



National Audit Office

**REPORT BY THE
COMPTROLLER AND
AUDITOR GENERAL**

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**Department for Business, Innovation and Skills, the Office
of Fair Trading and Local Authority Trading Standards Services**

Protecting consumers – the system
for enforcing consumer law

Key facts

£6.6bn

estimated annual
consumer detriment
from unfair trading

£4.8bn

estimated minimum
annual cost of detriment
occurring across local
authority boundaries

£247m

The cost of consumer
law enforcement in
2009-10

78%

of consumers in the
UK feel adequately
protected by consumer
protection arrangements

86 per cent of funding for enforcement is controlled by local authorities

**£240,000 –
£6,000,000** range of annual budgets for Trading Standards Services

45,200 average number of people per Trading Standards Officer in the
United Kingdom

£200,000 potential cost of a large and complex cross-border case

8 Regional Intelligence Officers

£6:£1 ratio of benefit to cost from Trading Standards Services fair
trading work

£42 million benefit to consumers from the Office of Fair Trading consumer
protection enforcement work

197 Trading Standards Services

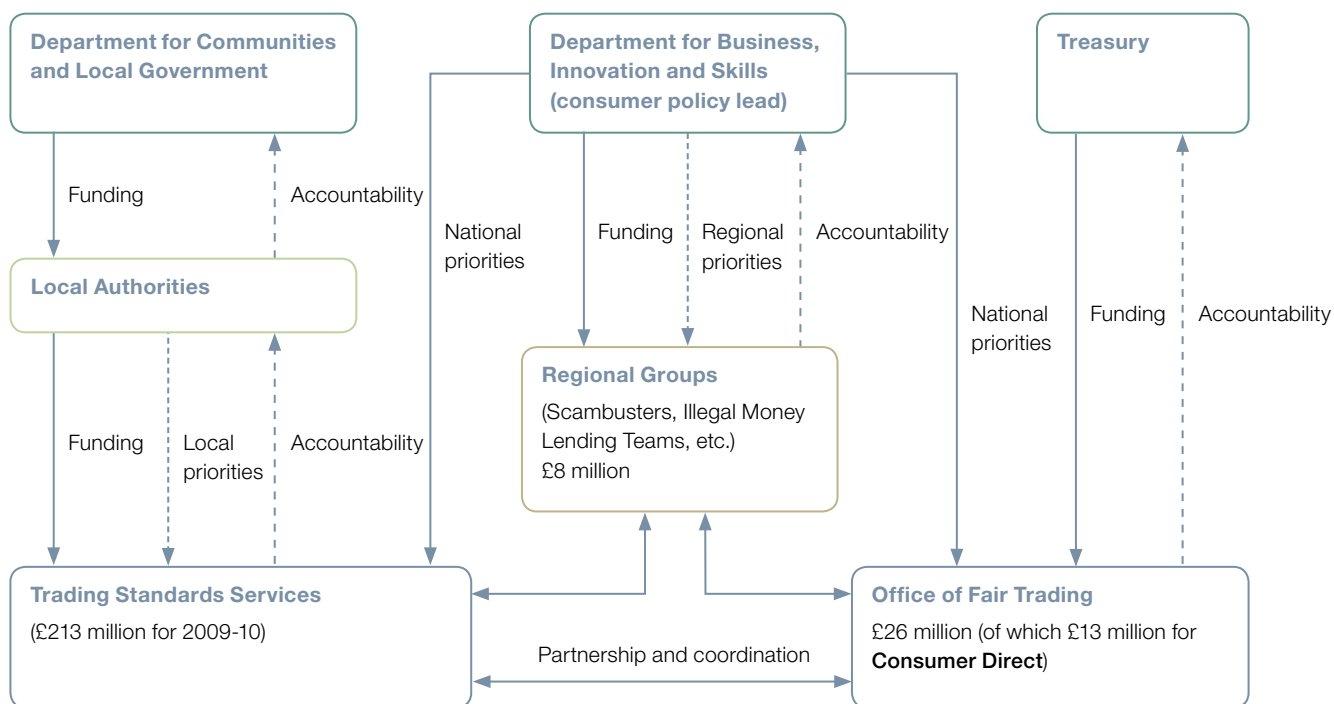
Summary

1 Consumer detriment occurs when a customer is accidentally or deliberately treated unfairly by a business. Detriment can be caused by activities ranging from unfair commercial practices, such as pressure selling, to scams where criminals operate behind the appearance of a legitimate business. The Government estimates the cost to those affected and the wider economy to be at least £6.6 billion annually. Detriment can undermine consumer confidence and adversely affect economic growth.

