

7 December 2015

LGA review of trading standards services: summary and report

Purpose

For discussion and decision.

Summary

This report updates the Board on the LGA's review of trading standards and seeks members' views on a draft report and next steps.

Recommendation

That the Board approves a short report on trading standards and the next steps identified.

Action

Officers to progress as directed.

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LGA review of trading standards services

Background

1. At its meeting in September, the Board provided early input to a short piece of work considering the future of trading standards services. The review followed on from the earlier Remodelling Public Protection report, as well as responding to the Chartered Trading Standards Institute's (CTSI) proposal for the creation of strategic trading standards authorities.
2. This paper seeks the Board's views on a draft report from the review and next steps, and should be read alongside the draft report attached at [annex 1](#).

Review objectives and activities

3. As the Board will recall, the objective of the review was to understand local government's requirements from trading standards services and to explore the options for how the service can most effectively deliver this in future.
4. Although the review has intentionally focused solely on local government's expectations for trading standards, officers have been involved in ongoing discussions with officials leading the central government review of trading standards that has been running concurrently.
5. As part of the review, the following activities have taken place:
 - 5.1. A survey of heads of trading standards in England and Wales. This received a 41% response rate.
 - 5.2. Review of trading standards statutory duties and changing patterns of activity.
 - 5.3. Interviews with members of the review's stakeholder group (listed at annex 2).
 - 5.4. Attendance at various professional workshops set up to enable TSOs to contribute to the local and central government reviews.
 - 5.5. Based on earlier activities, production of a short [discussion paper](#) outlining key issues for debate at a stakeholder group workshop held in late October.

Key themes and proposed LGA response

6. As outlined in the draft report, a number of key issues emerged from the review:
 - 6.1. Building on from the Board's original response to the CTSI vision, the review has indicated a strong commitment among local councillors and senior officers to trading standards' place within local government. Trading standards are seen as a valuable, flexible local resource that can support a range of local priorities through utilising a wide range of different statutory tools and responsibilities.

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- 6.2. There are important links between trading standards and other local government services which would be significantly weakened if trading standards were to move out of local government. In the majority of unitary authorities represented in the review, trading standards was joined in a team with at least one other regulatory service (for example, licensing) or within a complete regulatory services unit. County councils involved in the review emphasised the importance of links between trading standards and other services such as social care, public health and economic growth in particular.
- 6.3. Trading standards has put in place mechanisms that appear to successfully manage the different tiers of trading standards work. Regional working is embedded across the country, and, through the National Trading Standards (NTS) framework, local services are funded by central government to tackle regional and national trading standards issues. NTS has also provided a route for central government or its agencies (notably the Food Standards Agency) to specifically commission local work which may not otherwise be a priority for local teams.
- 6.4. Larger trading standards services provide greater resilience and appear to offer a more sustainable future for the services trading standards provides, as evidenced by a number of long-standing and more recent joint services. Services managed at scale can cover a wider range of consumer protection activity / business support, and can benefit from having the resources to fully utilise local intelligence, develop commercial approaches etc.
- 6.5. Larger services may help to ameliorate the challenges created by funding cuts; they do not solve them. There is a need for much greater honesty, particularly centrally, about what services will be resourced to deliver following a new round of spending cuts.
7. The attached draft report proposes that the LGA accepts these messages, and in particular the suggestion that fewer, larger trading standards services would offer greater resilience. With some services down to just two or three officers (or even less, in one or two places), it is proposed that the LGA should encourage its individual members to consider what the alternative options for service provision may be for these councils. **The Board's view of this recommendation and section of the draft report would be very welcome.**

Proposed next steps

8. In contrast to the trading standards bodies, the LGA clearly does not support any form of mandatory reorganisation of trading standards services: it should be left to local places to configure services most appropriate to their areas. This will inevitably mean services and structures that look different in different places – as they already do and always have done.
9. However, we are keen to back up the report with actions to support its recommendations. We therefore propose two separate strands of work:

- 9.1. Development of a short document to help illustrate the potential benefits of larger trading standards (or wider regulatory services) units, including highlighting case studies of existing joint services.
- 9.2. Commissioning external support to provide to councils to kickstart discussions about joints services or other alternative models.

