



National Audit Office

Report

by the Comptroller
and Auditor General

Department for Business, Energy & Industrial Strategy

Protecting consumers from scams, unfair trading and unsafe goods

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Department for Business, Energy & Industrial Strategy

Protecting consumers from scams, unfair trading and unsafe goods

Report by the Comptroller and Auditor General

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Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

13 December 2016

This report examines the performance of the UK consumer protection system since our 2011 review, and in the context of the threats currently facing consumers.

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Key facts

£14.8bn

estimated value of consumer detriment that needed to be tackled by consumer protection bodies in 2014-15

£165m

estimated cost of the consumer protection system in 2015-16

200

approximate number of different bodies in the consumer protection system

£1,160 billion spend by UK consumers on goods and services in 2015

36% proportion of non-food retail sales conducted online in 2015-16

56% reduction in Trading Standards officers since 2009

46% reduction in nominal budgets for local authority Trading Standards services since 2011

74 average age of a victim of a mass marketing fraud

£4,500 average financial loss per victim of a mass marketing fraud, aged between 75 and 79 years

Unknown impact of consumer detriment on the economy

Summary

1 UK consumers spend over £1,160 billion a year on goods and services. Confident and active consumers play a key role in driving vigorous competition between firms, which then compete to supply what consumers want at the most efficient price. Consumer confidence is vital for both effective markets and economic growth.

2 Consumer detriment occurs when a customer is accidentally, carelessly or deliberately treated unfairly by a business or trader. It can be caused by a wide range of activities ranging from unfair commercial practices, such as misdescribed goods or pressure selling, to scams where criminals operate behind the appearance of a legitimate business.

3 In 2015-16, consumers contacted the Citizens Advice consumer service nearly one million times to seek information on their consumer rights or advice on how to solve specific problems. However, when things go wrong, the effects on consumers can be significant and often include financial loss and psychological impacts; in more severe cases, they can lead to injury or death, for example, from unsafe products. Some 35% of all UK consumers had a consumer problem in 2015. The most vulnerable individuals in society are particularly at risk, for example from being repeatedly targeted by mass marketing scams and rogue traders. Examples of consumer detriment include losses from:

- **Unfair trading.** This is the most prevalent consumer issue, and can lead to significant individual detriment, for example caused by unfair contractual terms, misleading advertising, no access to redress, or high pressure selling. These problems may often be hidden from the consumer who will be unaware that they have suffered detriment.
- **Mass marketing scams, which are widespread and impact on the elderly and vulnerable.** A typical postal scam victim is 74 years old and living alone. Victims aged between 75 and 79 years lose an average of £4,500 each and many experience psychological problems as a result, requiring the assistance of social services. Criminals typically sell on victims' details, with National Trading Standards recently uncovering a list of over 500,000 names.
- **e-crime, which is the most recorded crime in the UK and can affect anyone.** High-volume low-value frauds, for example copycat websites, can involve individuals paying small amounts of money for a service that is free on the legitimate website. Investment fraud involves criminals defrauding wealthy individuals of large sums of money by selling non-existent investments.
- **Unsafe goods, which can cause injury and fatalities.** Common recent examples include make-up that contained carcinogens, counterfeit medicines, and electrical items which caught fire when charging. Counterfeit items are often sold at huge discounts to the legitimate product and may disproportionately affect the poorest in society.

4 The Department for Business, Energy & Industrial Strategy (the Department) has overall responsibility for consumer policy, with some aspects devolved to the Scottish Government. The majority of law enforcement is carried out by local authority Trading Standards services, funded through a centrally distributed revenue support grant (administered by the Department for Communities and Local Government in England and the devolved administrations in Scotland and Wales) and locally raised income such as council tax and business rates. National Trading Standards is funded by the Department and covers regional and national issues. Citizens Advice provides advice and education to consumers, and is the contact point for people who have experienced a problem. The Chartered Trading Standards Institute provides information to businesses on consumer protection legislation. The Competition and Markets Authority uses its consumer powers to tackle market-wide issues to support competition and consumer choice, and has lead responsibility for unfair contract terms and international consumer issues. Together, these organisations make up the consumer protection system and share responsibilities, including:

- enforcing consumer protection legislation;
- providing information, advice and education to business and consumers; and
- consumer advocacy.

5 Consumer law aims to protect people from consumer detriment. It covers areas such as unfair terms, advertising, aggressive practices, and basic contractual rights. The consumer bodies also use a wide range of other legislation, for example the Fraud Act 2006. Other agencies, such as the National Crime Agency, the Police Service and HM Revenue & Customs (HMRC) work with the consumer protection bodies on issues such as trader fraud and imported counterfeit goods.

Scope of the report

6 We evaluated the performance of the UK consumer protection system in our 2011 report *Protecting consumers – the system for enforcing consumer law*.¹ The report's findings prompted the government to introduce major structural and legislative changes to the consumer protection landscape. This report examines the performance of the system as a whole in the context of the threats currently facing consumers. It does not evaluate the value for money of the individual bodies within the system. It also covers the work of other parts of government where these have a material impact on the work of the consumer protection bodies.

1 Comptroller and Auditor General, *Protecting consumers – the system for enforcing consumer law*, Session 2010–2012, HC 1087, National Audit Office, June 2011.

7 We assess:

- the funding and responsibilities of the consumer protection bodies and the changing nature of commerce (Part One);
- how successfully the system identifies consumer threats, and the impact of consumer detriment (Part Two); and
- how effectively the system uses its resources to minimise the occurrence of consumer problems, and how it evaluates outcomes (Part Three).

8 The organisations that enforce consumer protection law also enforce other areas of law to the benefit of consumers, for example Trading Standards enforces laws on animal health and underage sales, and the Competition and Markets Authority enforces laws on competition. These are outside the scope of this report, but we treat them as important contextual factors. Consumer advice and advocacy have been devolved in Scotland, and are also outside the scope of this report.

Key findings

Funding of consumer protection

9 The Department does not routinely cost the consumer protection system but we estimate that it cost £165 million in 2015-16. Local Trading Standards services, funded at the local level, received £124 million. The Department funds Trading Standards at the national level (£14.8 million), as well as Citizens Advice (£18 million). HM Treasury funds the Competition and Markets Authority, which spent £6 million on its consumer protection work in 2015-16 (paragraphs 1.8, 1.9 and Figure 4).

Identifying consumer detriment and its impact

10 There is limited robust data on the overall scale of consumer detriment, but we estimate that consumers lost at least £14.8 billion in 2014-15. Detriment is difficult to estimate, in particular because in many cases, for example unfair terms, fraud or counterfeit goods, the consumer may be unaware of the detriment or unwilling to report it. Detriment caused by problems the consumer is aware of costs £10.6 billion annually. Using available data on doorstep crime, mass marketing scams and counterfeit goods we estimate hidden detriment is at least £4.2 billion. There are no robust data on the overall wider economic impacts of consumer detriment (paragraphs 2.2 to 2.7).

11 Consumers are facing increasingly complex and wide-ranging threats, in particular from the rise in e-commerce, and scams are becoming more targeted.

The UK's e-commerce market is the largest in Europe and the third largest globally. Consumers often have to give personal data for online transactions, increasing the risks of identity theft and fraud. Resolving problems may be more difficult when traders are based in different jurisdictions. Scams involving extracting personal information from the victim rose 21% in 2015, while Citizens Advice considers that up to one in six products advertised on some e-trading sites are potential scams (paragraphs 1.10 to 1.13).

12 The consumer protection bodies have improved data on consumer threats, but significant gaps still remain. Our 2011 report found major shortcomings in intelligence and data systems. Since then National Trading Standards has created a national intelligence team, all regions now have analyst support, and intelligence logs have risen by 70%. All our case study sites considered that the quality of intelligence has improved. However, there are still local authorities with no or few intelligence logs, the proportion of entries on product safety and e-crimes is low (5% and 3% respectively), and there are still issues with accessing other agencies' databases. Furthermore, consumer contacts to Citizens Advice, a critical source of data, have fallen by 18% in the last four years as consumers turn increasingly to social media to complain and self-help online tools (paragraphs 2.8 to 2.17).

Addressing consumer detriment

13 The Department has improved the overall coordination of consumer protection bodies. Our 2011 report found that the consumer protection system was very fragmented with poor overall system coordination. An integrated approach is now even more essential as commerce has become increasingly national and international. The Department created the Consumer Protection Partnership in April 2012, and key bodies now regularly share knowledge and intelligence, and coordinate work. The Department also created National Trading Standards to cover national and regional issues and establish system-wide case management (paragraphs 3.3 to 3.5).

14 The Department has little control over the majority of resources, making effective system prioritisation difficult. Prioritisation is necessary to use resources cost-effectively to address the highest areas of risk. Some 75% of funding is delivered locally, where local authorities have to balance resources with other services such as social care. We found local authority Trading Standards are incentivised to prioritise local issues, in particular safeguarding. A 2014 survey, shortly after the Department established National Trading Standards, found that only around 7% of local authority Trading Standards were able to organise their service to reflect national priorities. Furthermore, they have to enforce up to 263 different pieces of legislation, with little direction from government on the relative prioritisation of these (paragraphs 3.6 to 3.8 and Figure 4).

15 The loss of resource and downsizing of Local Trading Standards services have led to gaps in coverage at the local level. Effective consumer protection relies on sufficient coverage across the local level, in particular to prevent enforcement gaps. Local Trading Standards has lost 56% of full-time equivalent staff since 2009. Twenty services in England have reduced funding by over 60% since 2011 and some now have only one qualified officer. The funding of smaller services is no longer sufficient for them to undertake significant enforcement cases, and a number of our case study sites were concerned about the viability of their service. There is no consensus on the minimum service level needed to protect consumers adequately (paragraphs 3.10 to 3.15).

16 The system is addressing national and international issues better but long-term planning is insufficient. National Trading Standards, which the Department established in 2012, has prevented around 345 million worth of detriment to consumers since April 2014, with a cost-benefit ratio of around 12.6 to 1. It runs a number of specialist teams which address detriment such as mass marketing scams and the safety of imported products. However, funding of £13.5 million is small set against the size of the problem and annual budgeting prevents proper longer-term planning, with a heavy reliance on short-term staffing arrangements. National Trading Standards was unable to accept any new cases in the last third of the year due to a lack of resources. The Competition and Markets Authority estimates that its consumer enforcement work generates at least £74 million of direct financial benefits to consumers annually, at a cost of £6 million (paragraphs 3.16 to 3.21 and Figure 4).

17 Government's response has not kept pace with the growth in online consumer fraud. The Office for National Statistics estimates that there were 5.6 million incidents of online fraud and computer misuse in England and Wales in the year ending June 2016; the most prevalent recorded crime. Hosted by the City of London Police and funded by the Home Office, Action Fraud is the UK's national fraud and cybercrime reporting centre, and the National Fraud Intelligence Bureau is the national crime dissemination centre. However, responsibility for responding is complex and sits with many different parts of government, including with Trading Standards. National Trading Standards has supported cases leading to convictions of 83 defendants with over 60 years of custodial sentences and £400,000 of confiscation orders. However, Trading Standards has lost e-crime expertise at the local level, and has a low profile with the National Fraud Intelligence Bureau, receiving around only 5% of the total number of referrals. The National Crime Agency considers that government is being outpaced by cybercriminals (paragraphs 3.22 to 3.28).

