Protecting consumers

AUDIT SCOTLAND

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- issuing an annual direction to local authorities which sets out the range of performance information they are required to publish.

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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

£56 billion — Estimated amount spent by Scottish consumers in a year

1.3 million — People in Scotland who think they have reason to complain about goods or services bought in the last year

79 per cent — Food premises rated as broadly compliant for food hygiene by council food safety services in 2011/12

10 per cent — Approximate percentage of consumer spending in 2011 that was online
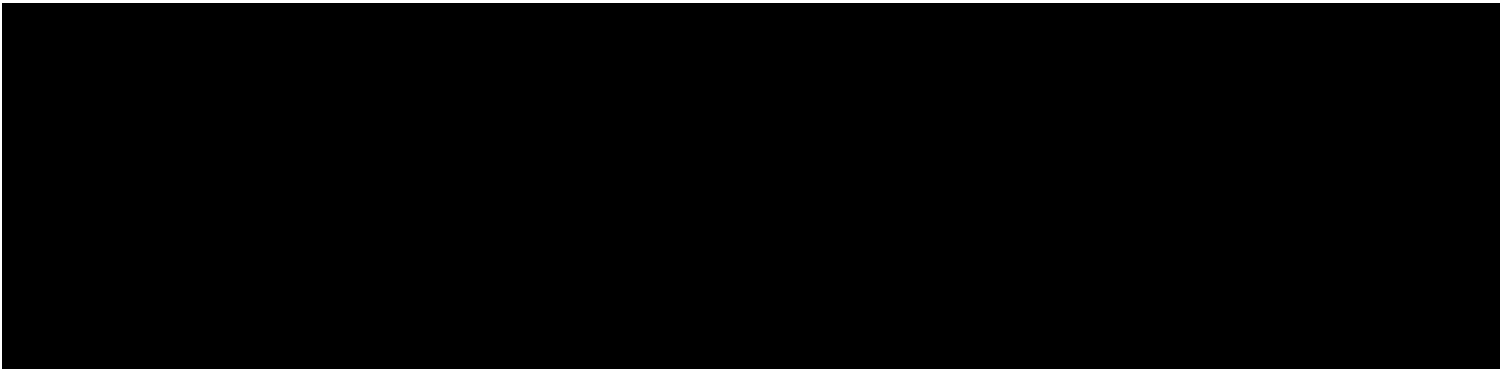
£7 per person — Estimated amount spent by councils on protecting consumers

35,000 — Consumer complaints and advice requests dealt with by councils' trading standards services in 2011/12

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
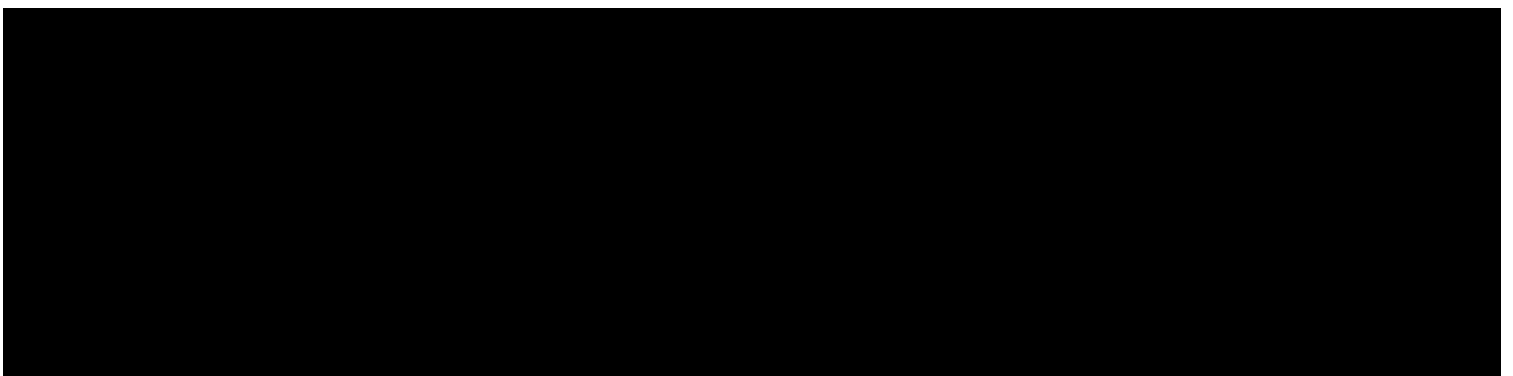
Key messages

- 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.

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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

Taking action to protect

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 actions[2]

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.

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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.

