



Response to the National Audit Office Review

Executive Summary

- **The Institute welcomes the spotlight the National Audit Office (NAO) review has placed upon consumer protection in the UK and thinks it sets out a sound evidence base.**
- **We are pleased that the report recognises the work done in addressing issues highlighted in the 2011 review and looks forward to similar engagement from government as it addresses the concerns set out in the current review.**
- **It is clear from the report that the current system is under stress and unsustainable going forward. Further cuts are only likely to push the system beyond breaking point.**
- **The review is clear that overall the consumer landscape is not yet delivering value for money, for a number of reasons, but the majority of the concerns centre on the declining capacity, status and funding of local authority trading standards.**
- **We call on the government to focus on the outcomes desired from consumer protection and lead change where the current landscape cannot achieve this.**
- **We believe that the evidence presented in the review and its recommendations indicate that reform of service delivery is required – specifically reorganisation to create larger, more robust trading standards units that are appropriately funded to ensure adequate and consistent protections are in place across the country.**

Overall Response

We believe the NAO has based its review on sound evidence and reasoning and has highlighted the right issues within the current system of delivery. Recent experience shows, the recommendations that the NAO makes will only be achieved if strong leadership is shown by the government, especially when looking at local services which are the report's main focus of concern.

The NAO is clear throughout its report that the environment in which consumer protection works has rapidly changed. More-and-more transactions are taking place online instead of on the high street and consumers are experiencing more complex relationships with markets. Further, the tactics of scammers have become more intricate and targeted.

This change has not been reflected by the consumer protection landscape, which the review concludes as a whole is not adapting to the shifts in the market or delivering value for money in doing so. These concerns are primarily focused on local authority trading standards services, which spend 75% of funds allocated to trading standards as a whole and are expected to deliver the majority of frontline services while contributing to national objectives.

The Chartered Trading Standards Institute (CTSI) has been working for a number of years to highlight the unique challenges that trading standards face as a local authority service within what can often be competing local, regional and national priorities. The additional challenges of declining capacity, status and funding of trading standards services have ultimately made this position more challenging, leading to gaps in provision, and the inability to act against national issues.

It was therefore encouraging to see the NAO recommendations raise these same issues, particularly the need for governance, accountability and incentives to be aligned with the delivery of outcomes and for skills and capacity to be deployed strategically. We are pleased that the report highlighted the success of

the changes to the consumer landscape in 2011. In particular the value of the Consumer Protection Partnership in improving coordination across the landscape and the outstanding role National Trading Standards (NTS) has played in tackling regional and national level crime. This gives us a solid base from which to implement the NAO's recommendations, in particular consistently estimating and reporting detriment as highlighted in Recommendations A and B.

In this response we will first outline how, based on our own research and supported by the NAO findings, changing how trading standards is delivered offers a comprehensive answer to the challenges outlined. We then look in detail at the two relevant recommendations that gives the department a clear blueprint to work across government to achieve change.

Vision for the future – a strategic trading standards service

The NAO report and its recommendations highlight a wide contrast of challenges and areas for improvement in the current system, from responding to resource issues, balancing skills and reflecting modern markets. We believe our [Vision for Trading Standards](#) offers a holistic solution to the review's findings and should be a starting point for work with government colleagues.

This Vision was developed through two years of research gathering evidence from the profession, academics, business, and consumer groups. It reflected on similar issues to those raised by the NAO – while also developing the ideas and principles of a service that is able to face the challenges posed by a modern market place in the context of the financial realities government faces. It concluded a central government led comprehensive move to larger services would be the best response to place trading standards to meet current and future challenges.

As the Vision makes clear, the journey towards this reform still contains a number of questions for the numerous stakeholders involved in the redesign of trading standards. However, there is a consensus amongst stakeholders that larger services offer a solution. This in our view should indicate to the government that this is a viable response to the challenges set out in this review.