18 The Department has created opportunities for a more preventative approach to consumer protection. The Department recently introduced legislation strengthening consumer rights and ability for self-protection when things go wrong, for example by clarifying the period within which a consumer can return an item, and including new provisions for digital products. The effectiveness of these measures is reliant on consumer and trader awareness of the law, which is currently low. The Department has also consulted on giving consumer protection bodies civil fining powers although it has not yet decided on the outcome. The Competition and Markets Authority uses civil fining powers widely to deter businesses behaving anti-competitively in its competition work (paragraphs 1.3, 1.15 and 3.20).

Evaluation of impacts and outcomes

19 There is no system-wide reporting of the impacts of consumer protection work. Individual consumer protection bodies report annually on the impact of their work, but the impact of the consumer protection system as a whole is not measured or reported (paragraphs 3.4, 3.17, 3.20 and 3.21).

Conclusion on value for money

20 The UK consumer protection system has made progress since our 2011 report and has a framework in place to enable further improvements. The Department has ensured better coordination, in particular by bringing the consumer protection bodies together in the Consumer Protection Partnership, and integrating case management across the system. Furthermore, individual consumer protection bodies have demonstrated that they have achieved good impacts with limited resources.

21 However, the nature of commerce is changing, and consumer detriment is increasingly national and international rather than local. The system has not yet adapted to these changes. The local level, which receives the majority of funding and where the Department has little influence, has suffered from declining status, significantly reduced capacity, and gaps in coverage which leaves consumers inadequately protected. Furthermore, the scale and sustainability of the response at the national level is limited relative to the problem being tackled and system-wide prioritisation of resources is difficult within the current arrangements. While the system improvements to date are welcome, the system as a whole is not yet demonstrating that it provides value for money.

Recommendations

22 Our recommendations are formulated to build on the work that the Department and the consumer protection delivery bodies have done since our last review, and are aimed at promoting greater system coherence across central government departments and local government. Many of these recommendations fall under the responsibility of the Department, but can be taken forward by the Consumer Protection Partnership where relevant, while some recommendations need to be implemented across government more widely:

- a The Department should ensure that detriment is estimated and reported regularly in a consistent manner.** This could involve a biennial evaluation commissioned and owned by the Consumer Protection Partnership covering analysis of both, problems that consumers are aware of, and available data on hidden detriment. It will ensure that all bodies have insight on the scale, distribution, and trends of consumer problems and can balance the response appropriately.

- b The Department should work with the Consumer Protection Partnership to continue to improve intelligence gathering and sharing across the system as a whole.** This should involve addressing any barriers to intelligence sharing, and in particular making full use of information from consumer contacts.
- c The Department should work with relevant departments, and the Department for Communities and Local Government, towards a shared understanding of risks to consumers.** The governance, accountability, and incentives should be aligned with the delivery of outcomes at the appropriate level in line with the risks identified. This should include setting clear and realistic expectations of what each body should deliver, alongside reporting progress, so as to ensure that system priorities are met alongside local priorities. It could also include representation of Local Authority Trading Standards on the Consumer Protection Partnership.
- d The Department should work with relevant departments, and the Department for Communities and Local Government, to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs.** This would help manage gaps at the local level and could include defining what a Trading Standards service is intended to deliver.
- e In the face of significant funding reductions, the Department should ensure that the most appropriate and cost-effective tool or intervention is available to the system as a whole, including new powers where appropriate.** This could involve, for example:
- Greater use of consumer advice and education to help prevent consumers falling victim to fraud.
 - Further improvements to consumers' ability to resolve complaints directly.
 - The introduction of civil fining powers as a strong deterrent against unfair trading (such as those used in the competition regime).
- f The Department should ensure that its delivery bodies can plan for a longer period than annually.** This should help build resilience into the system to facilitate better staff development and give greater confidence in dealing with cases that are expected to last longer than a year.
- g The Department, together with the Home Office and other government departments, should coordinate further their separate activities addressing consumer fraud.** In particular the Department can raise the profile of the work of Trading Standards. This should ensure a more coherent approach to dealing with consumer fraud, including clear roles in identification, response and reporting of detriment according to relevant skills, powers and resources across government, with fuller recording of the detriment identified and prevented.

Part One

The nature of commerce and consumer protection

1.1 This part examines the roles, costs and activities of the key organisations responsible for protecting consumers. It also examines the changing nature of commerce and associated threats to consumers.

The importance of consumer protection

1.2 UK consumers spend over £1,160 billion a year on goods and services. Confident and active consumers play a key role in driving competition between firms, which compete on price and quality to supply what consumers want. Consumer confidence is vital for both efficient markets and economic growth. Consumer law is designed to ensure consumers are given the right information to help them make informed decisions, protect them from experiencing problems with goods or services, including through unfair trading, and to help them gain redress when problems do occur.

Consumer detriment

1.3 Consumer detriment occurs in any instance where a consumer suffers as a result of being accidentally, carelessly or deliberately treated unfairly by a trader. The types of activities which can lead to consumers experiencing detriment are wide ranging, from low-impact problems, such as an established retailer selling faulty goods, to large-scale organised crime, such as mass-marketing scams and online fraud. Detriment can be caused by three broad activities:

- **Trader ignorance of the law.** A business may cause detriment because it is unaware of legal obligations, for example the need to refund consumers for faulty goods. UK traders currently have relatively low levels of awareness of consumer law compared with their European peers, although 79% of UK traders consider that their competitors comply with consumer law.

- **Unfair, misleading or aggressive trading practices.** Commercial practices are constantly changing. A business may cause consumer detriment by either knowingly, or unwittingly implementing a new business practice that falls foul of consumer law. For example ‘drip pricing’, where a business advertises a headline price for products bought online, but then adds incremental additional fees and charges during the purchasing process, resulting in the consumer paying a much higher price than originally advertised.
- **Deliberate dishonest or criminal activity.** Examples include organised crime groups selling investment products that do not exist, or traders extorting money from vulnerable individuals for poor quality house improvements, known as doorstep crime.

1.4 Consumer detriment usually results in financial loss, but can also include other factors such as stress, psychological impacts and, in the case of unsafe products, injury and even death (**Figure 1**).

Figure 1
Examples of the impact of consumer detriment

Detriment type	Case example
Illegal trading through pressure selling	A trader charged extortionate sums for shoddy repairs to roofs and drains and had been pressuring and intimidating residents. His victims included an 89-year-old war veteran from near Guildford who was cheated out of more than £42,000.
Mass marketing fraud	A 92-year-old woman who lives alone in Sutton was a victim of mail scams. She had been responding to prize draws for more than 10 years, spending an estimated £500 per month which amounts to a loss of around £60,000.
Unsafe goods	Five people were killed in a house fire caused by unsafe goods. A police representative said: “Following a joint investigation [we] have found that the most probable cause of the fatal house fire was an electrical fault involving a faulty charging device”.
Unfair trading	Sellers needing a quick house sale agreed to sell it to a business for £135,000. The business then reduced the offer to £94,000. The seller found another buyer who would pay £100,000, but the terms of the first agreement meant they could not sell to anyone else for six months unless they paid several thousand pounds of fees and charges.

Source: National Audit Office’s literature review

1.5 We examined how consumer detriment impacts on different demographic groups (**Figure 2**). While it can affect anyone, particularly when it comes to fair trading issues such as high pressure selling or misleading advertising, some groups are affected more by certain types of detriment. The elderly and vulnerable are particularly exposed to mass marketing fraud, doorstep crime and counterfeit goods. Children are particularly vulnerable to high-pressure selling and misleading practices. Younger people are disproportionately affected by detriment from purchasing goods online, and well-educated, wealthy individuals are targeted by high-value scams such as investment frauds.

The UK consumer protection system

1.6 The Department for Business, Energy & Industrial Strategy (the Department) has overall policy responsibility for consumer issues, with some aspects devolved to the Scottish government. Consumer law is contained in a number of pieces of domestic and EU legislation, and covers a wide range of issues such as basic contractual rights, unfair terms, distance selling, misleading advertising and aggressive practices. The Department discharges its responsibility for consumer protection through a number of delivery bodies at national and local level which collectively make up the consumer protection system. These organisations share responsibilities including:

- providing information, advice and education to consumers and businesses;
- consumer advocacy; and
- enforcing consumer protection legislation.

1.7 There are about 200 different organisations in the consumer protection system. The key bodies include: Trading Standards services; the Competition and Markets Authority; Citizens Advice; and the Chartered Trading Standards Institute, and we concentrate on these in this report. **Figure 3** on page 16 describes these bodies and their associated activities. **Figure 4** on page 17 sets out how each body is funded and its cost in 2015-16. Several other bodies also have important consumer protection functions. For example, the Advertising Standards Authority has responsibility for regulating advertising across all media and enforcing the Advertising Codes, which are based on relevant consumer protection from unfair trading regulations, and the Financial Conduct Authority protects consumers from harmful conduct in the financial services sector.

Figure 2

Examples of different types of consumer detriment

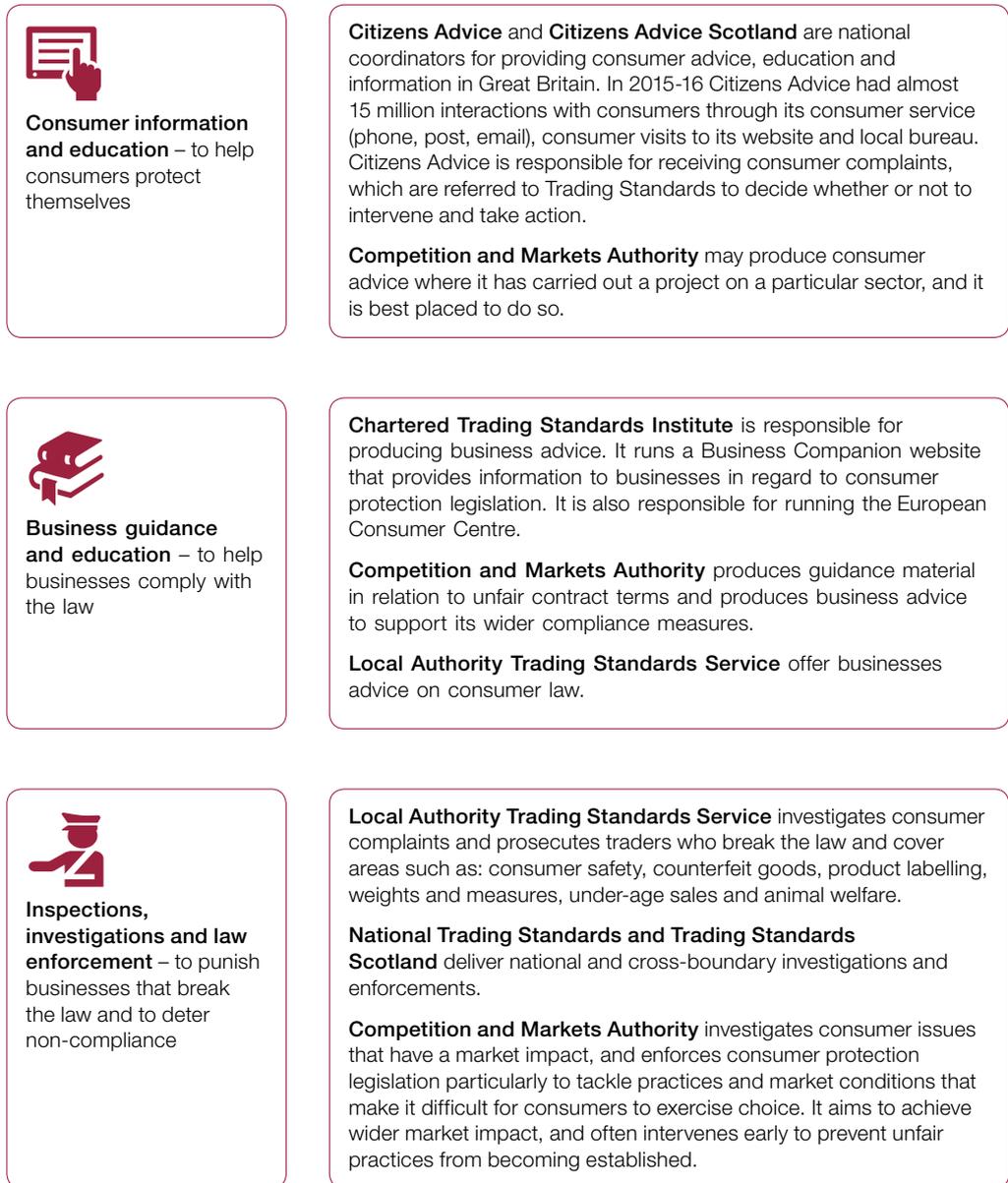
Different demographic groups are affected by different types of detriment