Food Standards Agency in Scotland

Scottish Food Enforcement Liaison Committee

Standards and priorities

Audit and monitoring

Council food safety services

Society of Chief Officers of Environmental Health Scotland

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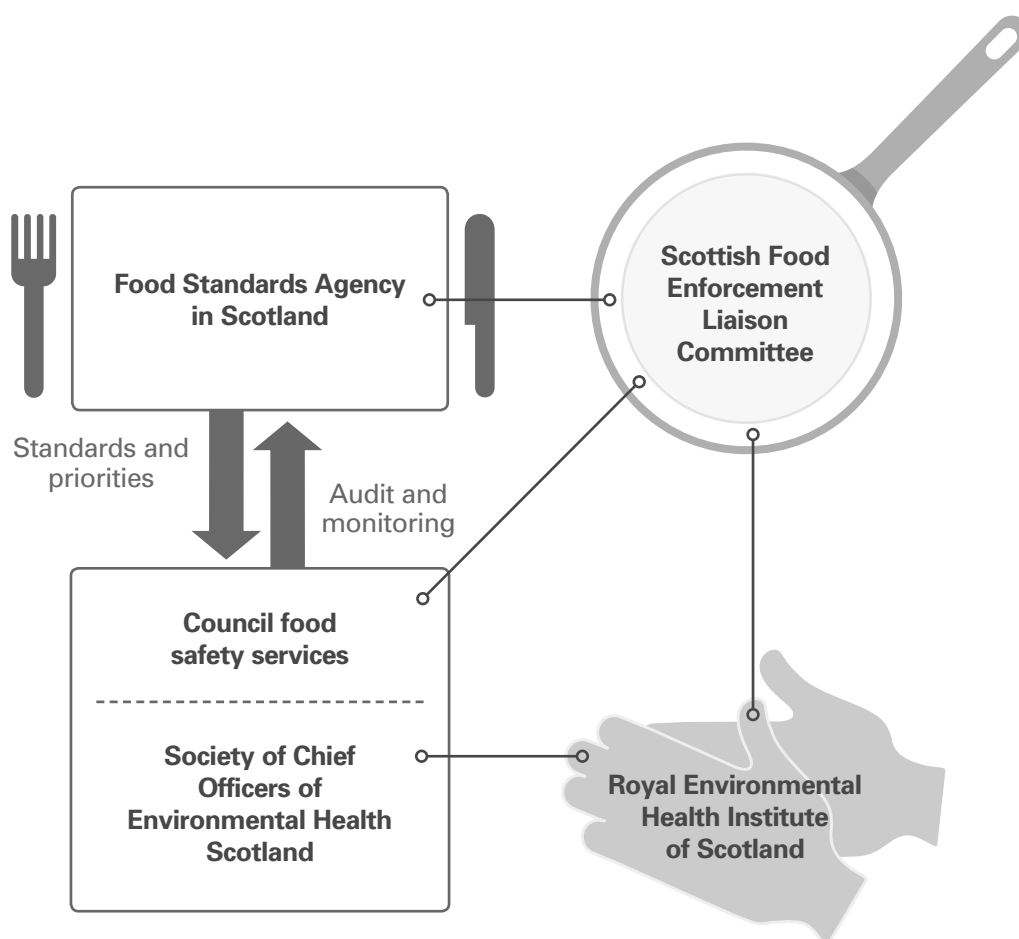
The Food Standards Agency in Scotland liaises with the Royal Environmental Health Institute of Scotland, the Scottish Food Enforcement Liaison Committee and councils to:

- 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.

Source: Audit Scotland

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.

Convention of Scottish Local Authorities

Society of Chief Officers of Trading Standards Scotland

- -

Council trading standards services (excluding animal health, feed and debt counselling)

Office of Fair Trading

Trading Standards Institute

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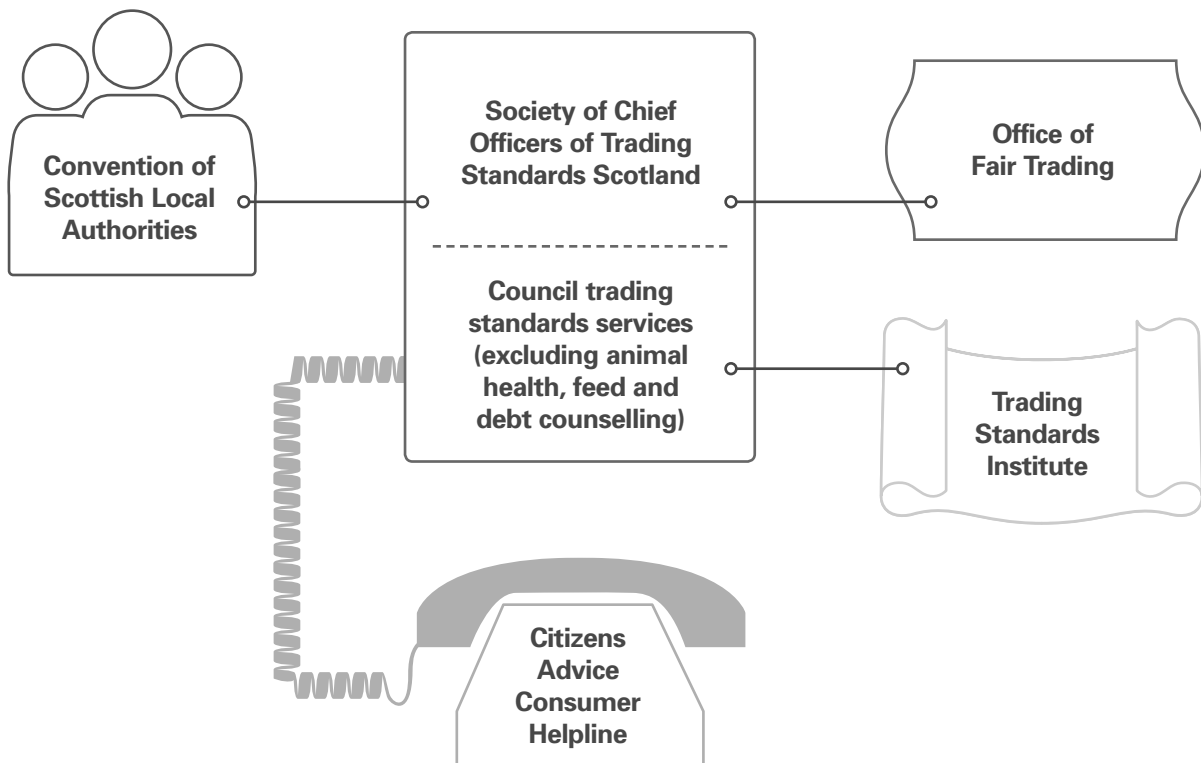
The Office of Fair Trading liaises with councils to provide information and guidance but it does not:

- agree Scottish priorities

- set standards for council services

- audit and report councils' performance

- report to councillors or senior council managers.