The key benefits from larger, strategic trading standards services are:

1. Strategic commissioning, based on an intelligence led approach will focus resources where they are needed most. It will help address issues that are causing the widest detriment across a larger area and provide better opportunities for accountability for the taxpayer.
2. Consumers will be better protected by services that can reflect criminal behaviour that is operating over a wider area in an organised manner, which is currently the majority of the work that local authority services deal with.
3. Partner agencies, like the Police, Fire, Public Health, and Customs will be in a better position to take advantage of trading standards powers and skills where multi agency approaches are required. This would be particularly relevant to resolve Recommendation G.
4. Staff will benefit from opportunities to become more highly skilled within larger workforces and this could lead to some to become specialists. They will then be able to make a greater impact on protecting consumers and supporting business growth.
5. Businesses will prosper from consistent coverage of expert staff resources across the country that will be able to advise on consumer protection legislation. Staff in larger services will be able to strategically specialise to reflect the demands of local industry clusters.
6. Economies of scale will also ensure that any future resource limitations are based in administration rather than front line provision.
7. By placing trading standards on a sustainable footing, staff will benefit from a level of security while knowing they are in a service that is aligned for the 21st century.

The Vision was the result of our research into the state of trading standards in the UK. Our workforce survey reflected the challenges reductions in staff and resource have had on the profession. However, we also looked more widely to consider what [businesses](#) want from consumer protection and conducted academic research into the [impacts that trading standards can achieve](#). Both of these highlighted that

trading standards must be visible to the groups it serves, must avoid inconsistencies in provisions, and must be intelligence led.

There are currently more than 150 trading standards services across England and Wales, an organisational structure that was designed for the 1970s, if not the Victorian era. As the NAO report makes clear, the market has developed since these structures were established. Internet trading and multi-national companies have changed the demands on regulation and enforcers. This makes focusing limited enforcement resources to police the high street less relevant. Staff resource cuts of around 50% since 2010 have made many local services perilously close to being unfit for purpose, and as the NAO report makes clear, there is now a clear risk that gaps in the service are making consumer protection a postcode lottery.

Overall the system relies on nationwide coverage to remain viable and without this there are serious risks to the wider market. For example, the horsemeat scandal in 2013 saw UK sales of frozen hamburgers fall by 43% and sales of frozen ready meals by 13%. Maintaining market confidence should be a core objective of any government, however, avoiding unnecessary market shocks during the Brexit negotiations will be of even greater importance. To avoid such market wide failures in the future, current monitoring needs to be made sustainable and viable.

Scottish trading standards services were not considered by the NAO report, however, a [report by Audit Scotland](#) in 2013 reached similar findings about the threat to the consumer protection system. The report concluded that the long term viability of Scottish trading standards was under threat and that services were too small to protect consumers effectively. A review is ongoing for redesign with larger geographic units of trading standards among preferred options.

The benefit of national commissioning and regional delivery has been proven through the NTS's success in areas such as scams, safety at ports, e-crime, illegal money lending, animal feed and many other projects. Further, the experience of a number of larger joint services across the UK highlights that this solution is already working to reduce gaps in provision, protect skills and allow areas become hubs for expertise that business value. The government now need to take this proven model, using the consensus amongst stakeholders that this is the ideal solution to the issues faced by local authority trading standards, to ensure its benefits are seen by consumers, businesses and professionals nationwide.

Clear Case for government leadership

CTSI are clear that the government must take central leadership to drive this reform. This sets us apart from other stakeholders, for example the Local Government Association (LGA). While we have done much work with the LGA in relation to trading standards and support many of the conclusions from [their review](#), we reject the idea that this can be achieved by local authorities negotiating between each other in a voluntary manner.

Voluntary changes have consistently been shown to be ineffective in bringing about moves towards larger services. Around 60% of local authorities that responded to our 2016 Workforce Survey said they had no plans to combine their services with others. This reflects the experience in Wales, where, since a [2010 call](#) for the 22 trading standards units to come together into larger units, there has only been one formal merger of services. Whilst we recognise the work that colleagues within combined authorities have done to move this agenda forward, the evidence shows that this is not taking place consistently or quickly enough. As a result CTSI feel that only by government mandating change in how services operate will there be the impetus to resolve the issues in the NAO report.

It is important that any structural change is coordinated and quickly implemented to ensure even coverage across the UK. By allowing areas to surge ahead in combining their services voluntarily while others cannot agree deals there is a risk that the overall viability of the system will continue to be undermined. Organised crime is known to operate in areas where enforcement is weakest. Ultimately, enforcement black spots have a knock-on effect even on the areas that have maintained their service

provision as cross border trade will continue to allow substandard products, unfair practices and potential criminal activity to impact on consumers.