Detriment type	Examples	Who is at risk
Unfair trading: Consumer detriment caused by unfair business trading practices.	Supply of faulty goods or substandard service, no access to redress, unfair terms, misleading claims, high-pressure sales.	All consumers are at risk from unfair trading problems. A 2016 Citizens Advice consumer survey identified: <ul style="list-style-type: none"> • Some 35% of all UK consumers had a consumer problem in 2015. • Five sectors accounted for 75% of consumer detriment – TV, phone and internet, professional services, construction, home maintenance and property services. Poor quality service accounted for 45% of detriment suffered. • Younger people and the highest educated reported the most problems.
Mass marketing scams: Any uninvited contact by email, letter, phone or adverts, making false promises to con individuals out of money.	Lottery and prize draw scams, bogus product or services scams.	Older people living alone are those most at risk. National Trading Standards found: <ul style="list-style-type: none"> • The typical victim is 74 years old and living alone. • Older people lose the most from scams; victims aged between 75 and 79 lose an average of £4,500, and those over 85 years can lose even greater sums. • The Alzheimer's Society estimates that 15% of dementia sufferers in the UK, around 112,500 people, have been victims of nuisance phone calls, scam mail or mis-selling.
e-crime: Scams and fraud that take place on the internet.	Dating website scams, misleading or copycat websites, subscription traps, online shopping fraud.	Anybody who makes purchases online can experience problems. Online marketplaces have become increasingly popular and younger people appear most at risk. A 2015 Citizens Advice survey revealed: <ul style="list-style-type: none"> • Thirty-seven per cent of people who have purchased goods through an online marketplace in the past 12 months who expressed an opinion had encountered a problem. This represents an estimated 10.7 million people across England and Wales. • Younger people are disproportionately affected as 44% of 25 to 44-year-olds reported experiencing a problem compared with 30% of those aged 55 and above.
Unsafe goods: Counterfeit, dangerous or unsafe goods.	Toys, clothing, cosmetics, electrical appliances.	Every consumer is a potential victim. Typically (but not always), unsafe and counterfeit goods are cheaper and aimed at the vulnerable in society: <ul style="list-style-type: none"> • In 2015-16, National Trading Standards reported that 77% of all goods targeted for sample testing at UK ports were deemed unsafe or non-compliant. • Some samples of low-cost jewellery recently imported have contained 4,000 times the permitted level of the chemical cadmium.
Investment fraud: Criminals defrauding wealthy individuals of large sums of money by selling fictitious investments.	Gold, diamonds, fine wine, bonds.	Investment frauds are targeted at wealthy people who are looking to invest their savings in appealing investment opportunities. Those who are over 60 are particularly vulnerable to this type of crime: <ul style="list-style-type: none"> • UK-wide investment fraud reports to Action Fraud increased by 9.5%, from 2,910 in 2014-15 to 3,186 in 2015-16. • Figures from a police-led operation show that men aged 65 are the most likely victims of investment fraud.

Source: National Audit Office's literature review

Figure 3

Consumer protection activities and relevant bodies



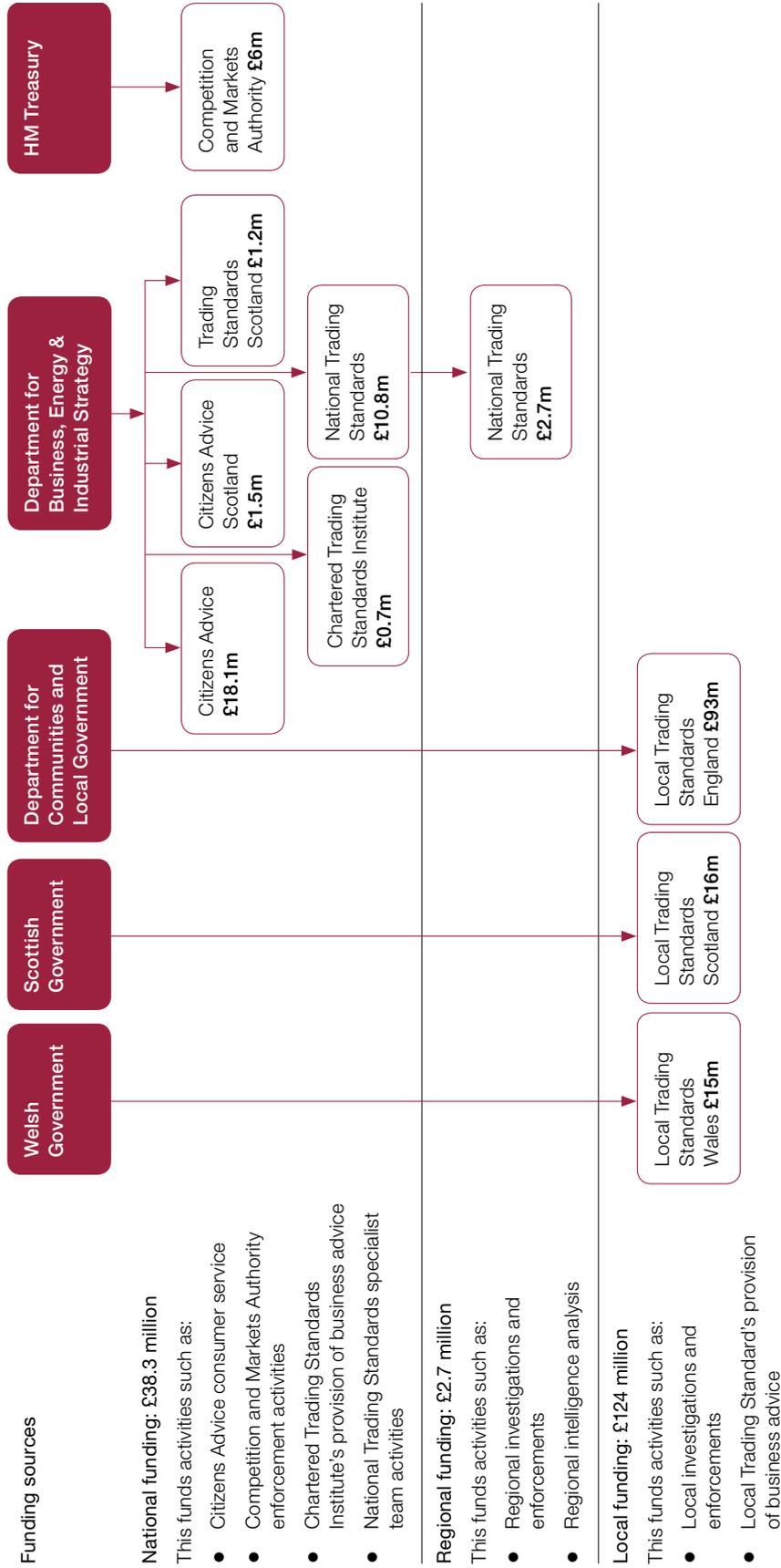
Notes

- 1 Some local authority Trading Standards services provide consumer information and business guidance.
- 2 The Citizens Advice consumer service can also provide advice to businesses on consumer law – it receives contacts from businesses who want to understand better their obligations to their customers and their own rights.

Source: National Audit Office data

Figure 4
Funding for the consumer protection regime in 2015-16

Seventy-five per cent of the funding goes to the local level



Notes

- 1 Figures have been rounded.
- 2 Not all local Trading Standards funding is spent enforcing consumer protection law. Some of this resource is used to fund other activities, for example food standards, animal health and underage sales.
- 3 The Department collects some £6 million of levy funding for Citizens Advice from Ofcom and Ofgem. There is other funding for example of sectoral regulators, which is not considered as part of the 'consumer protection regime' for the purposes of this report.
- 4 Local authority Trading Standards funding is also used on cross-border activities (for example, regional and national enforcements), but it is not possible to quantify this.
- 5 Funding for Citizens Advice Scotland has been devolved since May 2016.
- 6 The Department is the sponsor body for the Competition and Markets Authority.

Source: National Audit Office analysis of consumer protection bodies' data

Cost of the system

1.8 While some consumer problems, such as underage sales, usually involve a single trader and can be tackled locally, most consumer problems need a response at local, regional and national level. Figure 4 lists the different types of response and activity at each level, and the funding associated with it.

1.9 The government does not collect data on the overall cost of consumer protection but we estimate that the cost was £165 million in 2015-16. In 2015-16, the Department funded 21% of the system, with the remaining 79% coming from the Department for Communities and Local Government, HM Treasury, and the Welsh and Scottish governments, with further funding through local taxes and revenue. Local authorities decide the level of funding to provide to individual Trading Standards departments, balancing resources with other services such as social care.

The changing nature of commerce and potential consumer detriment

1.10 The nature of commerce and associated risks to consumers have changed markedly in recent years, in particular with the rise in online commerce and peer-to-peer trading. Commerce has also become far less local, with greater distance and complexity of supply chain between trader and consumer.

1.11 Some 36% of non-food retail business is now conducted online, and the UK e-commerce market is the largest in Europe and the third largest globally. Retailers do not need a physical shopfront to trade and manufacturers can more easily bypass intermediary traders and sell directly to the end consumer. However, other businesses such as price comparison websites and review sites have become established. Consumers are increasingly purchasing products online from overseas sellers, and between 2011 and 2014 the number of small parcels passing through UK customs increased by 48%.