Source: Audit Scotland

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.

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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).

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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 standards[2]
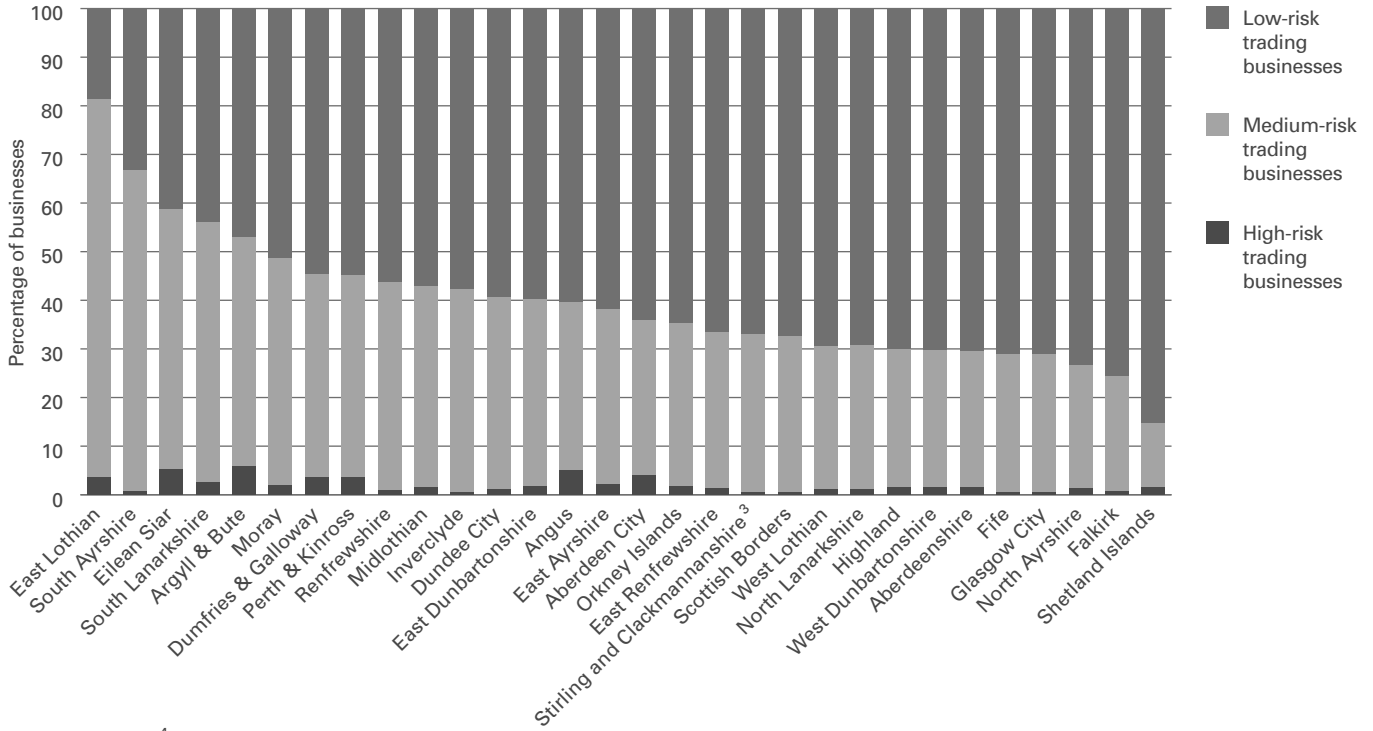
Food hygiene[4]
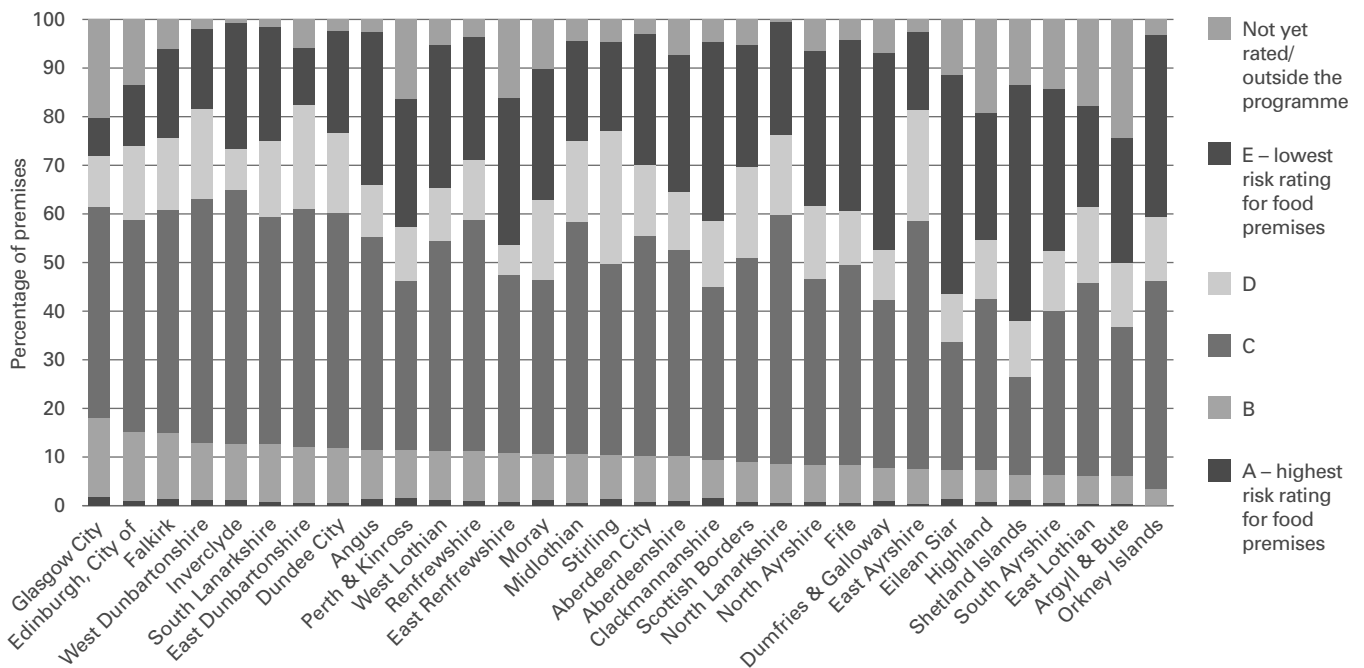
Notes:
1. Charts are sorted by the proportion of highest risks (rated high or medium by trading standards; rated A or B by food hygiene).