It is important that there is accountability to the public and we outline in the Vision how a potential governance model could be arranged. In response to the review we feel that the government should first consider outcomes that it wants from the service and then consider the most appropriate governance model as a result of this. We go into further detail on this point later in this response, however, we would like to see the government avoid governance questions becoming a delay in taking action on the issues outlined by the NAO review. The [ongoing consultation](#) on service reform in Wales is an example of how a potential model of service restructure could take place within existing local government structures.

Wider benefits of larger services

Since the Hampton Review in 2005 regulators have been working closer with legitimate businesses to share expertise that helps them to comply with the law. Schemes such as Better Business for All and Primary Authority have been flagships of this approach. Strategic services would allow for a greater and more consistent provision of specialist skills that business look for. We are particularly interested in how larger services would be more visible to business organisations such as the 38 Local Enterprise Partnerships, especially in light of the importance these organisations have in the [Industrial Strategy green paper](#).

A final suggestion to improve the sustainability of larger services would be to reconsider the rules they operate within when charging businesses for advice. Under local authorities, services can only charge cost recovery rates to businesses using their advice, despite this often being used by larger firms to avoid costly private legal opinions. Evidence shows that businesses are suspicious of pricing advice at such a comparatively low level, with suggestions that cost-recovery pricing undermines the perceived credibility of the guidance. Being able to charge at competitive rates would allow services to cross-fund wider enforcement activities, further improving the sustainability of the service. CTSI would like to see larger services being able to charge at above cost recovery – which would further incentivise them to build partnerships with businesses based on the value of the experience and knowledge that trading standards has to offer – [a view shared by the LGA](#).

Specific response to recommendations C and D

In this section the recommendations relevant to local authority trading standards have been broken down to show how CTSI's Vision addresses each of the challenges identified. CTSI have a long track record of working with government to assist with service transformation to reflect the changing demands of consumer protection. We regularly advise local authorities on service design and support Whitehall by providing expert insight on consumer policy and new legislation. Most recently we have worked within the Scottish review group that is tasked with reforming trading standards in response to Audit Scotland's recommendations.

Recommendation C -The Department should work with relevant departments, and the Department for Communities and Local Government, towards a shared understanding of risks to consumers. The governance, accountability, and incentives should be aligned with the delivery of outcomes at the appropriate level in line with the risks identified. This should include setting clear and realistic expectations of what each body should deliver, alongside reporting progress, so as to ensure that system priorities are met alongside local priorities. It could also include representation of Local Authority Trading Standards on the Consumer Protection Partnership.

The modern trading standards service has evolved gradually over time, with significant diversification in the 1970s and gradual addition of more duties in the following years. At the same time the consumer economy has changed drastically and the NAO report is clear that the system for protecting consumers has not kept pace. In response, central government should develop an understanding of the risks to consumers and in turn develop shared priorities for consumer protection. Currently it is unclear what outcomes central government wants to achieve through the system and this harms its efficiency and effectiveness. Governance and incentives are accordingly not aligned with the delivery of outcomes, nor is there sufficient data on the performance of the local authority trading standards services and their contribution to national outcomes. This has caused system priorities to be neglected.

As the report notes, local authority trading standards services currently have over 250 separate statutory duties, in areas as diverse as weights and measures and animal health. These duties also span several different Whitehall departments and there is little understanding at a central government level of the capacity to carry out these duties. New duties are added every year by different departments, with no assessment of the relative priorities of the issues. As the report clearly outlines, the level of resource available has dropped steadily and government cannot expect trading standards to continue to absorb new duties or even maintain the same level of service in these circumstances. Central government need to develop a shared view of system priorities that is regularly updated as risks to consumers change. The Regulatory Enforcement and Sanctions Act 2008 created a duty for government to set enforcement priorities, however the resulting priorities were too vague to constitute useful guidance to local authorities and they have not been updated since 2011.

CTSI would like to work with the government to update the enforcement priorities to give some guidance to local authorities on the relative importance of these duties and the outcomes that government is trying to achieve. The improvements in intelligence gathering on a national scale (which the NAO highlighted) should also help to inform this process and ensure that priorities can be regularly updated based on the most current and emerging issues. System priorities should not be confused with the work carried out by National Trading Standards and Trading Standards Scotland based on intelligence led enforcement against level three crime. System priorities need to be agreed across government so that the full range of consumer protection duties are taken into account.

