Blake | Environmental Health and Trading Standards Manager, West Lothian Council and Immediate Past Chair, Society of Chief Officers of Environmental Health in Scotland |
| Kyla Brand | OFT Representative for Scotland, Wales and Northern Ireland, Office of Fair Trading |
| Joe Brown | Policy Manager, Better Regulation and Industry Engagement, Scottish Government |
| Marieke Dwarshuis | Director, Consumer Focus Scotland |
| Susan Love | Policy Manager – Scotland, Federation of Small Businesses |
| Laura Jamieson Julie McCarron | Policy Manager Consumer Protection Policy Manager Scottish Consumer Protection National Enforcement Team, COSLA |
| Marion McArthur | Head of Audit, Food Standards Agency in Scotland |
| David Thomson | Trading Standards and Environmental Health Manager, South Ayrshire Council; and Member of the Executive Committee, Society of Chief Officers of Trading Standards in Scotland (SCOTSS) |

Note: Members of the project advisory group sat in an advisory capacity only. The content and conclusions of this report are the sole responsibility of Audit Scotland.

Appendix 3

Questions for councillors

| | |
|---|--|
| 1 | Am I confident in the systems that the council has in place to assess the risks facing consumers in my area? |
| 2 | 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? |
| 3 | Does the council have a workforce plan to ensure the viability of its services to protect consumers over the next 5–10 years? |
| 4 | Does the information I receive about the council's services to protect consumers tell me how well it is performing relative to other councils? |
| 5 | Am I confident that the council is using local intelligence effectively to guide how it uses its resources to protect consumers? |
| 6 | Do my constituents know where to go for help when they have difficulties with a purchase that they cannot resolve themselves? |
| 7 | Is the council sharing intelligence with other councils where there are threats to consumers that cross council boundaries? |
| 8 | How is the council working with other councils to protect consumers? Are these arrangements sufficiently robust and formalised? |

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