2. City of Edinburgh Council does not formally assess every business into these three categories.
3. Stirling and Clackmannanshire Councils operate a joint trading 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.
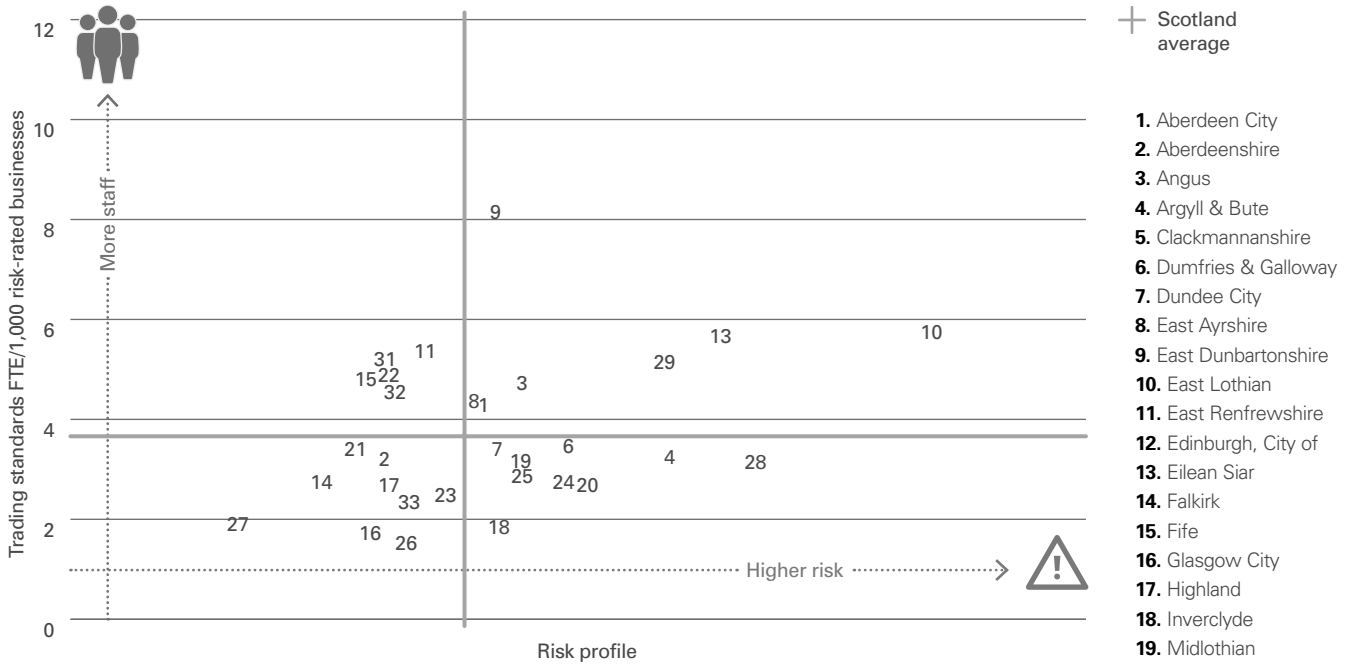18 Unpublished data provided to the Food Standards Agency by Scottish local authorities, 2012.
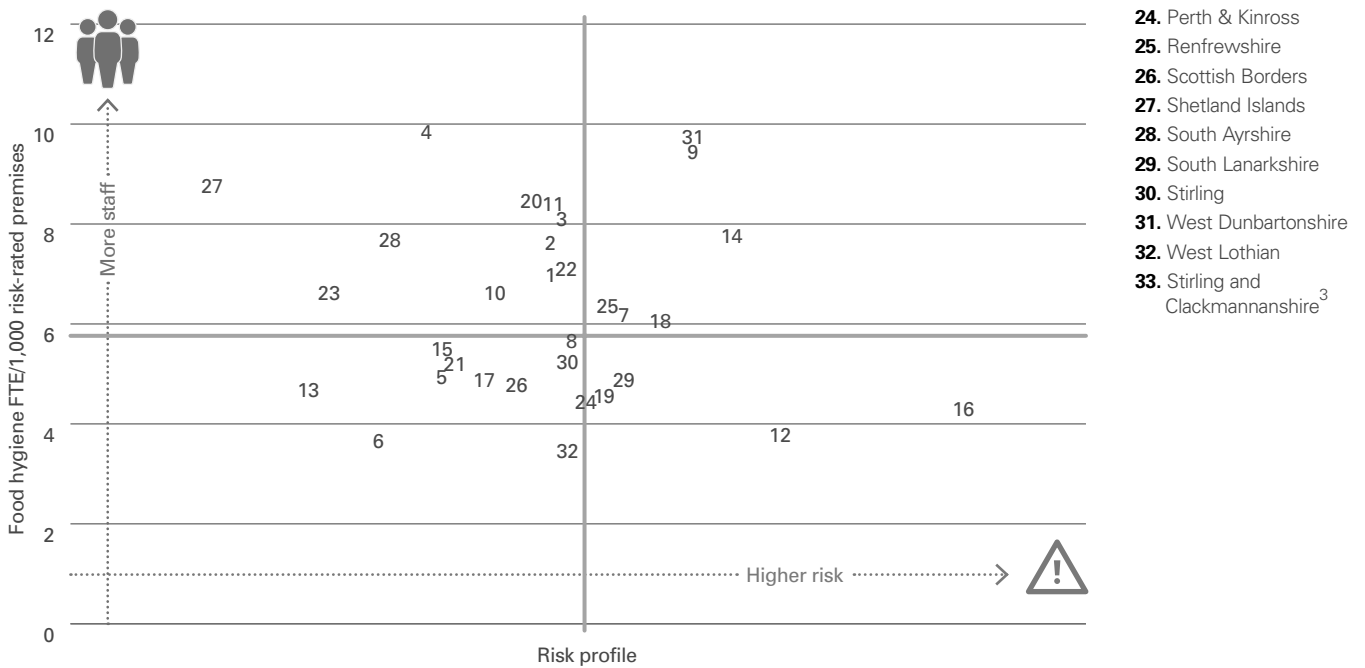
Exhibit 5
Relationship between number of council staff and risk profile of businesses, 2011/12
The staff resources allocated to consumer protection services do not relate directly to the risk profile of businesses.[1]