1.12 Consumers also often have to give personal data and payment details for online transactions with the consequential risk of theft. Scams involving extracting personal information from the victim rose 21% in 2015. It may also be more difficult for consumers to resolve issues from online traders based in different jurisdictions. For example, smaller e-commerce traders often outsource fulfilment of orders to larger companies or to dedicated fulfilment companies. The growth in cross-border activity also makes it more complicated for consumers and consumer protection bodies to identify traders, their location and the applicable jurisdiction in which to take enforcement action.

1.13 Online marketplaces have become popular with more than 30 million people in England and Wales buying at least one item this way over the past 12 months.² As transactions are often between private individuals, the purchaser is not protected by many of the consumer rights that would apply if the purchase were from a trader. Citizens Advice consider that up to one in six products advertised on some e-trading sites are potential scams.

The changing landscape

1.14 We examined the performance of the UK consumer protection system in our 2011 report *Protecting consumers – the system for enforcing consumer law* and found that the overall system to bring together the delivery bodies was not functioning properly.³

1.15 The Department subsequently disbanded the Office for Fair Trading and gave the majority of its responsibilities to Citizens Advice, the newly created Competition and Markets Authority, the Chartered Trading Standards Institute and National Trading Standards. We described the changes in detail in our 2014 report *Update on the consumer protection landscape reforms*.⁴ The Department has also updated and consolidated consumer law by replacing three major pieces of consumer legislation – the Sale of Goods Act, Unfair Terms in Consumer Contracts Regulations and the Supply of Goods and Services Act – with the Consumer Rights Act, in place from October 2015. The act aims to strengthen consumer rights, for example by clarifying the period within which a consumer can return an item, and including new provisions for digital products.

1.16 This report examines the changes made since 2011 and the value for money of the current arrangements in the context of the changes in commerce and associated threats to consumers.

² Citizens Advice, *Peer Problems – An assessment of the consumer experience of online marketplaces*, 2015.

³ Comptroller and Auditor General, *Protecting consumers – the system for enforcing consumer law*, Session 2010–2012, HC 1087, National Audit Office, June 2011.

⁴ National Audit Office, *Update on the consumer protection landscape reforms*. April 2014.

Part Two

Identifying consumer detriment and its impact on consumers

2.1 To ensure that consumer bodies focus their work on areas of high risk to consumers they need robust and reliable data on the prevalence and nature of consumer detriment. This part examines the overall scale of consumer detriment and how consumer threats are identified.

The scale of consumer detriment

2.2 Government needs an understanding of the scale of consumer detriment to inform its resourcing decisions, and to monitor the impact of its interventions. Estimating the scale of consumer detriment is difficult and poses a number of methodological challenges. We therefore split our analysis into three areas, each depending on the robustness and availability of data. These include:

- detriment that consumers are aware of;
- hidden detriment; and
- the wider economic impact of consumer detriment.

2.3 For detriment that consumers are aware of we analysed Citizens Advice data gathered from a March 2016 face-to-face survey of over 1,600 individuals. The survey covered all consumer problems that each individual had had over the previous 12 months, including direct financial costs, any financial redress, and work and leisure time lost as a result of resolving problems.

2.4 The gross financial cost of detriment to UK consumers was £19.6 billion. Against this, consumers had received around £9.0 billion in compensation or redress, giving a net direct financial cost to consumers of £10.6 billion. This estimate is based on survey data and only includes the direct financial cost of problems that consumers are aware of; it excludes the cost of non-financial impacts such as inconvenience or stress. Alongside the direct financial cost, consumers lost around 279 million hours of work and 742 million hours of leisure time.

2.5 Consumers may also suffer detriment that they are not aware of, for example if they buy fake lottery tickets or are influenced by a blog that contains hidden advertising. We examined various literature and intelligence data to identify the different types of hidden detriment, and to estimate their impact. The main forms of detriment that we were able to quantify are:

- doorstep crime at £442 million a year;⁵
- mass marketing scams at £3.5 billion per year;⁶ and
- fake and counterfeit goods at a minimum of £287 million a year.⁷

2.6 The basis used for each of these estimates is different, some of this detriment will have been counted elsewhere, and there are many other types of hidden detriment for which there is insufficient data to form an estimate. However, the combined estimate of £4.2 billion gives an approximate lower bound for the level of hidden consumer detriment in the economy.

2.7 Consumer detriment also has an impact on the wider economy because it affects consumers' confidence in fair trading and the strength of competition between providers. This effect is known as 'structural detriment' and is a loss of consumer welfare due to market failure, for example when a consumer does not have enough information to make an informed choice. The scale of structural detriment is unknown and there are, as yet, no established methods or data for measuring it. **Figure 5** overleaf gives a description and the scale of the different categories of detriment.

Identifying consumer problems

2.8 Consumer bodies need intelligence on where and how consumers are experiencing problems to focus system resources on the areas of greatest risk and to identify systemic issues. **Figure 6** overleaf gives an example of the value of this intelligence-led approach.

2.9 We examined two principal sources of data: how consumer protection bodies use consumer complaints data, and the intelligence generated by consumer protection officials. We also looked at how consumer protection bodies use other data sources such as other agencies' databases, market studies by the Competition and Markets Authority, public calls for information, and media monitoring.

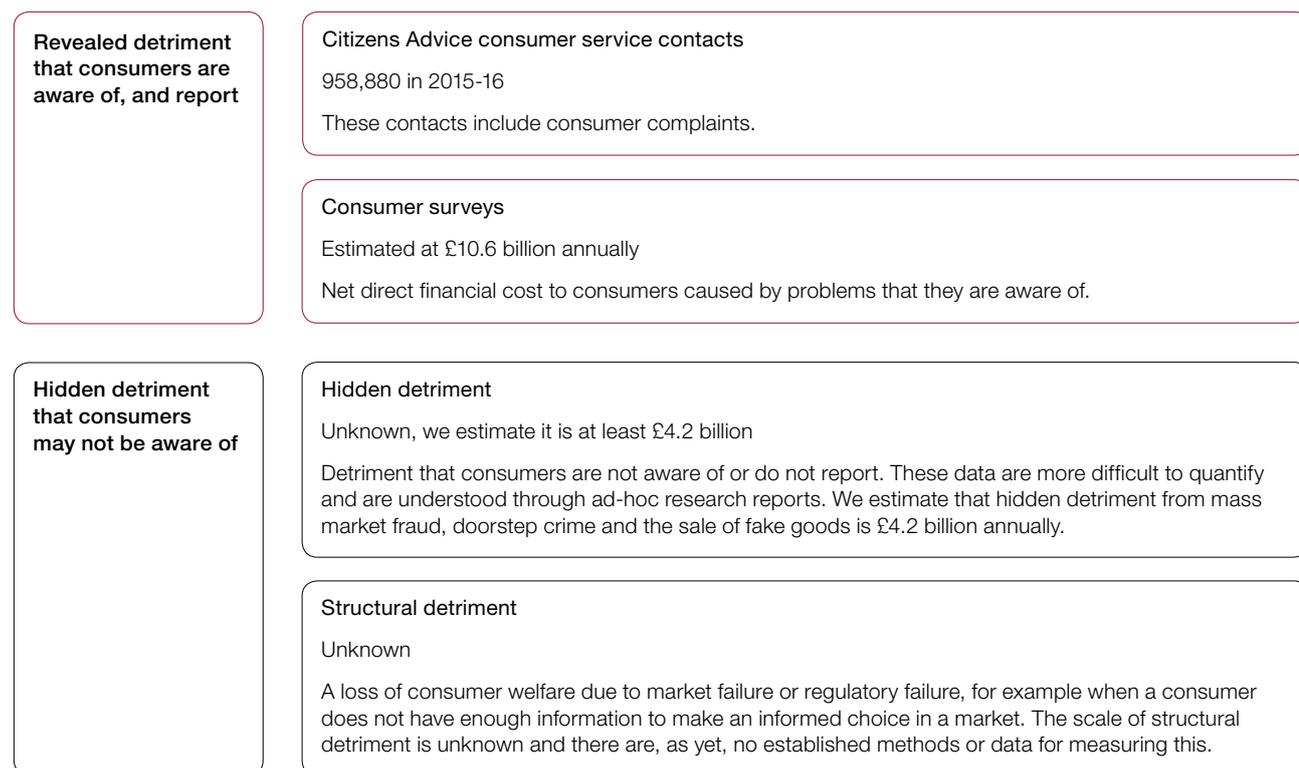
⁵ National Trading Standards, *Doorstep Crime Project Report 2014-15*, March 2015.

⁶ RAND Europe, *National Trading Standards - Scams Team Review*, 2016.

⁷ *TS Today*, June 2014, Volume 123, Issue 6.

Figure 5 Measuring consumer detriment

Consumer detriment in 2014-15 was at least £14.8 billion



Source: National Audit Office literature review and analysis

Figure 6 The use of intelligence in informing consumer protection work

Car rental

From an analysis of Citizens Advice data, the Competition and Markets Authority identified that consumers were suffering ongoing unfair trading issues when renting cars both in the UK and across Europe. The main issues were: unauthorised payments and failure to refund deposits; disputes over charges for damaged vehicles; and price transparency concerns. It subsequently led an EU-wide project with consumer protection counterparts in other EU member states, leading to five companies committing to improve the way that they deal with their customers, as well as the main UK car rental trade body agreeing to revise its code of practice. The Competition and Markets Authority estimates that this case has prevented over £100 million of potential detriment to UK consumers.

Doorstep crime

National Trading Standards was able to identify and link key criminals engaged in doorstep crime with their associates and assets using details recorded on the Trading Standards intelligence databases. The intelligence demonstrated that the criminals were highly organised, operated regionally and nationally, with some presenting a significant danger to the public. National Trading Standards entered the data onto the National Crime Agency's organised crime group mapping database which can be accessed by other law enforcement agencies.

Source: National Audit Office

Consumer complaints data

2.10 Complaints data are a very useful source of information on the prevalence and nature of detriment which is visible to consumers, such as poor quality service or faulty products. Since April 2012, Citizens Advice and Citizens Advice Scotland have been the single point of contact for consumers. Citizens Advice refers cases to the relevant consumer protection body, usually Trading Standards, when it believes that further action is required, as well as providing access to the database. We found these referrals are the primary data source used by local authority Trading Standards services to develop an understanding of consumer problems in their area and for driving their activity. Other consumer protection bodies also make significant use of Citizens Advice data. For example, it informs the work of the Competition and Markets Authority and the National Trading Standards annual intelligence strategic assessment. Citizens Advice also has other potentially useful data on consumer issues from other interactions with consumers on its website, and locally.

2.11 Over the four-year period from 2012-13 to 2015-16, the overall number of consumer contacts to the Citizens Advice consumer service (the primary point for consumer complaints) fell by 18% from around 1.2 million to just over 950,000 (**Figure 7** overleaf), with consumers increasingly using Citizens Advice's website self-help pages. Furthermore, recent studies have found consumers are finding new ways to complain, with one in four social media users in the UK using this platform to make a complaint in 2015, and 65% of people believing social media was a better way to communicate with companies than call centres.^{8,9} Our case study visits and other stakeholders we interviewed were concerned about the impact of the decline in consumer complaints data on the data they use to identify and understand consumer issues, and therefore on their ability to respond.