10. The Board is asked to both provide a view on the suitability of these activities and make any alternative suggestions of how this work could be followed up.

Outcomes of the BIS-BRDO review

11. The final report from central government's review has yet to be published, but is expected at any time. From discussions with officials, our expectations are that the report is also likely to emphasise the role of larger units in helping to sustain trading standards services: separately, BRDO are beginning very early work with the new combined authority areas to explore the case for regulatory services being managed at that level.
12. Although it initially appeared that the central review may recommend that some very technical trading standards responsibilities be moved away from councils, government now appears to have moved back from this. However, we are anticipating that it may propose some form of mechanism for further review of specific areas of trading standards over a longer period.
13. A note of the outcomes from the central review will be circulated to the Board once the final report has been published, in particular outlining any implications for the LGA's recommendations and next steps.

Trading standards in Wales

14. The review is limited to trading standards services in England, although we are liaising closely with colleagues at WLGA and will share the survey and other findings with them.

Financial implications

15. The review is being supported through normal staff budgets. External support will be commissioned through existing improvement and / or devolution budgets.

Annex 1 – Draft report of the LGA Trading Standards review

Introduction

In summer 2015, the Local Government Association (LGA) launched a short and high level review into the future of local government trading standards services. The review followed on from the LGA's [Remodelling Public Protection](#) report, which sought to highlight the challenges faced by council trading standards, licensing and environmental health teams following significant budget cuts. The review also responded to the outline vision for the future of the trading standards published by the professional body, the Chartered Trading Standards Institute (CTSI). CTSI's vision proposed the creation of new strategic trading standards authorities and urged government to undertake further work to explore the proposal. The LGA's Safer and Stronger Communities Board (SSCB) had expressed and received a number of concerns about the proposal, and therefore committed to undertaking a local government led review of the service. The LGA review ran alongside a review undertaken by the Department for Business, Innovation and Skills (BIS) and Better Regulation Delivery Office (BRDO) focusing on central government's requirements from the service.

The objective of the LGA review was to:

- understand what local government needs from its trading standards services
- consider the options for the future of the service, with a view to outlining a series of recommended next steps to further explore and take forward.

To deliver this, the review:

- undertook a short survey of English trading standards authorities
- established a stakeholder group comprising councillors, council chief executives and directors, and representatives of the Association of Chief Trading Standards Officers (ACTSO), CTSI and National Trading Standards
- ran a series of interviews with members of the stakeholder group
- held a stakeholder group workshop to discuss key issues identified in a project discussion paper
- reported back to the LGA SSCB in early December with key findings.

This summary report outlines: the key points emerging during the review; the LGA's response; and how the LGA intends to take this work forward.

Context

The review was largely conducted in the run up to the 2015 spending review, and it is helpful to start by providing some broader local government context. Over the course of the 2010-2015 Parliament, local government funding from central government was cut by 40%. Between 2016-2020, there will be a further 24% cumulative reduction in real terms government funding, although government projections suggest this will be partially offset by locally raised income to give an overall reduction of 6.7%. Government has committed that by 2020 local government will retain the total sum it raises through business rates; it remains

to be seen whether the details of this as they are worked through will have any specific impact on business-facing services such as trading standards and other regulatory functions.

Figures suggest that over the 2010-2015 period, the average cut to trading standards budgets in England was 40%, mirroring the overall cut. However, as was clear from the LGA survey of trading standards services, this average figure masks a wide variation in changes to trading standards budgets in individual councils, with some teams cut by significantly more than 40%, and others by significantly less.

