

# **Report to the Tyne and Wear Trading Standards Joint Committee**

**25 February 2016**

## **Update on the LGA Review of Trading Standards**

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### **Purpose of the report**

To update the Committee on the Review of Trading Standards.

### **Introduction**

1. 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<sup>1</sup> 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).
2. 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 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.
3. 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.
4. 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 (NTS)
  - 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 2015 with key findings.

## **Context**

5. 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 per cent. Government projections suggest significant reductions to grant funding between 2015-2020 will be partially offset by locally raised income to give an overall reduction of 6.7 per cent in real terms.
6. 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.
7. Figures suggest that over the 2010-2015 period, the average cut to trading standards budgets in England was 40 per cent, 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 per cent, and others by significantly less.
8. With more grant reductions to come over the current Parliament, 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.
9. The £533 million 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.
10. Alongside local government finance, devolution was the other dominating issue for local government in 2015, and will remain so as we progress through 2016. With a number of areas already having devolution deals agreed, and others in development, the implications for trading standards and regulatory services thus far appear limited.
11. Only the devolution bid for the North East included the devolution of regulatory powers. Regulatory services are being factored into devolution discussions because of their role in supporting businesses and local economic growth, key themes for the new combined authorities.
12. Devolution deals may provide an opportunity to consider the geography of some trading standards services.

## **Key messages from the review**

13. That trading standards should remain fully integrated within local government. There was 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.

14. 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.
15. 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.
16. 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 (e.g., 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.
17. However, 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.
18. There are clear challenges associated with using local services to deliver national responsibilities when overall funding has fallen to the extent that it has.
19. 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.

20. 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.
21. 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 NTS has provided a mechanism for managing work on national trading standards issues.
22. 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.
23. However, alongside a possible reduction in BIS funding for NTS (following the department's 17 per cent 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, we must ensure that local trading standards services, the foundations of the whole model, are strengthened.
24. 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.
25. 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.
26. A clear message from the review is 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 was the case previously.

27. 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.
28. As was 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 apprentice brand
29. 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.
30. 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 Review's key messages**

31. The LGA welcomes the support expressed during the review for retaining trading standards within local government. As they set out in summer 2015, they believe that trading standards should remain within local government, with local control over local trading standards work, and separate governance mechanisms for the regional and national NTS work funded centrally by government. This will ensure a flexible local resource able to target local issues and support local priorities, alongside structures to direct strategic national work, with NTS overseeing project teams to undertake coordinated and focused work.
32. LGA endorse the need for greater national prioritisation of the diverse range of duties that trading standards are responsible for. Government must be clear, and realistic, about setting national trading standards priorities. It must recognise

where regulation, whether national or European, is diverting resources to low risk work that burdens regulators as well as businesses (and often more so), sometimes without any discernible benefit – as in the case of the energy performance certificates. LGA says that this must be addressed by government.

33. On structures, they also agree that, in order to ensure the future sustainability of trading standards work, councils should explore the options for sharing their services to create larger units. There is no one size fits all model for different councils, but having fewer, larger trading standards services, which serve more than one council but sit fully within local government structures, is likely to help ensure greater long term resilience of trading standards expertise.
34. They say that, in particular, this would allow greater capacity for the development of commercial approaches, which we believe have an important role to play in supporting regulatory services in future. They urge councils looking at creating larger services to learn from areas that have successfully introduced new structures (such as West Yorkshire, Devon and Somerset and Surrey and Buckinghamshire) – in particular, how they have successfully balanced the benefits of larger services while retaining local accountability and prioritisation.
35. Although LGA notes that a clear picture of what a minimum service looks like does not exist, they 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.
36. LGA believes that 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.
37. They do not believe that a uniform model is desirable, because there will be justifiable reasons why structures ultimately look different in different places and we therefore would not support mandating a new approach.
38. The LGA believes 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. Alongside larger shared services, alternative approaches could include mutual aid agreements and memorandums of understanding that facilitate the sharing of cost and expertise between councils. This may also help to enable the maintenance of specialist trading standards functions within smaller authorities. However, 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.
39. They are aware that in many councils (although clearly not all, given different council responsibilities), 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, they 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.

40. The LGA are bidding for resources to help with regulatory services reviews.

### **Recommendation**

41. The Committee is asked to note the information as contained within the report.