2.12 The Competition and Markets Authority has recently acquired a social media monitoring tool to enhance its ability to identify current and emerging areas of consumer concern. Tools for monitoring social media are not routinely used by Citizens Advice or local authority Trading Standards.

Data from consumer protection officials

2.13 The other main source of data on consumer detriment is enforcement professionals, including agencies such as the police. These data can identify detriment that consumers are not necessarily aware of, such as misleading advertising, or detriment that consumers may not like to complain about, such as romance frauds. Our 2011 report found serious shortcomings in the way consumer protection bodies recorded data and intelligence. The system did not report intelligence consistently, there were two unlinked databases, and the network of intelligence officers and analysts was not functioning as intended.¹⁰

8 The Institute of Customer Service, *Service Goes Social: how organisations can deliver customer service through social media*, July 2015.

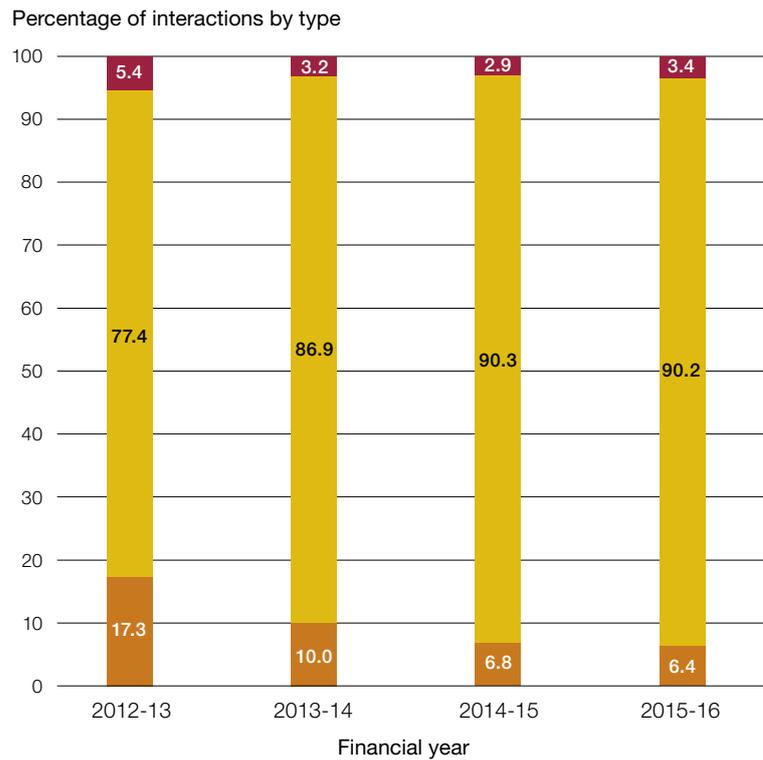
9 Fishburn Hedges and Echo Research, Research report, 2012.

10 Comptroller and Auditor General, *Protecting consumers – the system for enforcing consumer law*, Session 2010–2012, HC 1087, National Audit Office, June 2011.

Figure 7

Consumer interactions with Citizens Advice, 2012-13 to 2015-16

Consumers are changing the way they seek to resolve problems



Absolute number of interactions by type

Local bureau	362,224	350,754	431,972	500,944
Website	5,223,912	9,636,574	13,236,939	13,423,786
Consumer service	1,167,145	1,107,475	994,319	958,880

Notes

- 1 Website figures represent individual consumer page views on the Citizens Advice website.
- 2 Consumer Service figures represent the total number of contacts addressed by Citizens Advice by phone, email and post for England, Wales and Scotland. Contacts can include consumer requests for advice or consumer complaints which are referred to the relevant consumer protection body, usually Trading Standards, when further action may be required.
- 3 Local bureau figures represent the number of issues coded as consumer in Citizens Advice bureaus across England and Wales.

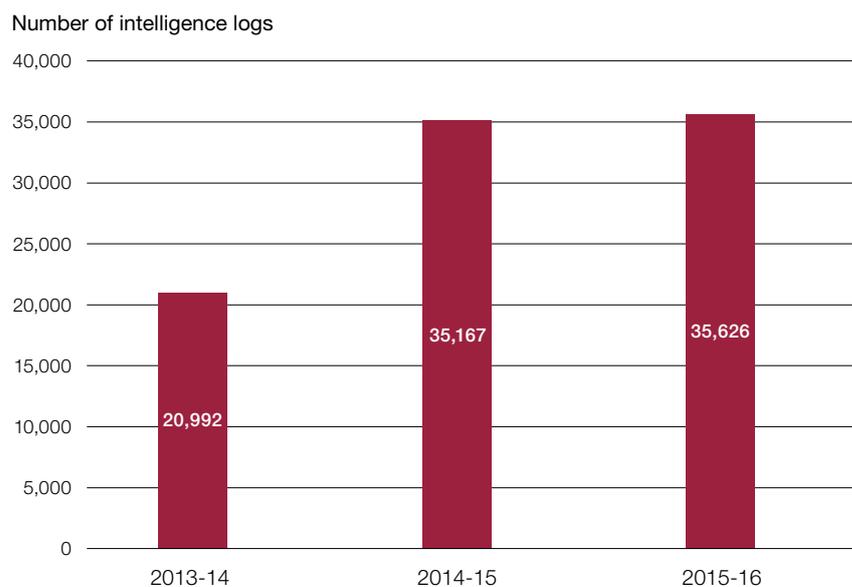
Source: National Audit Office analysis of Citizens Advice data

2.14 Since 2011, the Department for Business, Energy & Industrial Strategy (the Department) and National Trading Standards have improved intelligence gathering and analysis. In 2013, National Trading Standards developed an intelligence operating model – a framework enabling local authority Trading Standards to adopt a consistent intelligence-led approach to enforcement. By April 2014, 97% of local authorities had committed to implementing the model while 56% had already implemented it. All of our case study local authority Trading Standards services were following this intelligence-led approach. The adoption of the model and increased awareness of the importance of gathering intelligence led to a 70% increase in the number of intelligence logs recorded in England and Wales between 2013-14 and 2015-16 (**Figure 8**).

Figure 8

Local authority Trading Standards intelligence logs, 2013-14 to 2015-16

The total number of intelligence logs recorded by Trading Standards has increased by 70% since 2013-14



Note

1 Data represents England and Wales only.

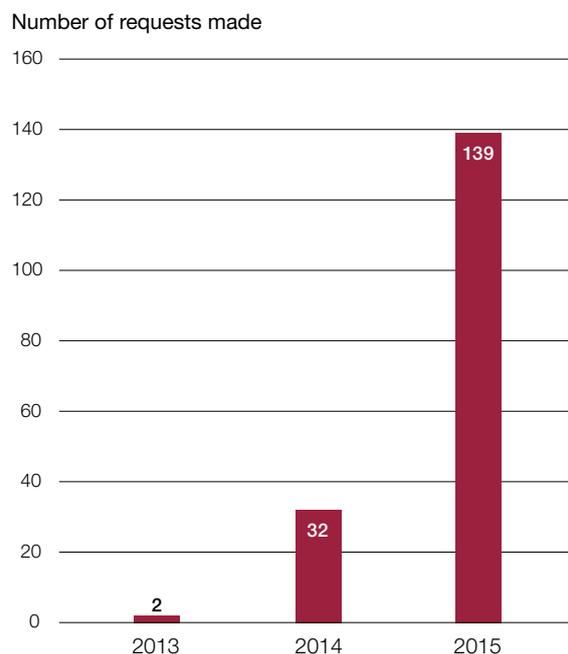
Source: National Audit Office analysis of National Trading Standards Intelligence team data

2.15 As well as improvements to the collection and recording of intelligence, the system now has a functioning intelligence network and increased analytical capability. There is a national intelligence team, 10 regional intelligence analysts and local intelligence liaison officers embedded within larger local authorities. Trading Standards has increased capability to produce intelligence products such as Problem Profiles, and Tactical and Strategic Assessments, which we observed as part of this audit. National and local Trading Standards share and receive intelligence reports from a wide range of external agencies, including the Police, Intellectual Property Office and HM Revenue & Customs. The frequency with which Trading Standards shares and receives intelligence is not fully recorded but is thought to be increasing. For example, the number of National Trading Standards Intelligence team reports shared externally increased from one in 2013 to 13 in 2015, while the number of requests for intelligence it made to external agencies increased from two to 139 over the same period (**Figure 9**).

Figure 9

National Trading Standards Intelligence Team's requests to external agencies, 2013 to 2015

National Trading Standards is now accessing external agencies' intelligence



Note

1 Data represents England and Wales. There were 60 Trading Standards Scotland Intelligence Team requests to external agencies in 2015.

Source: National Audit Office analysis of National Trading Standards Intelligence team data

2.16 Despite these improvements, there are still areas where intelligence is incomplete and gaps remain. In particular, there are a number of local Trading Standards services that record very few intelligence logs, with 11 services recording one or no logs in 2015-16 compared with the average of 223. We found a strong correlation between the number of intelligence logs and funding for Trading Standards, suggesting that capacity rather than culture is the constraining factor. **Figure 10** overleaf shows the wide variability in the number of intelligence logs per head of population by local authority. Furthermore, some types of detriment are under-reported, with comparatively few intelligence logs recorded on both product safety (5%) and e-crime (3%) (**Figure 11** on page 29).

2.17 Trading Standards services still use two different national intelligence systems and local staff do not have access to both. National Trading Standards estimates that the direct time cost associated with having to search two databases is £117,000 annually. It consulted with local authorities on moving to a single database, however the majority of respondents felt it was not feasible because the databases are also used for non-trading standards services. National Trading Standards has made improvements to compatibility, but considers that the costs associated with amalgamating the databases outweigh the proposed benefits. The various consumer protection bodies also have limited routine access to other government agencies databases. For example, Trading Standards in London has to use a single computer terminal based in Bromley to interrogate the police national database. Some of our case study sites said that the cost of accessing external intelligence networks is a strong disincentive to using them.