Although the 2016-2020 central funding reduction has proved to be less than the 2010-15 reduction, the clear reality is that most trading standards (and other) services can expect further cuts in funding over the next four years given ongoing spending pressures in areas such as social care. The £533m reduction in public health funding over 2015-2020 is also likely to have a particular impact on trading standards, given that public health has supported a number of trading standards posts in recent years, notably on work to tackle illegal alcohol, tobacco and under-age sales.

Alongside local government finance, devolution is the other dominating issues for local government in 2015. With a number of areas already having devolution deals agreed, and others in development, the implications for trading standards and regulatory services have thus far been limited. Some devolution bids have mentioned regulatory services (although the focus appears to be on licensing issues) but at the current time, regulatory services are not playing a role in or being factored into devolution discussions, despite their role in supporting businesses and local economic growth, key themes for the new combined authorities.

Key messages from the review

Trading standards should remain fully integrated within local government

The LGA review indicated a strong commitment to trading standards remaining fully integrated within local government. Without exception, trading standards was seen as a valuable service able to support local priorities, communities and businesses.

Councillors and senior officers consistently highlighted the links between wider regulatory services (in unitary authorities), but also with other services such as public health, social care and economic growth. There was concern that creating strategic trading standards authorities that were separate to current local government structures would create additional costs and weaken the important links with other council services. While it was acknowledged that there may be a case for removing certain specific or isolated trading standards functions from local government if there were other appropriate homes for them, there was no appetite to see major changes in how trading standards services are managed.

In terms of answering the question 'what does local government need from its trading standards services?' there was a clear steer that councils value trading standards as a flexible and responsive resource that can be targeted to achieve different outcomes depending on local priorities. The service offers a range of different tools to support local priorities, whether that is tackling under-age sales or anti-social behaviour, engaging and supporting rural communities, providing support to local businesses or a combination of all of

these. From a local perspective, this means that trading standards may look very different in different places, depending on the local area.

This local diversity can create some challenges in reflecting the role of the service, given that trading standards covers a wide range of responsibilities which have little in common (eg, cybercrime and animal health) beyond the overarching, historic and very broad objective of protecting consumers, businesses and local communities. However, one of the strengths of the service is that it has proved to be flexible and adaptable, with priorities evolving over time to reflect new issues (such as under-age sales or cybercrime) or downgrade others (such as pricing). There was a clear message that local leaders valued the flexibility of this resource, and wanted to retain that.

However, it must be acknowledged that trading standards isn't simply about addressing local issues and priorities; as was noted at the stakeholder group workshop, trading standards operates at individual, local, regional and national levels depending on the issues it is dealing with. This differs from the typical situation in other services, which often have a narrower focus than trading standards and where local and government priorities are more likely to be aligned rather than effectively competing for limited resources.

There are clear challenges associated with using local services to deliver national responsibilities when overall funding has fallen to the extent that it has. Local authorities will inevitably lean towards prioritising scarce resources on local issues that have a visible impact on their communities over national ones which may not do, particularly when government can provide no indication of what funding it is providing for trading standards, or any clear sense of what its overall priorities for the service are. This calls for two responses; firstly, greater clarity about what capacity there is to address both local and national priorities, and secondly, action to ensure that services are set up in a way that enables them to address a wide range of activity and the right balance between local and national priorities.

The mechanisms already in place for managing local, regional and national trading standards work can provide a solid foundation for future management of different levels of trading standards work

Trading standards has already put in place mechanisms for managing cross-border regional and national work. Alongside locally led trading standards work led by individual council teams, joint working through regional trading standards groups is well established, and the creation of National Trading Standards (NTS) has provided a mechanism for managing work on national trading standards issues.

Existing structures have the potential to provide a solid foundation for the future, and there is no obvious or immediate need for new structures to tackle cross-border trading standards issues arising at regional and national level. NTS provides a sensible model for using local services to tackle national issues. As demonstrated by the Food Standards Authority's decision to use NTS to coordinate regional feed activity, it also offers a pragmatic route for commissioning specific areas of work that must be locally led but may not always be local priorities, and therefore a way of addressing the inherent challenge of balancing competing local / national priorities.