2 The responsibility for protecting consumers from detriment is spread across a large number of bodies in both central and local government. The Department for Business, Innovation and Skills (The Department) has overall responsibility for consumer policy. The majority of law enforcement is carried out by Local Authority Trading Standards Services, which received 86 per cent (£213 million) of the overall funding of £247 million for enforcement bodies in 2009-10, the latest year for which complete cost data is available (**Figure 1** overleaf). The Office of Fair Trading has responsibility for enforcing certain consumer laws at the national level.

3 There are also other bodies with some consumer protection responsibilities, such as the Food Standards Agency, and some sectors of the economy, such as financial services, have specialist regulators with consumer protection responsibilities. These are outside the scope of this report, as are the other regulatory activities of Trading Standards Services, such as work to improve regulation and encourage growth, and other functions, such as work on animal health and food standards.

Figure 1
The Landscape for Consumer Law Enforcement



NOTES

- 1 Total expenditure for Trading Standards Services covers all consumer activities. Fair trading enforcement costs are not reported separately, but the Department estimates these to be less than 50 per cent of the total.
- 2 The Office of Fair Trading has not provided details of its expenditure on consumer enforcement work. The Department estimates that this costs in excess of £13 million per annum.
- 3 The Local Better Regulation Office, although not included in the diagram above, has a responsibility to set National Enforcement Priorities.

Source: National Audit Office

4 Detriment can be localised, occurring within the boundaries of one local authority, or it can be cross-border, affecting consumers within several different, or indeed all, authorities. **Figure 2** gives an example of both local and cross-border detriment. Addressing detriment which is purely local in nature is the responsibility of individual local authorities and is not covered in this report. Cross-border detriment may be tackled by any of the enforcement bodies within the system: Trading Standards Services; the Department for Business, Innovation and Skills' regional projects; or, the Office of Fair Trading.

5 This report reviews how well the enforcement system as a whole operates to protect consumers. It focuses on the bodies that constitute the core system of consumer protection, as outlined in Figure 1, but it is not an assessment of the performance of the separate organisations within the system. This is because the various enforcement bodies are mutually inter-dependent. For example, enforcement weaknesses in a particular geographical area could allow rogue traders to operate out of that area and cause detriment more widely, thereby undermining the performance of the system as a whole. We have, therefore, assessed the cost-effectiveness of the system as a whole by examining whether system resources are used efficiently and targeted towards high risk areas where consumers are more likely to suffer greater detriment.

Figure 2

Examples of different types of consumer detriment

Weights and measures error (responsibility of local authority)

A trader sells a product by weight. The scales used to weigh the goods are faulty and consumers receive less than they paid for. This is the responsibility of the local Trading Standards Service.

Doorstep crime (Cross-border detriment: may require regional or national action)

Itinerant traders target an area with a number of elderly, often vulnerable, individuals and put pressure on them to accept unnecessary building work, even accompanying them to their bank to ensure payment for non-existent or very shoddy work. The traders then disappear, usually to another local authority area, and cannot be traced. Such traders may make several hundred thousand pounds in a short period of time, and may pass the consumer's details on to other criminals, for targeting again at a later date.

Source: National Audit Office

Key findings

The need to work collaboratively

6 The cost of detriment that needs to be tackled at the regional and national level is not routinely measured, but the data available suggests that it is in excess of £4.8 billion. It arises from large scams and intellectual property crime where offences occur across local authority boundaries (**Figure 3**). Doorstep crime perpetrated by itinerant traders is also a significant cause of consumer detriment but there are no reliable figures available to estimate the impact of this on consumers.