Figure 10

Number of intelligence logs reported by each local authority, per head of population, 2015-16

There is wide variation in the number of intelligence logs recorded by each local authority

Intelligence logs per 10,000 persons

- 0.0 to 1.6
- 1.6 to 3.5
- 3.5 to 7.6
- 7.6 to 12.1
- 12.1 to 105.0
- No data available



Note

1 Local authorities coloured grey represent no data available.

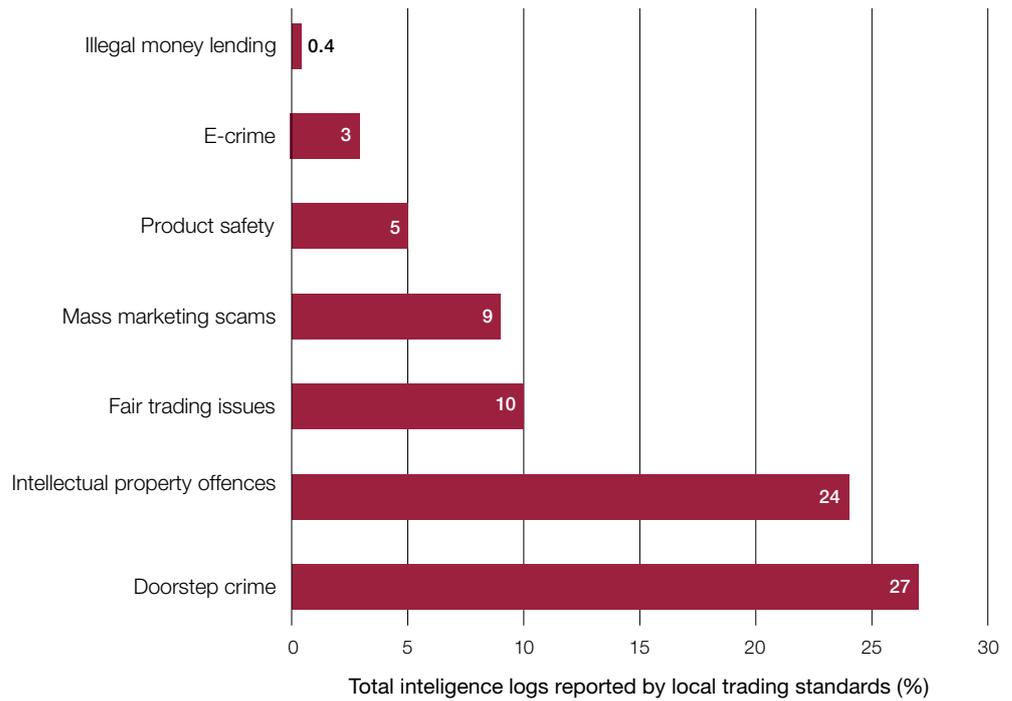
Source: National Audit Office analysis of National Trading Standards and Trading Standards Scotland intelligence team data

Figure 11

Trading Standards intelligence logs, June 2015 to May 2016

Intelligence on certain priority issues, such as product safety and e-crime, appear under-reported

National Trading Standards priorities



Notes

- 1 Data relates to England and Wales only.
- 2 From April 2018 funding for the Illegal Money Lending teams will be collected by the Financial Conduct Authority on behalf of HM Treasury.
- 3 This chart covers certain priority issues only. Total value does not therefore sum to 100%.

Source: National Trading Standards Strategic Assessment, 2016

Part Three

Addressing consumer detriment

3.1 Government can take a number of actions to address the causes of consumer detriment, ranging from educating consumers about their rights and how to protect themselves, to business education and guidance, promoting industry codes of practice, and formal civil or criminal investigation. To optimise the use of resources, consumer protection activities need to be prioritised and coordinated, in particular to ensure there are no gaps in coverage.

3.2 This part examines the system-level coordination and resourcing of the key consumer protection bodies, their interactions with other agencies, and how outcomes are reported.

Coordinating the response

3.3 Our 2011 report found failings in the overall coordination of the consumer protection bodies.¹¹ Coordination is important to ensure that activities are not duplicated across the system, that enforcement gaps do not occur, and that the work of the various bodies is complementary. Good coordination is even more important now than at the time of our 2011 report, given the changing nature of commerce and the increasing distance and complexity of the supply chain between the trader and consumer. All of our case study visits and key stakeholders stated that consumer problems are far less local than in the past.

Increased coordination

3.4 The Department for Business, Energy & Industrial Strategy (the Department) has improved communication and coordination of the key consumer protection bodies by establishing the Consumer Protection Partnership in 2012 (**Figure 12**). The partnership aims to identify consumer threats and risks, prioritise these and agree action to address them. It meets regularly at executive and operational level and coordinates communications campaigns. It is still very much a work in progress but is developing new activities in response to need, for example by developing a knowledge hub to build and disseminate insight on consumer issues and responses. **Figure 13** shows how the partnership can take a coordinated and strategic approach to a newly emerging form of consumer detriment. The partnership does not have executive powers, but seeks to build a consensus for its approach. It sets out its priorities and actions, but does not report on its outcomes.

¹¹ Comptroller and Auditor General, *Protecting consumers – the system for enforcing consumer law*, Session 2010–2012, HC 1087, National Audit Office, June 2011.

Figure 12

The Consumer Protection Partnership

The Department has brought together the key consumer protection bodies



Source: The Consumer Protection Partnership

Figure 13

Cancellation terms for wedding and event venues

Consumer Protection Partnership partners worked together to address unfair prepayment and cancellation terms

Venue providers for big events, including weddings often require full payment a few months in advance of the agreed event date, often on a non-refundable basis. Consumers can spend considerable amounts of money on such events.

The Consumer Protection Partnership decided that there was significant evidence of unfair prepayment and cancellation terms in the sector and commissioned the Competition and Markets Authority to do some work to increase compliance. The Authority sent advisory letters to over 100 wedding and event venue providers across the UK on the need to comply with fair trading practices, and published summary guidance for businesses alongside a short summary for consumers. It also trained consumers' advisers (Citizens Advice) and enforcers (Trading Standards officers) in how to examine and address unfair contract terms.

Source: National Audit Office review of Consumer Protection Partnership report 2016

3.5 By setting up National Trading Standards the Department has also improved the coordination and case management of Trading Standards work and its integration into the overall system. There is now a system-wide framework for evaluating cases and to ensure they are managed at the most appropriate level. **Figure 14** shows the relationships between the various teams within the tasking structure. We sat in on a number of tasking meetings at local, regional and national level and found good controls over case evaluation and management.

Prioritisation of activity

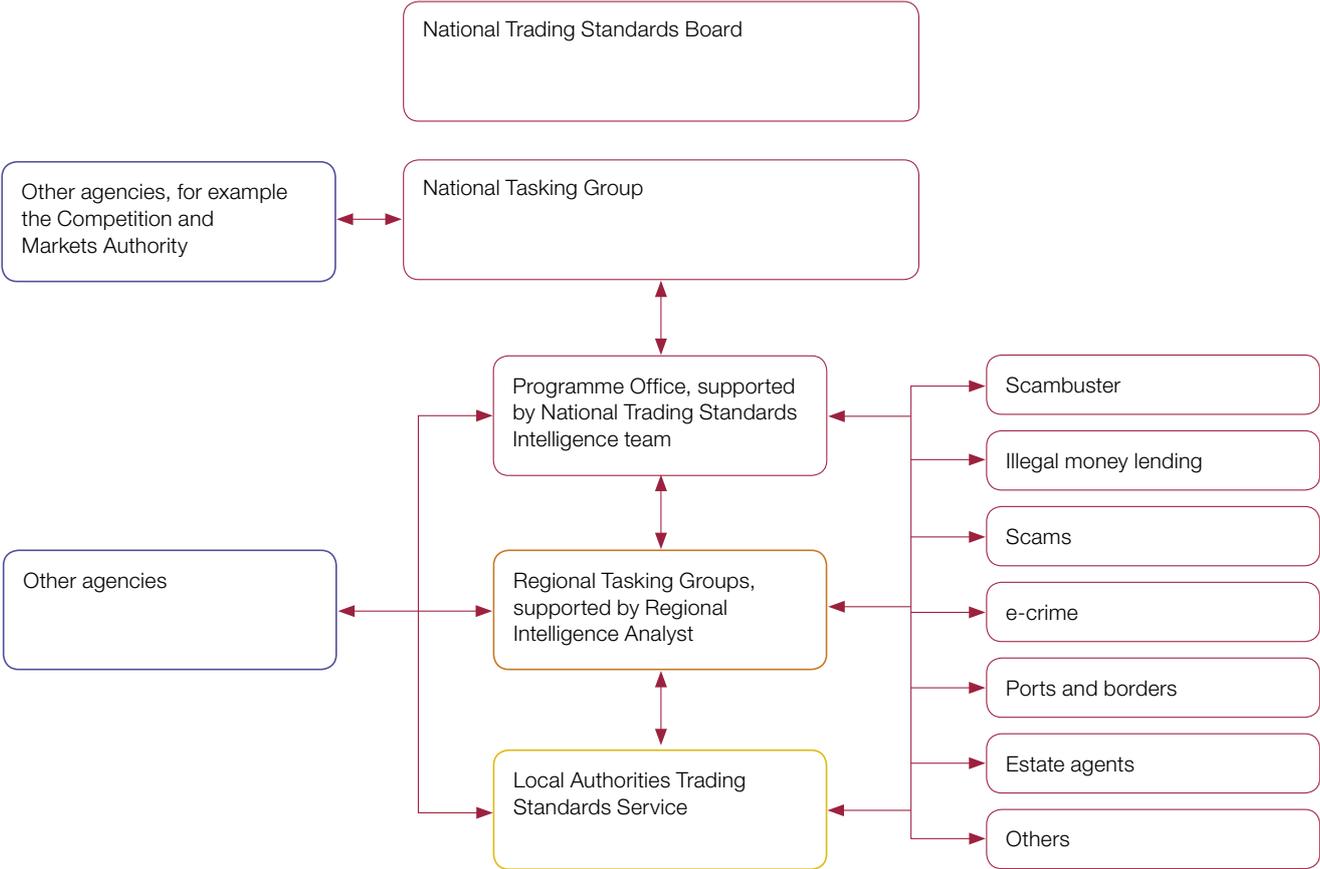
3.6 To achieve maximum impact from the available resources, the consumer protection bodies need to prioritise their activities based on a shared understanding of risk. For example, improving consumer or business education may be a much more cost-effective intervention than a criminal enforcement case when addressing a particular form of detriment.

3.7 The Department has few levers to ensure that issues are prioritised effectively across the system, reflecting where and how detriment is occurring. At the local level, Trading Standards services are driven largely by local priorities. A 2014 survey, shortly after the Department established National Trading Standards, found that only 7% considered that their priorities were built on national priorities. Our case study visits found that local Trading Standards were often driven by the safeguarding duties of the local authority, with a need to focus on more 'life and limb' issues such as rogue traders rather than on fair trading issues or problems that occur across authority borders.

3.8 Trading Standards has responsibility for enforcing up to 263 different pieces of legislation from different parts of government, without any direction on the relative prioritisation of these (**Figure 15** on page 34). Our case study visit interviews found that in practice this means that many of the responsibilities are not fulfilled, with a commonly cited example being the need to check compliance with the requirement for energy performance certificates. A 2015 survey of services in Scotland found that 67% of councils do not fulfil all Trading Standards functions. Furthermore, two-thirds of local authority Trading Standards services are supplementing budgets with commercial funding, mainly business advice. On average services are targetting commercial income to be 9.5% of their overall budget.

Figure 14
Case management framework

Trading Standards services have a tasking structure and cases flow to the most appropriate level



- National level
- Regional level
- Local level
- Other agencies

Source: National Audit Office analysis of National Trading Standards documents

Figure 15

Example of the range of legislation enforced by local Trading Standards services

Trading standards enforce up to 263 different pieces of legislation on behalf of multiple government departments

	Examples of Trading Standards enforcement responsibilities
Department for Business, Energy & Industrial Strategy	Fair trading, company law, product safety law, weights and measures, intellectual property.
Department for Communities and Local Government	Letting agents, construction products regulations.
Department for Culture, Media & Sport	Gambling Act (eg lotteries), Licensing Act (eg 'protecting children from harm' and the 'prevention of crime').
Department for Education	Education Reform Act 1988 (eg false education certificates).
Department for Environment, Food & Rural Affairs	Food labelling, animal health, pet foods, fertilisers, pesticides, motor fuel composition.
Department for Transport	Overloaded vehicles (by weight), certain aspects of un-roadworthy vehicles.
Department of Health	Tobacco promotion and sales, underage sales, e-cigarettes, medical devices, public health.
Ministry of Justice	Money laundering (legal procedures), S198 Legal Services Act 2007 (legal procedures).
Home Office	Underage sales of knives, crossbows, firearms, Gangmasters Licensing.