However, alongside a possible reduction in BIS funding for NTS (following the department's 17% funding cut in the spending review), the major challenge to the future of NTS is that its

local foundations are being weakened. For example, as trading standards teams reduce in size, it will become harder for NTS to find local services that can host NTS teams. The local intelligence on which NTS is reliant may become degraded without local resource to support it. Heads of service are increasingly stretched (often across multiple services) and may be less able to dedicate the time required to support the Board. Therefore, to ensure that the current regional and national working structures can provide a sustainable way of working in future, the key priority should be to ensure that the local foundations of the model are strengthened.

Services managed at scale offer the most sustainable future for local trading standards services

There was a clear steer in the stakeholder group discussions that there is a minimum level of resilience (and service) for trading standards, and that larger services are considerably better placed looking ahead to the future. It is notable that the strongest rejection of CTSI's suggestion that the current system is broken came from those services that have created larger joint services operating across two or more authorities. Even following the cuts, these services retain relatively large staff bases, are able to cover a range of specialisms, and believe that that they are sustainable and resilient. Conversely, it was suggested that some services had already reduced to the point where they could not be said to be sustainable, and that there was a need for local government to be much more robust about the need to provide a minimum level of service.

A range of advantages to larger services were cited. Larger services are able to resource activity across a wider range of specialisms than their smaller counterparts, leaving them better placed to manage not only a range of local priorities, but also competing local and national priorities. Larger services will have the capacity to be more flexible and responsive to emerging issues, redeploying resources more easily as required. Additionally, larger services will also have the capacity to support key areas of expertise - such as the use of intelligence, new commercial services, and financial investigators who can help secure funds through the Proceeds of Crime Act – that can ensure existing resources are targeted appropriately, as well as helping to generate additional income.

There may be understandable concerns that larger or joint services can weaken the link with local decision making, could lead to less dedicated local resource for participating councils or could be perceived as being subsumed within a larger neighbouring authority. However, a number of joint services – for example, the established West Yorkshire Joint Service (WYJS) covering the five West Yorkshire unitary authorities, or the newer two-county joint services in Devon / Somerset and Surrey / Buckinghamshire – appear to have overcome these concerns, and appear to indicate that there is considerable scope for individual council areas to benefit from being part of a larger service.

There would also be national benefits to having larger local trading standards services. As well as providing firm foundations for an NTS led model of national trading standards work, and the capacity to support it, larger, more sustainable services are likely to help ensure national resilience in key specialisms. There would be scope for larger services to act as centres of excellence in different types of work, in contrast to significant concern about dwindling specialist expertise in important areas as local teams reduce in size.

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It is also important that councils continue to draw from a sustainable pool of trained, competent officers, with new recruits being drawn into the service through a range of different routes. An issue highlighted in discussions outside the review highlighted some challenges in finding placements for academic graduates to develop their skills in a real world environment. This risks leaving councils with expertise concentrated in an ageing workforce, with potential newer recruits lacking the experience needed to assume duties effectively. It is clear that there is some need to incubate and nurture new offers to regulatory professions, and larger services are more likely to be able to support this role.

Whatever the future model, there is a need for much more honesty about what is deliverable

A clear message from the review has been that although larger services are likely to prove more sustainable in the long term, there is a need for more honesty – locally, but especially nationally – about the fact that no service can deliver what it used when it experiences cuts of the order trading standards has, whatever size it was to start with or is now. Put simply, current level of resources cannot sustain the same level of protection, across the same number of areas, as previously.

That being the case, there is a need for openness about what is being delivered and what isn't; locally, there should be clear governance and political accountability for these decisions. WYJS was held up as a good example of a service with a significant level of member oversight due to its joint committee structure. In other places, it has been suggested that there is less political oversight and involvement with the service than might previously have been the case.