Trading standards[2]

Trading standards FTE/1,000 risk-rated businesses
More staff
Higher risk
Risk profile
Scotland average

Food hygiene

Food hygiene FTE/1,000 risk-rated premises
More staff
Higher risk
Risk profile

1. Aberdeen City
2. Aberdeenshire
3. Angus
4. Argyll & Bute
5. Clackmannanshire
6. Dumfries & Galloway
7. Dundee City
8. East Ayrshire
9. East Dunbartonshire
10. East Lothian
11. East Renfrewshire
12. Edinburgh, City of
13. Eilean Siar
14. Falkirk
15. Fife
16. Glasgow City
17. Highland
18. Inverclyde
19. Midlothian
20. Moray
21. North Ayrshire
22. North Lanarkshire
23. Orkney Islands
24. Perth & Kinross
25. Renfrewshire
26. Scottish Borders
27. Shetland Islands
28. South Ayrshire
29. South Lanarkshire
30. Stirling
31. West Dunbartonshire
32. West Lothian
33. Stirling and Clackmannanshire[3]

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 were [20]

- 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.
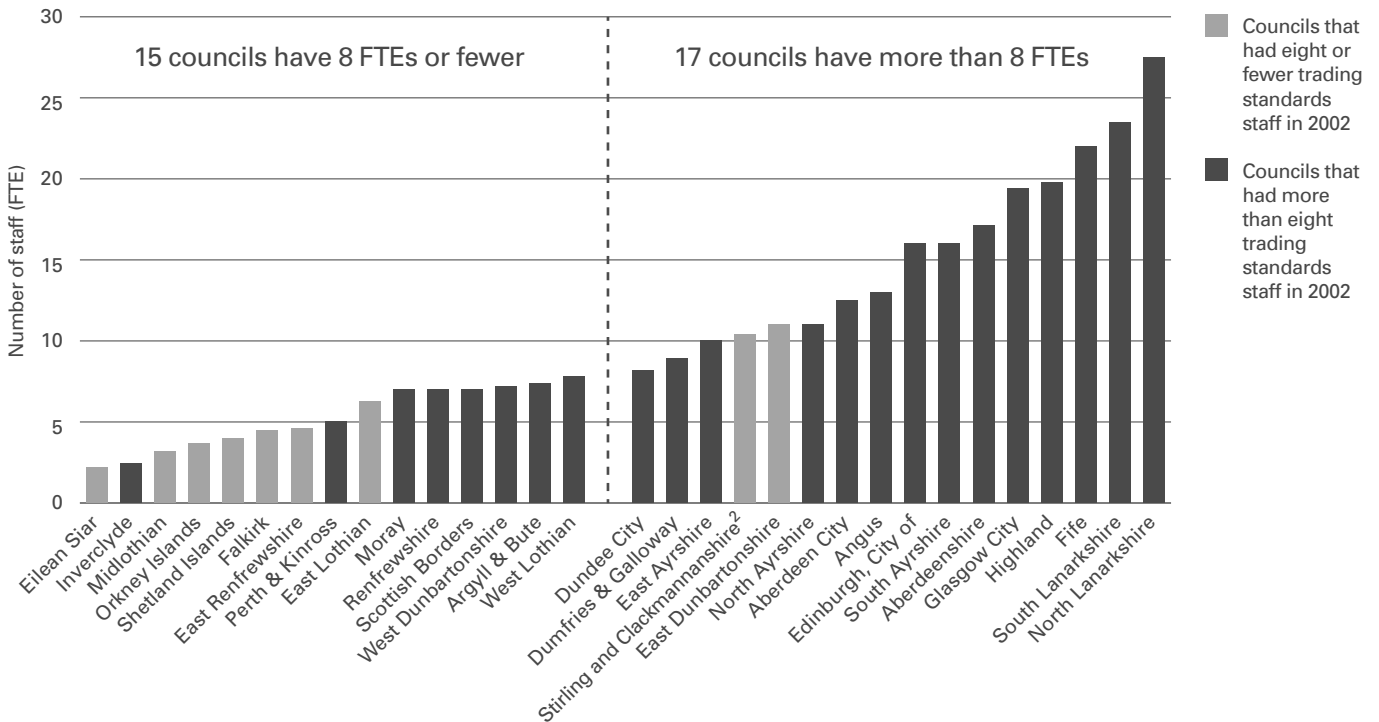23 *Made to measure: an overview of trading standards services in Scotland*, Audit Scotland, 2002. www.audit-scotland.gov.uk/work/local_national.php?year=2002
24 Review of single outcome agreements available in summer 2012, Audit Scotland.

Exhibit 6