Note

1 This list is indicative; it is not exhaustive or fully comprehensive.

Source: National Audit Office discussions with local authority Trading Standards

Resourcing and skills

3.9 To maximise efficiency and effectiveness, the consumer protection bodies need access to the right skills at the right time in response to the stated priorities. This section examines the resources and skills at the local and national levels.

Funding, resources and skills at the local level

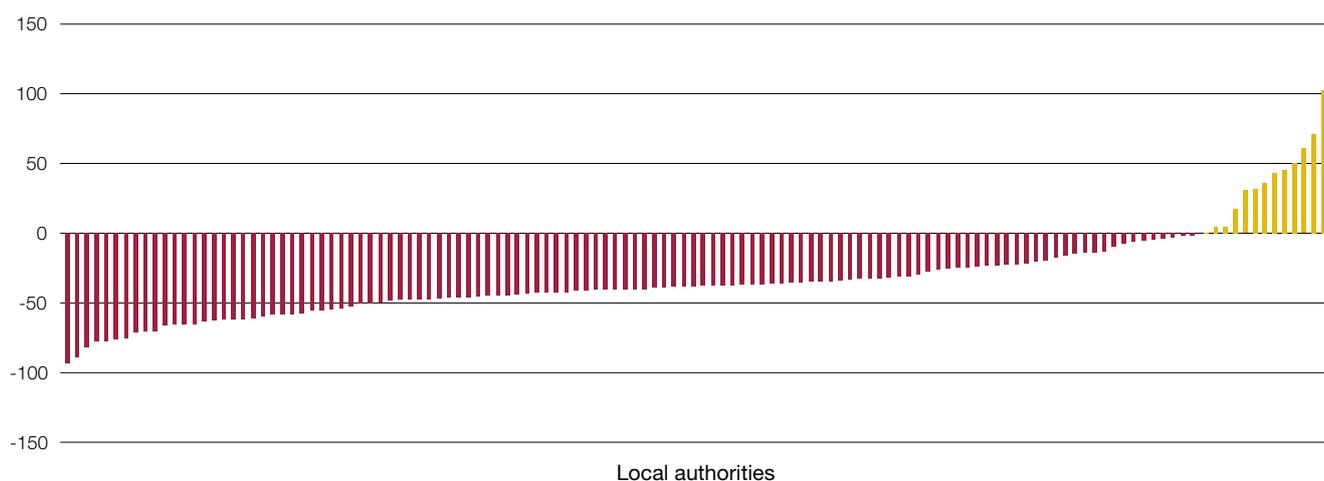
3.10 Local authority Trading Standards services have lost significant capacity since our 2011 review. We examined the change in spending between 2010-11 and 2015-16 and found wide variations across authorities, with 20 services seeing reductions greater than 60% (**Figure 16**). Funding per head of population now varies from £0.75 to £10.62 at the local authority level. Aggregating the figures to the regional level shows a variation of £1.46 to £3.76. A recent survey by the Chartered Trading Standards Institute found that overall resources had dropped by 46% over this period. The equivalent drop in government funding for local authorities as a whole is 37%.

Figure 16

Change in local authority Trading Standards services spending in England, 2010-11 to 2015-16

Twenty local authority Trading Standards services have experienced greater than 60% reduction in funding

Change in net current expenditure (%)



- Local authorities that have decreased spending on Trading Standards since 2010-11
- Local authorities that have increased spending on Trading Standards since 2010-11

Notes

- 1 The analysis is based on the data from 129 English local authorities. We examined the record of 152 councils in total and during the process of cleaning data we excluded data for 23 local authorities: 11 Unitary Authorities, 7 London Boroughs, 4 Metropolitan Districts and 1 County Council.
- 2 Data for 2010-11 and 2015-16, are based on net current expenditures at 2015-16 prices.

Source: National Audit Office analysis of Department for Communities and Local Government revenue and outturn data from local authorities

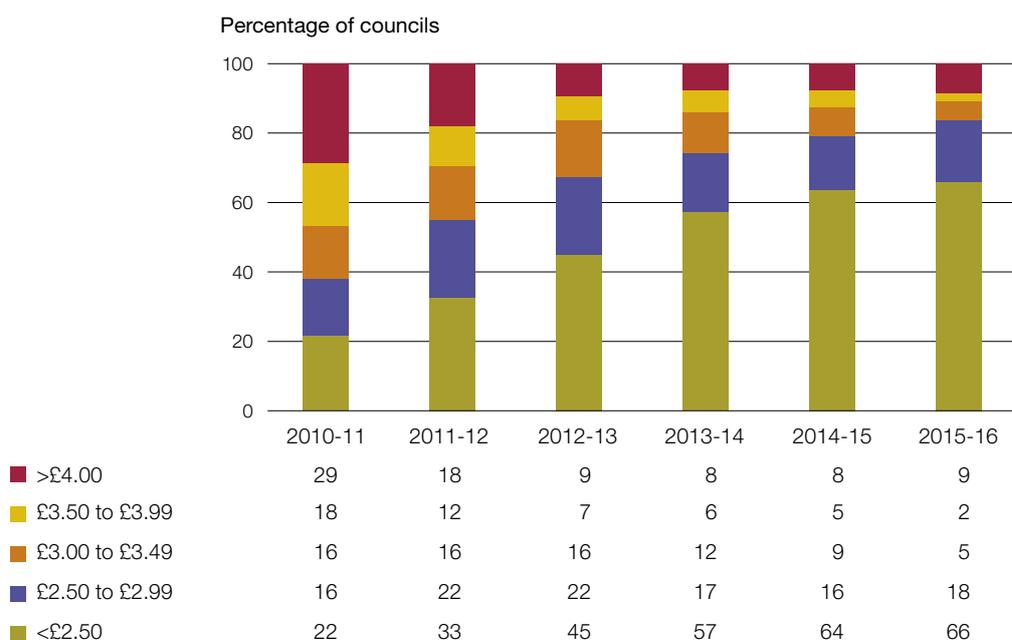
3.11 The number of full-time equivalent Trading Standards staff has decreased by 56% in seven years, from 3,534 in 2009 to 1,561 in 2016. There has also been a reduction in some specialist skills in the service. For example, the number of authorities holding specialist skills in e-crime, a national priority area, has reduced by 9% since 2014 and only half of all services now have skills in this subject. Key stakeholders considered that the average age of the workforce has increased markedly, raising concerns for the future of the profession. There are no figures for England and Wales, but in Scotland the proportion of Trading Standards officers aged over 50 rose from 29% to 41% between 2012 and 2016. Furthermore, the Chartered Trading Standards Institute has seen a 66% decrease in the number of professional exams taken since 2011, suggesting fewer people are entering the profession.

3.12 The loss of resource and downsizing of services have led to increased fragmentation in coverage at the local level and decreased ability to support national issues. Local authority Trading Standards services have tended towards smaller units, with 59% of services having six or fewer Trading Standards qualified staff members (20% have fewer than six staff in total, and some services have just one qualified officer). The percentage of authorities in England spending less than £2.50 per head has increased from 22% of authorities to 66% since our 2011 review (**Figure 17**). Furthermore, the level at which the Head of Service sits within the local authority has also dropped, suggesting that local authorities have de-prioritised the service relative to their other responsibilities (**Figure 18**).

Figure 17

Spend on Trading Standards per head of population, 2010-11 to 2015-16

In 2015-16, 66% of English local authority Trading Standards services spent less than £2.50 per person



Notes

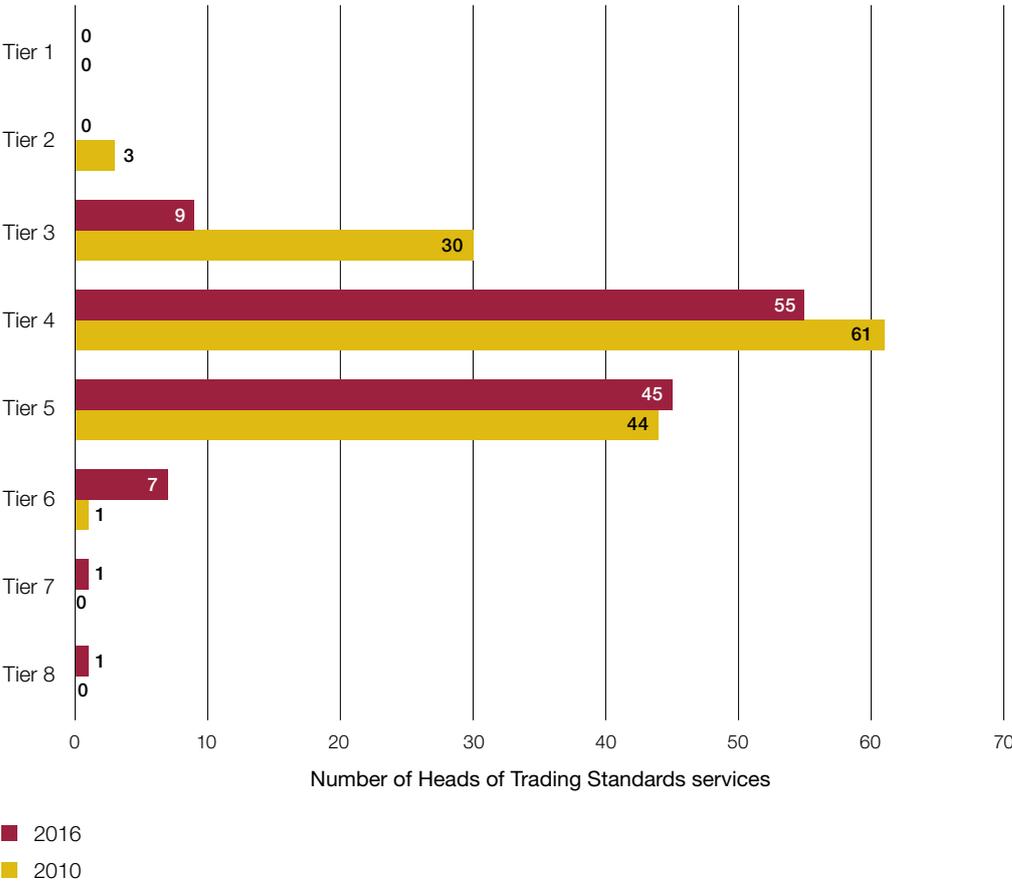
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- 2 Data are based on net current expenditures at 2015-16 prices.

Source: National Audit Office analysis of Department for Communities and Local Government revenue and outturn data from local authorities

Figure 18
 Level of Head of Trading Standards Service within the local authority, 2010 and 2016

The level at which the Head of Service sits has fallen since 2010

Management tiers of Heads of Service



Notes

- 1 Tier 1 refers to Chief Executive level.
- 2 The number of Heads of Trading Standards service in Great Britain fell from 139 in 2010 to 118 in 2016.