As we said in Remodelling Public Protection, there is a need for a more realistic approach from government about the extent to which regulatory services can absorb new responsibilities given the pressures they are under. Trading standards already have well over 200 statutory responsibilities, and over the course of the review, three new ones came into force or were introduced into Parliament:

- reporting responsibilities in relation to the display of Energy Performance Certificates (thereby attaching new burdens to a low priority responsibility)
- enforcement responsibilities for new plastic bag charges
- enforcement responsibility for the new apprenticeship brand.

Government must do more to acknowledge that capacity at local level is already fully stretched, and shift away from its default approach of making trading standards responsible for all manner of enforcement activity.

It would also be helpful if government could provide greater clarity about the prioritisation of existing statutory responsibilities which have more of a national dimension than a local one. Trading standards services are already prioritising different types of activity based on intelligence, levels of detriment and local priorities: a clear steer from central government about which of its policy areas it needs local teams to prioritise – and which it doesn't – would be helpful. The two trading standards reviews have generated discussion about the shift away from undertaking work in the area of pricing, for example, as well as weights and measures. A clear statement from government as to whether it considers such examples to

be acceptable, in the context of limited resources and other priorities, would be an extremely useful outcome from the central government review.

LGA response to the key messages

The key message to emerge from this review is that, in order to ensure the future sustainability of trading standards services, councils should explore the options for merging their services to create larger units. The LGA accepts the view that having fewer, larger trading standards services, many of which will serve more than one council but which sit fully within local government structures, would help to ensure greater long term resilience of trading standards services.

Although we note that a clear picture of what a minimum service looks like does not exist, we also acknowledge that wide disparities in trading standards resourcing in similar authorities raise question marks about the extent to which levels of protection are consistent in different areas. Such disparities between often neighbouring authorities – which cannot realistically be accounted for by greater efficiency, or differing local circumstances – can ultimately pose significant reputational challenges for local government as a whole.

There is therefore a strong argument for individual councils where services have reduced to a very small size, or where they are significantly out of line with other similar authorities, to risk assess their services and consider any alternative options for accessing and providing expertise across a range of different areas.

However, we do not share the view that there is an appropriate, one size fits all approach to creating larger models of trading standards. There will be justifiable reasons why structures ultimately look different in different places and we therefore do not believe it is appropriate to try to mandate a new approach. We believe that larger services could be formed that fit within the new combined authority areas, but this may not be the case everywhere, and certainly some existing arrangements differ from emerging devolution arrangements: what matters most is that councils are able to develop the approaches that most suit their areas and local priorities, and can make these work within the changing map of local government.

A key LGA concern in relation to trading standards has been its relationship with wider regulatory services: the LGA has consistently argued for councils and officers to make appropriate links between trading standards, environmental health and licensing. While specialist work in trading standards and environmental health is ultimately very different and will remain distinct, the LGA believes that there is nevertheless crossover in these business-facing roles and that it is beneficial for officers at a more junior, less specialist level to be able to recognise and advise on a range of issues across all three areas (and more widely), rather than just a single profession.

We are aware that in many councils (although clearly not all), trading standards currently forms part of a joined up regulatory services unit. The LGA does not believe it would be beneficial to pull trading standards out of this type of unit in order to create larger trading standards units operating across council boundaries. In contrast, we believe that there is scope for exploring the role that larger regulatory units including trading standards and other regulatory services could provide in the future. This might be of particular interest in some of the new combined authorities where regulatory services sit within the same tier of local government.

Taking this work forward

In Remodelling Public Protection, the LGA argued that there is a pressing need to address the decline in local regulatory services as a result of cuts to local government funding. Since then, the publication of the CTSI vision and central and local reviews of trading standards have drawn further attention to the issues facing trading standards services (although many of the conclusions will apply across other regulatory services as well), and reinforced the need for action. The challenges faced are not of local government's own making, and they are not its most pressing issue: however, this is a moment to take advantage of the current focus from both central and elements of local government. Failing to action now risks harming the reputation of local government; more seriously, it risks harm to individuals, communities and the economy in the event of a service failure in a critical area of trading standards.