The number of council trading standards staff, 2012
Nearly half of councils now have eight or fewer trading standards staff.[1]

Legend:
- Councils that had eight or fewer trading standards staff in 2002
- Councils that had more than eight trading standards staff in 2002

15 councils have 8 FTEs or fewer | 17 councils have more than 8 FTEs

Number of staff (FTE)

Councils (left to right): Eilean Siar, Inverclyde, Midlothian, Orkney Islands, Shetland Islands, Falkirk, East Renfrewshire, Perth & Kinross, East Lothian, Moray, Renfrewshire, Scottish Borders, West Dunbartonshire, Argyll & Bute, West Lothian, Dundee City, Dumfries & Galloway, East Ayrshire, Stirling and Clackmannanshire[2], East Dunbartonshire, North Ayrshire, Aberdeen City, Angus, Edinburgh, City of, South Ayrshire, Aberdeenshire, Glasgow City, Highland, Fife, South Lanarkshire, North Lanarkshire

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
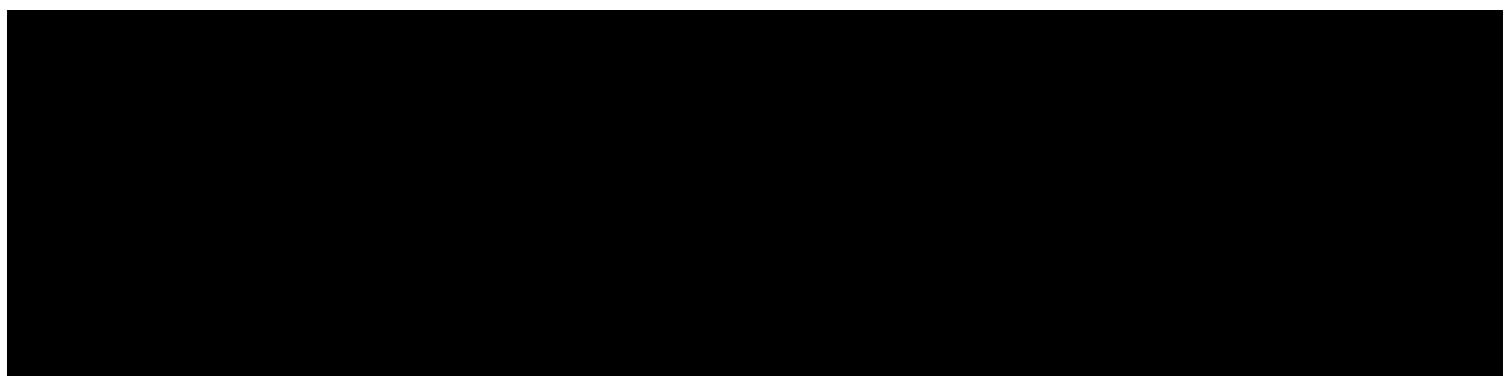
Key messages

- 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

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

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.

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

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.