7 Although much detriment occurs at the regional and national level, incentives are weighted in favour of tackling local priorities. Eighty-nine per cent of respondents to our survey of Trading Standards Services have formal reporting arrangements with their local authority and 86 per cent of funding for enforcement is controlled by local authorities. Incentives and responsibilities for cross-border working are weaker. There can be strong cost and risk disincentives, especially for small Trading Standards Services.

8 Central government funding of £34 million for tackling cross-border detriment and coordinating local enforcement action is relatively low compared to the scale of the problem. A substantial portion of the overall resources for regional and national enforcement action is provided by Trading Standards Services. Central government therefore has few levers to directly influence the delivery of policy objectives.

Figure 3
Major Forms of Detriment

Type of Detriment	Description	Estimated annual cost
Mass market scams	A misleading or deceptive business practice where a consumer receives an unsolicited contact (for example, by email, letter, phone or advertisement) with false promises designed to con them out of money	£3.5 billion
Intellectual property crime	The sale of counterfeit goods, usually to fund organised crime	£1.3 billion
Doorstep crime	A trader who pressurises or tricks a consumer, while in the consumer's home, into paying inflated sums for unnecessary, bogus or shoddy work	No reliable figures available

Source: Office of Fair Trading, Cabinet Office, Local Authority Coordinators of Regulatory Services

9 Despite the disincentives, we found that some larger Trading Standards Services do take on substantial cross-border cases, although there is a risk that the projected reductions in resourcing will reduce their willingness to do so.

The Department estimates that annual funding for Trading Standards Services will reduce from its current level of £213 million to about £140 to £170 million by 2014, and some larger Trading Standards Services are likely to lose substantial resources. There is already considerable variation in the capacity and resourcing of Trading Standards Services, with some services having as few as two members of staff and others employing over eighty, but there is no required minimum standard of service in place to guard against weaknesses in coverage.

Measures to strengthen cross-border working

10 The Department has recognised the disincentives to address cross-border detriment and the variability in Trading Standards Services capacity, and has established regional projects to address potential enforcement gaps, but longer-term arrangements are currently inadequate. We found that the regional projects have brought additional capability to the system for tackling cross-border issues. However, three of the eleven Trading Standards Service regions have discontinued their regional enforcement teams, with no alternative plans in place for replacing this overall capability.

11 The Office of Fair Trading has introduced a database to help identify cross-border detriment, but more needs to be done to realise its full potential, and an alternative intelligence database has been set up by one Trading Standards Service region. The National Intelligence Management Database, introduced by the Office of Fair Trading in March 2010, allows data on potential detriment to be recorded and interrogated by enforcement professionals across the whole system. However, to date, only 50 per cent of the 197 Trading Standards Services across England have committed to using the Office of Fair Trading's database with 30 Trading Standards Services committed to using the alternative database.

12 The Department established a regional intelligence network to embed the use of intelligence and risk assessment within enforcement work, although there is no longer any central funding to sustain it. Good regional intelligence is vital for ensuring that cross-border enforcement work can be focused on the areas of greatest risk. However, three of the eleven Regional Intelligence Officers have been disbanded, and there are only short-term arrangements in place for most of the remainder.

13 The framework for prioritising and allocating cases, introduced by the Office of Fair Trading, is not being applied as intended. The Office of Fair Trading adapted the National Intelligence Model, a Police system, to coordinate case allocation. The Model has brought consistency in determining which type of cases should be resourced and demonstrates learning between different enforcement agencies. However, formal structures for supporting the Model are not fully in place in seven of the eleven regions and there is still a lack of clarity over who should be taking cases forward. This has resulted in the Office of Fair Trading being able to take enforcement action on only two of the fifteen cases referred on by Trading Standards Services over the last two years. In addition, 41 per cent of respondents to our survey of Trading Standards Services felt that the referral system between Trading Standards Services and the Office of Fair Trading was not effective.