Although we do not necessarily support the idea of a minimum level of service, we believe that there is a need for greater clarity about the benefits larger services can offer, particularly for a non-professional audience less familiar with the diversity of trading standards work. The LGA therefore intends to commission further work looking at the potential benefits of larger trading standards or regulatory services, including case studies of existing joint services, to share with its members and encourage councils to give serious consideration to this approach. We would reemphasise that this work should be supported by a much clearer set of visible trading standards policy priorities from central government, without which there is a weaker rationale for moving away from very small local teams focusing to a much greater extent on local issues.

At the same time, we will consider what individual support we can give to councils in exploring the options for the future of their service, and in particular to heads of service in trading standards (and wider regulatory services) who we would encourage to take the initiative in developing proposals for new arrangements. We recognise the arguments that larger services are difficult and time-consuming to establish, and that heads of service do not have sufficient seniority to take this forward. However, we note that some of the recently established joint services have been created remarkably quickly and believe that local authority chief officers and members would welcome the impetus of proposals for improving and sustaining services.

This applies in particular to those areas with an established route forward for devolution. As set out above, regulatory services are not on the agenda in devolution discussions, but there appears to be considerable scope to redesign local services in line with the maps of new combined authorities, and a strong rationale for doing so; both in terms of trading standards / regulatory services business support / economic growth role, and the likely cohesiveness of joined up services operating in larger areas that nonetheless have a distinct local identity (as already demonstrated in West Yorkshire). We urge officers and councillors in those areas to be proactive and forward thinking about what a local trading standards or regulatory service that's right for their area should look like in fifteen years' time.

Finally, we will look to provide further support to councils in specific areas such as commercialisation (following on from our successful commercialisation in regulatory services conference this summer). Several councils have set themselves the objective of achieving a zero cost service to ensure the sustainability of future services; while not all councils will be able to do this, there is considerable scope to learn from councils and services that have already made significant progress in this regard.

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As stated above, these approaches will not offset the reduction in local trading standards capacity; but they have the potential to better manage the impact of it. These are hugely challenging times, and no single body has all the answers to address them; therefore, councils, the LGA, professional bodies and government must work jointly to help councils find the most appropriate local solutions for their areas

Annex 2 - Stakeholder group

Name	Representing / Role
Cllr Nick Worth, Cllr Anita Lower, Cllr Sophie Linden	LGA Safer and Stronger Communities Board
Cllr David Burbage	LGA Conservative group (Leader, RB Windsor)
Cllr Paul Convery	LGA Labour group (Exec Member CS, LB Islington)
Cllr Adele Morris	LGA Lib Dem group (LB Southwark)
Cllr Graham Whitham	LGA Independent group (LB Sutton)
Cllr Bronwen Behan	Deputy Leader, Malvern Hills DC / Worcs Regulatory Service
Lord Toby Harris	Chair, National Trading Standards
Nathan Elvery	SSCB CEX rep (CEX LB Croydon)
Robin Tuddenham, Susan Betteridge	SOLACE Rep (Dir of Communities & Service Support, Calderdale) / Lead Officer West Yorkshire Joint Service
Phil Norrey	CEX Devon (CCN)
Richard Flinton	CEX North Yorkshire (CCN)
Steve Robinson	CEX Cheshire West and Chester (CCN)
Diana Terris	CEX Barnsley
Steve Jordan	Exec Director / Head of Paid Service, South Hams / West Devon DC
Mike Hainge	Service Director, Public Realm Milton Keynes
Yvonne Rees	Strategic Director, Customers and Communities Surrey
Richard Webb	ACTSO (Trading Standards and Comm Safety Mgr Oxfordshire)
Stuart Benson	ACTSO (Ass Head Public Protection and Business Support Cornwall)
Rob Gardner	ACTSO (Trading Standards Manager - Lambeth)
Leon Livermore	Chartered Trading Standards Institute - CEX
Melissa Dring	Chartered Trading Standards Institute - Policy Director