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
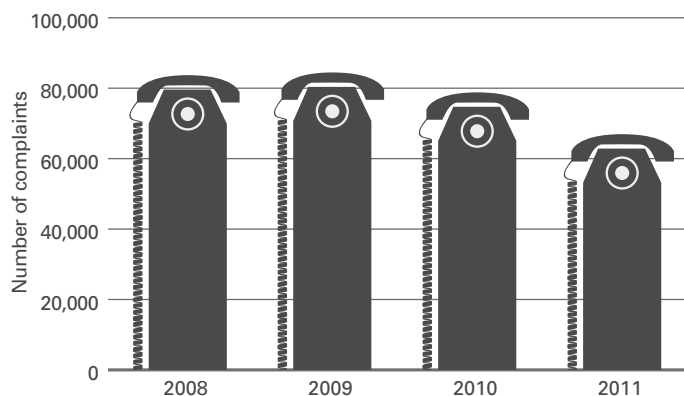
Consumer complaints handled by Scottish councils
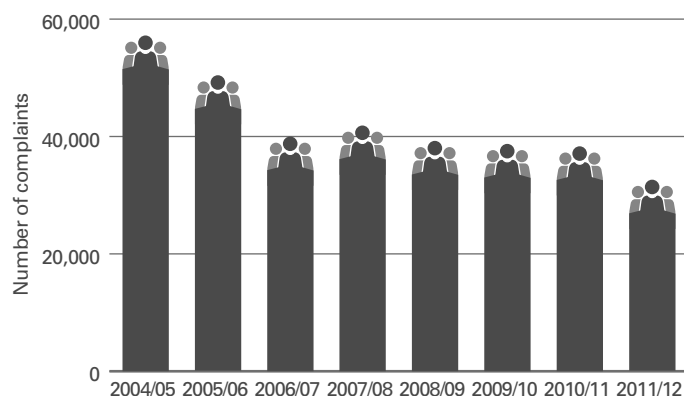
Source: Office of Fair Trading and Accounts Commission

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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).
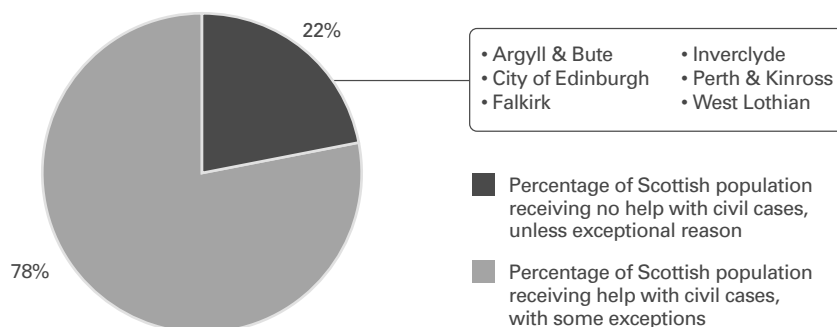
Consumers may be confused by the range of schemes to help them find a reliable business
66. There is also inconsistency and potential confusion for consumers in the help they get before buying services. Ten councils operate a 'trusted trader' scheme to help consumers choose a reliable business to buy services from, and a further ten are considering or planning to

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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.

22%

78%

• Argyll & Bute   • Inverclyde
• City of Edinburgh • Perth & Kinross
• Falkirk   • West Lothian

Percentage of Scottish population receiving no help with civil cases, unless exceptional reason

Percentage of Scottish population receiving help with civil cases, with some exceptions

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

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Case study 3
Consumers have different experiences when they need help, depending on where they live[1]

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

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33 Welfare Reform Act 2012. Most changes will come into force between 2013 and 2018.

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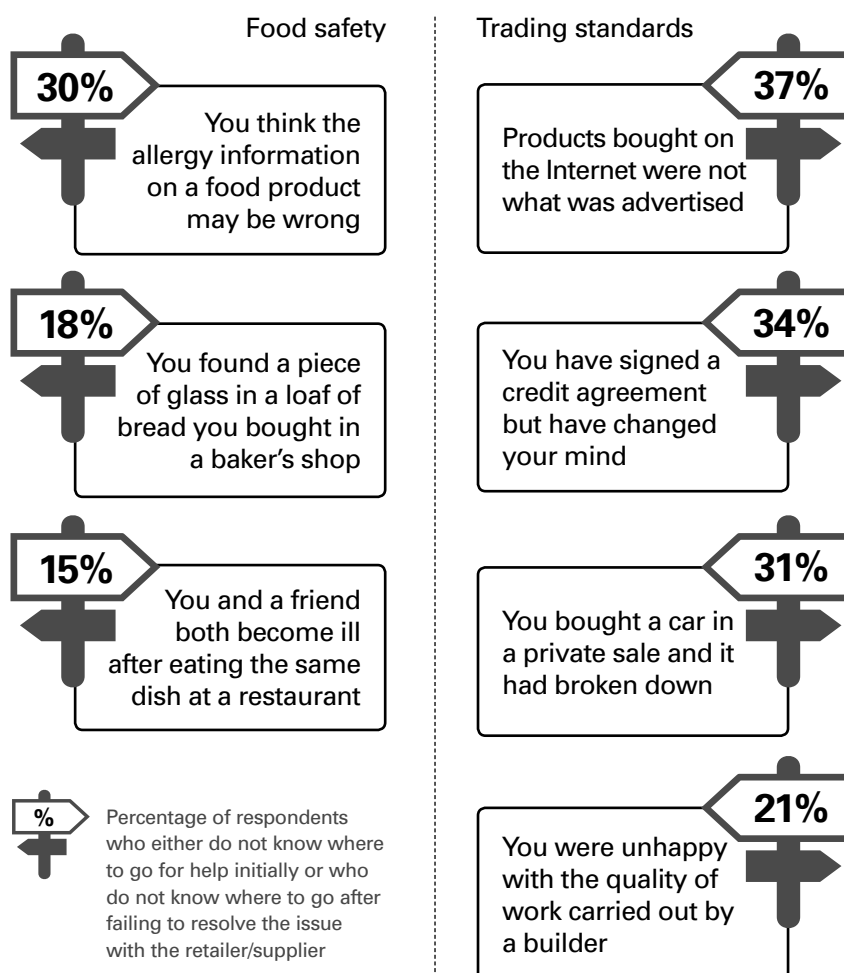36 The Citizens Advice Service (comprising Citizens Advice Scotland and Citizens Advice England and Wales) recently took over responsibility for running a national consumer helpline, which provides advice to consumers and refers any matters that need further help to councils' trading standards services.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