Evaluation

14 The Office of Fair Trading has led the way in evaluating the impact of enforcement work. This is a difficult task because of the wide range of enforcement activities and the difficulty of gathering data. The methodology that the Office of Fair Trading has developed is being applied by about a fifth of Trading Standards Services and some of the regional projects, and demonstrated a benefit to cost ratio of about 6:1 for fair trading work conducted by Trading Standards Services in 2009. The methodology presents some challenges and further development is required.

15 Data on running costs and activity to assess efficiency is insufficient. The Chartered Institute of Public Finance and Accountancy collects annual returns from Trading Standards Services on costs and activity. Eighty-six per cent of Trading Standards Services returned information in 2008-09, but much of this was incomplete, and the reporting of costs was inconsistent. Our indicative analysis suggested that similarly-sized Trading Standards Services are operating at similar levels of efficiency, although larger services have more scope to deliver economies of scale.

16 It is impossible for policymakers to ensure that resources are being prioritised appropriately to address the areas of greatest risk to consumers because analyses of levels of consumer detriment are incomplete. Our analyses of the National Intelligence Management Database, and discussions with Trading Standards Services consistently identified doorstep crime as a major source of detriment, but there is no reliable estimate of its total cost.

Conclusion on value for money

17 The system for enforcing consumer law is not delivering value for money because the architecture in place to bring together what is a very fragmented delivery landscape is not functioning properly, and the Department has few levers to directly influence policy delivery. Moreover, the overall scale of consumer detriment, particularly that caused by doorstep crime, is not evaluated, meaning that resources cannot be allocated efficiently. Addressing the £4.8 billion of cross-border detriment effectively requires good coordination, the use of intelligence and risk assessment to direct resources, and evaluation of impact and outcomes. Some measures to achieve these are becoming embedded in the system, but their application is inconsistent, and in some cases short-term and piecemeal. Furthermore, funding for regional and national projects is low in the context of the size of the detriment being addressed. More can therefore be done to secure the overall cost-effectiveness of the system.

Recommendations

18 The Department for Business, Innovation and Skills is currently revising the organisational arrangements for consumer protection. We have therefore focused our recommendations on aspects of the system which need to be improved to ensure value for money, rather than making recommendations for specific organisations.

- a** **Accountability arrangements for achieving national priorities are unclear, demonstrated by poor performance reporting at the system level.** Where enforcement activities are local in nature, for example, preventing underage alcohol sales, it is right that these are subject to local accountability arrangements. However, enforcement work that is directed towards meeting national policy objectives should be supported by effective reporting and accountability arrangements. The Department must ensure it has sufficient cost and performance information to discharge its responsibilities for policy accountability and ensuring that the delivery model it has chosen is delivering value for money.
- b** **The governance arrangements for the consumer law enforcement system are not clear, as demonstrated by the development of two separate and incompatible national intelligence databases, and the Department has few direct levers to influence policy delivery.** The Department must ensure that the responsibilities of all bodies within the consumer law enforcement system are clear, and that there is a coherent overarching governance framework. There should be a common set of principles for all national, regional, and local bodies. The framework should also take account of the other responsibilities that the various bodies have, for example, the local priorities of Trading Standards Services.

- c** **The Department established an intelligence network, but it is at risk and three regions have not maintained a specific regional intelligence capacity.** Given the importance of intelligence in focusing activity on the greatest threats to consumers, the Department should set out how it will ensure that enforcement activity is risk-based in the absence of an intelligence network.
- d** **The National Intelligence Model has improved the coordination of activity across the enforcement system, but it does not specify which bodies have responsibility for taking on cross-border cases, and therefore does not ensure that all cases are accounted for.** The Department should ensure that coordination arrangements for system-wide case management specify who should take cases of national and regional importance.
- e** **Consumer Direct is a highly regarded source of data on the prevalence and nature of consumer detriment.** The Department should ensure that any reorganisation of the consumer complaints service maintains or enhances its value as an intelligence database, by preserving the current level of access given to enforcement professionals.
- f** **The level of spend on consumer law enforcement appears low compared to the estimates of detriment suffered by consumers, and there is no minimum standard to prevent enforcement gaps appearing.** The Department should establish what level of spend is appropriate for consumers to be adequately protected.