Developing an understanding of outcomes would help to set expectations of the consumer protection system. For example, one priority outcome for the system might be to ensure a consistent and effective market surveillance system to prevent unsafe goods from being sold and ultimately harming citizens. This is currently a statutory duty for trading standards but the inconsistency in funding and resources at a local level means that there is a postcode lottery of protection. Given that trade is increasingly cross border, any enforcement gaps will weaken the system as a whole but may not be a local priority to tackle. If it is a

system priority for market surveillance to be consistent and effective across the country, this is clearly not acceptable.

CTSI therefore believes that the government should develop minimum standards for trading standards services; clearly setting out what each service is expected to deliver. These minimum standards should not be based on staff numbers or budgets but on the outcomes that are expected to be achieved. A performance framework based on outcomes as set out in our Vision would assist in measuring how well the system is performing as a whole as well as highlighting any risks or emerging gaps and identifying those services not achieving the minimum standard. Getting this performance framework right will be difficult, as demonstrated by previous attempts. As a result the Association of Chief Trading Standards Officers have commissioned initial research into outcome based performance frameworks which is intended to inform the development of a new framework. Used properly, this system would protect system priorities and ensure that trading standards are not incentivised to focus solely on local priorities.

Better understanding of performance at a central government level could also become a tool that can identify and combat market imbalances and support businesses. It will be important to design a performance framework that is cost effective and also supports the local government scrutiny role. Local government already measures local priorities, but a consistent performance framework would ensure that central government can measure national priorities and also allows meaningful comparison between services.

In this way, a consistent and centrally endorsed performance framework will ensure that both local priorities and system priorities are met, and that accountability for both parts of the system is located at the appropriate level. This will help to focus limited resources on priorities and improve the effectiveness of the system. In line with our Vision, CTSI believes that to align incentives with delivery of outcomes, core funding for strategic trading standards authorities should be allocated directly from central government to ensure guaranteed delivery of system priorities. Local authorities should also be able to fund strategic services to ensure delivery of specifically local priorities, such as safeguarding of vulnerable adults.

Recommendation D - The Department should work with relevant departments, and the Department for Communities and Local Government, to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs. This would help manage gaps at the local level and could include defining what a Trading Standards service is intended to deliver.

Setting clear expectations and minimum standards for each service as suggested above would help to manage gaps at a local level. This would be further strengthened by the move to fewer, strategic units of trading standards which are able to deploy skills and capacity strategically against national, regional and local priorities. Clearly the Department for Communities and Local Government will need to be engaged to achieve this agenda and there are some opportunities arising from devolution agreements and the changing shape of local government that could be harnessed. Some of the key benefits of a structural change are that larger units:

- have the flexibility to consider the skills of their staff allowing some officers to specialise in particular areas of trading standards law, reflecting the needs of legitimate businesses and responding to the consumer protection challenges they face. In smaller services, specialists, if they are available, are often deployed across the full range of trading standards law -limiting the efficiency of the system.
- can consider the appropriate skills and expertise that a service should have to respond to demand larger services can establish succession plans to maintain this coverage. Cutbacks have disproportionately removed experienced officers from the workforce with smaller units unable to put in place the planning on how this experience would be replaced.
- are better able to work in an intelligence led manner when approaching consumer detriment. The report makes clear consumer crime is increasingly less localised and no longer restricted to the high street. This solution reflects this shift placing resources where consumer detriment occurs.

- are more resilient when facing critical incidents such as foot-and-mouth or other animal disease outbreaks. Services in such a scenario could quickly mobilise a large number of staff to focus on an issue – potentially under the supervision of specialist officers.
- are also better placed to manage gaps in provision and can take advantage of economies of scale to attempt to resolve this. There is a consensus among stakeholders that larger services are more cost effective and able to achieve efficiencies in terms of management structures and the deployment of specialists.

As outlined above, larger units would also be better able to reflect any outcomes that the government wishes to achieve because they are able to act strategically and flexibly deploy resources to tackle priorities.

CTSI looks forward to working with the department and wider stakeholders on the outcomes from this review. If you have any questions regarding this response please contact policy@tsi.org.uk