Food safety | Trading standards

30% You think the allergy information on a food product may be wrong

37% Products bought on the Internet were not what was advertised

18% You found a piece of glass in a loaf of bread you bought in a baker's shop

34% You have signed a credit agreement but have changed your mind

15% You and a friend both become ill after eating the same dish at a restaurant

31% You bought a car in a private sale and it had broken down

% Percentage of respondents who either do not know where to go for help initially or who do not know where to go after failing to resolve the issue with the retailer/supplier

21% You were unhappy with the quality of work carried out by a builder

Source: Audit Scotland

• 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]

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

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

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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.
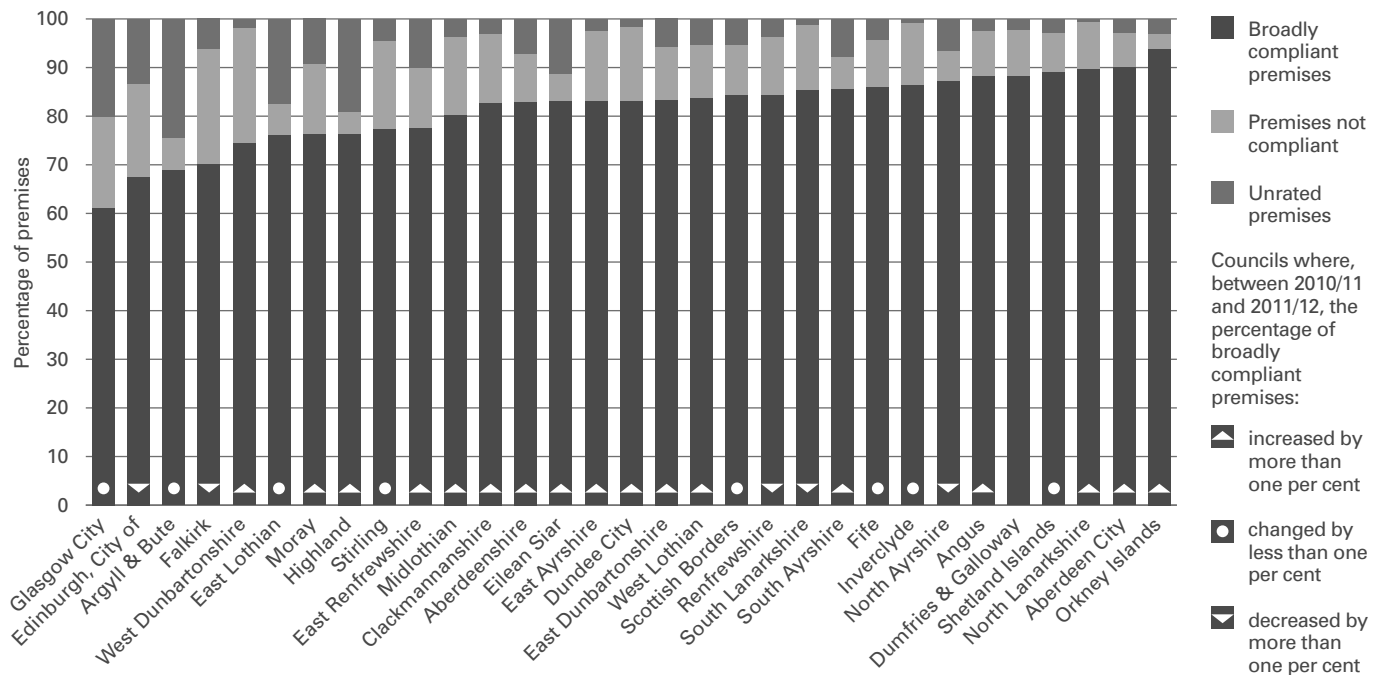41 The 2011/12 figure of 79 per cent includes all councils except Perth & Kinross, which did not provide data. The 2010/11 figure of 77 per cent includes all councils except Perth & Kinross and Dumfries & Galloway, both of which did not provide complete data. If data from Dumfries & Galloway are excluded, the 2011/12 figure would be 78 per cent.
42 Counting only a change of one per cent or more in compliance rates.

28

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.

Legend:
- Broadly compliant premises
- Premises not compliant
- Unrated premises

Councils where, between 2010/11 and 2011/12, the percentage of broadly compliant premises:
- increased by more than one per cent
- changed by less than one per cent
- decreased by more than one per cent

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?

Protecting consumers

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