Source: National Audit Office analysis of the Trading Standards Workforce Survey, June 2010 and June 2016 (Chartered Trading Standards Institute)

3.13 Some 81% of services consider that funding reductions have had a negative impact on their ability to protect consumers in their area, and a number of our case study visit sites expressed concerns about the ongoing viability of their service. The cost of a typical enforcement case will depend on many factors, but typically ranges from £30,000 to over £200,000 for larger and more complex cases. The average total cost of a case involving legal proceedings is about £100,000, or £43,000 per year. A recent survey by the Chartered Trading Standards Institute found that 34 services were stopping providing consumer advice, nine were discontinuing work on intellectual property crimes, and six on doorstep problems. A private individual recently launched a judicial review of Liverpool City Council's decision to replace its dedicated Trading Standards service with a combined licensing and regulatory service of 17 generic officers authorised to deliver consumer protection work. The council is now reviewing whether the service is fit for purpose (**Figure 19**).

3.14 In the face of declining resources and smaller delivery units, we asked key stakeholders and reviewed the literature to determine whether there was a consensus on what services Trading Standards needs to deliver to provide an adequate level of protection for consumers. For example, if there was a minimum standard below which consumers would not be adequately protected. We found very different views on the role of Trading Standards, with no consensus on what a minimum service might be. However, a recent Audit Scotland report found that services with eight or fewer staff had insufficient flexibility and range of expertise to meet all the accepted minimum standards, with the risk that gaps may appear or widen in services.¹²

3.15 In response to funding reductions some areas have formed joint services (for example, Devon and Somerset, and Buckinghamshire and Surrey) and a further 22 local Trading Standards have some form of a joint arrangement covering one or more specialism (for example, Bridgend, Cardiff and the Vale of Glamorgan). These are at a relatively early stage, but the officers we spoke to were positive about their profile within the local authority and their enhanced ability to respond flexibly and efficiently. Around a third of Trading Standards services overall are considering a joint service. We identified some challenges associated with creating a joint service. Two joint services have recently separated (Waltham Forest/Haringey and Halton/Warrington).

Figure 19

Judicial review of Liverpool City Council

In the face of having to make £156 million of cuts (58% of its government funding), Liverpool City Council decided it would no longer have a dedicated Trading Standards service. Instead it has a combined licensing and regulatory service of 17 generic officers authorised to deliver consumer protection work. A Liverpool resident, who is a former employee of Liverpool Trading Standards, launched a legal challenge to the council's decision. The individual claimed that severe cuts were leaving people vulnerable to traders selling counterfeit and sometimes dangerous goods. Subsequent to the challenge at the Manchester High Court, the Council chose to conduct a further review of its 2014 decision to restructure its Trading Standards and consumer protection service. The review will have to include European Union consumer protection duties and government's enforcement priorities. The new review would be delivered by a person without direct involvement in the case and should be published in the autumn 2017.

Source: National Audit Office literature review

¹² Audit Scotland, *Protecting consumers*, January 2013.

Funding, resources and skills at the national level

3.16 The key national consumer protection bodies are National Trading Standards, Citizens Advice and the Competition and Markets Authority. Together the national bodies received £41 million for consumer work in 2015-16 (see Figure 4 for a breakdown).

National Trading Standards

3.17 National Trading Standards has a number of specialist teams designed to cover national and regional issues (**Figure 20**). The national teams have prevented around £345 million worth of detriment to consumers since April 2014 and display good cost–benefit ratios. For example, the ports and borders team at Felixstowe, which examines the safety of imported goods at the point of entry into the UK, produces around £50 of net economic benefits for every £1 spent. Overall, the national teams had a cost–benefit ratio of 12.6 to 1 since April 2014.

Figure 20
National Trading Standards specialist teams

Team	What they do
e-Crime	Monitors and investigates a number of online consumer and business frauds.
Estate Agency	Protects consumers and businesses by enforcing the Estate Agents Act 1979.
Illegal Money Lending	Investigates and prosecutes illegal money lenders.
Intelligence	Develops intelligence-led working and supports local authority Trading Standards services.
Safety at Ports and Borders	Detains dangerous and illegal items at entry points in England and Wales.
Scambusters	Targets criminals involved in doorstep crime, counterfeiting, consumer and business fraud and other related crime.
Scams	Helps tackle mass marketing scams and disrupts the operations of perpetrators behind mail scams.
Feed Hygiene Delivery	Ensures the safety of the food chain.

Note

1 From April 2018 funding for the Illegal Money Lending teams will be collected by the Financial Conduct Authority on behalf of HM Treasury.

Source: National Audit Office analysis of National Trading Standards literature

3.18 Funding, however, is small when set against the size of the problems the national teams aim to tackle, and this can have implications for the level of consumer protection provided under current arrangements. In the port of Felixstowe for example, which handles around 42% of UK container traffic, 2.5 full-time equivalent staff cover 3.75 million incoming consignments a year. On average, Trading Standards staff examine two containers of imported products a week. Another ports and borders team we spoke to were only able to examine 187 of 403 consignments they considered presented a risk to consumers, due to having insufficient staff. **Figure 21** shows that it will take over a year to protect adequately those victims of mass marketing fraud that have been identified so far.

3.19 The funding for national teams is also short term, which is hampering longer-term planning and efficiency:

- National team staff are employed by a host local authority. We found instances where the authority had issued 90 day redundancy notices to mitigate the risk of funding not continuing beyond the current year. The national teams are also reliant on short-term staffing arrangements and are less willing to invest in longer-term staff training and development.
- Many enforcement cases are complex and can take a considerable length of time to complete, often spanning three financial years. Under the current arrangements, national teams cannot transfer budget surpluses or deficits from one year to the next, giving uncertainty over funding for the most serious cases.
- National Trading Standards does not have sufficient money to address all the detriment it has identified. The organisation ran out of money about two-thirds of the way through the 2015-16 financial year, and could not undertake any enforcement cases after this period. In 2016-17, all funding for national tasking was committed within the first four months of the year.

Figure 21

National Trading Standards work on mass marketing fraud

It will take more than a year to protect adequately all the victims of mass marketing fraud

After falling victim to a scam, criminals often sell on the individual's details to others. A scam victim has, on average, a 30% chance of falling for another scam within the following 12 months.

In 2015, the National Trading Standards scams team uncovered from criminals 13 different lists of repeat victims, with details of over 500,000 individuals, often elderly and vulnerable. To disrupt and help prevent further scams the team undertakes joint projects with organisations including the police, banks and the Royal Mail. For example, in England and Wales, 1,171 postal workers have been trained and 356 addresses likely to receive scam mail have been identified.

The team also has service-level agreements in place with 176 local Trading Standards services to refer the names of victims from repeat victim lists to allow safeguarding action to be taken. However, a 2016 review undertaken by Rand Europe estimates that 71% of local authorities would need more than a year to process all of their outstanding referrals.

Source: National Audit Office literature review and interviews with the National Trading Standards scams team

The Competition and Markets Authority

3.20 The Competition and Markets Authority focuses its consumer work on national and international issues, and prioritises work that has systemic market-wide impact. It has a statutory duty to promote competition for the benefit of consumers and views its consumer work as an integral part of its overall organisational objectives. It seeks to maximise efficiency by intervening early, for example by changing trader behaviour where it identifies emerging unfair commercial practices. It often works with a whole sector, for example to raise industry standards or improve industry practice (**Figure 22**). It relies heavily on influencing and the threat of court action. Unlike its competition toolkit, where it uses civil fining powers widely to deter businesses from behaving anti-competitively it does not have any civil powers to fine traders for breaching consumer law. The Department has consulted on giving consumer protection bodies civil fining powers, although it has not yet decided on the outcome. Between April 2013 and March 2016, the Competition and Markets Authority estimates that its consumer enforcement work generated direct financial benefits to consumers of at least £222.3 million, or £74.1 million annually at a cost of £6 million.

Citizens Advice

3.21 Citizens Advice provide education, advocacy and advice to consumers. These are mostly high-volume (958,880 consumer service contacts last year) and low-cost interventions that often tackle problems at an early stage and can prevent the need for more expensive enforcement action after detriment has occurred. The Department estimates that Citizens Advice's consumer helpline prevents around £272 million of consumer detriment a year. A separate Citizens Advice evaluation showed that, in 2015-16, the 104,000 people who received advice through its local network or helpline benefited financially by a total of £94 million, an average of £900 per user.¹³

Figure 22

The Competition and Markets Authority online reviews case

More than half of all consumers read reviews online before buying a product or service and, across six key sectors, some £23 billion a year of UK consumer spending is potentially influenced by such reviews. The Competition and Markets Authority identified practices that had the potential to mislead consumers and damage trust in online reviews, for example traders posting fake reviews. It considered that online reviews are important not only in helping consumers make informed choices, but also in promoting competition between suppliers in a market. The Authority wanted to intervene early to prevent practices becoming established, and in 2016 concluded three cases to tackle the issue, including enforcement action and sending advisory letters. It also worked with international partners to develop guidelines for review sites, and for traders and marketing companies, setting down a common set of general principles.

Source: Competition and Markets Authority

¹³ The methods used to calculate the cost-benefit analyses for National Trading Standards, the Competition and Markets Authority and Citizens Advice are not comparable.

Inter-agency working

3.22 Consumer detriment is increasingly occurring across traditional government department and agency boundaries. In particular, the growth of e-crime and online defrauding of consumers, such as copycat websites or investment scams, is presenting new and significant challenges for the current arrangements.

3.23 The Office for National Statistics estimates indicate that there were 5.6 million incidents of fraud and computer misuse in England and Wales.¹⁴ Online fraud is now the single most prevalent reported crime with around 70% of fraud being cyber enabled. **Figure 23** outlines three examples of cybercrime that have caused consumer detriment.

3.24 Online consumer fraud is not a place-based crime, and may often be perpetrated in other jurisdictions. To reflect this the government established Action Fraud and the National Fraud Intelligence Bureau, hosted by the City of London Police and funded by the Home Office, as the single point nationally for reporting and disseminating fraud cases (including online fraud) – the only crime that has a national reporting function. However, many different government agencies are involved in tackling it, including for example, the Police, Trading Standards and the National Crime Agency. We mapped the landscape of government bodies that tackle online consumer fraud and found it particularly complex with functions falling across a large number of different departments and bodies (**Figure 24**).

3.25 The consumer protection bodies have become involved in tackling online consumer fraud not only because of their overall role in protecting consumers, but also because of their legislative powers. National Trading Standards has set up an ‘e-crime’ team, and around half of Local Authority Trading Standards services have got at least one officer with e-crime experience or expertise. The dedicated national e-crime team told us that it has supported cases leading to convictions of 83 defendants with over 60 years of custodial sentences, and £400,000 of confiscation orders.

Figure 23

Examples of e-crimes

Dating or romance fraud – criminals use fake identities to extort money from individuals they meet through online dating websites, using a variety of emotive techniques.

Health and medical scams – products purporting to be miracle ‘cures’ for a variety of long-term health conditions are sold online from different jurisdictions, and without any regulatory oversight.

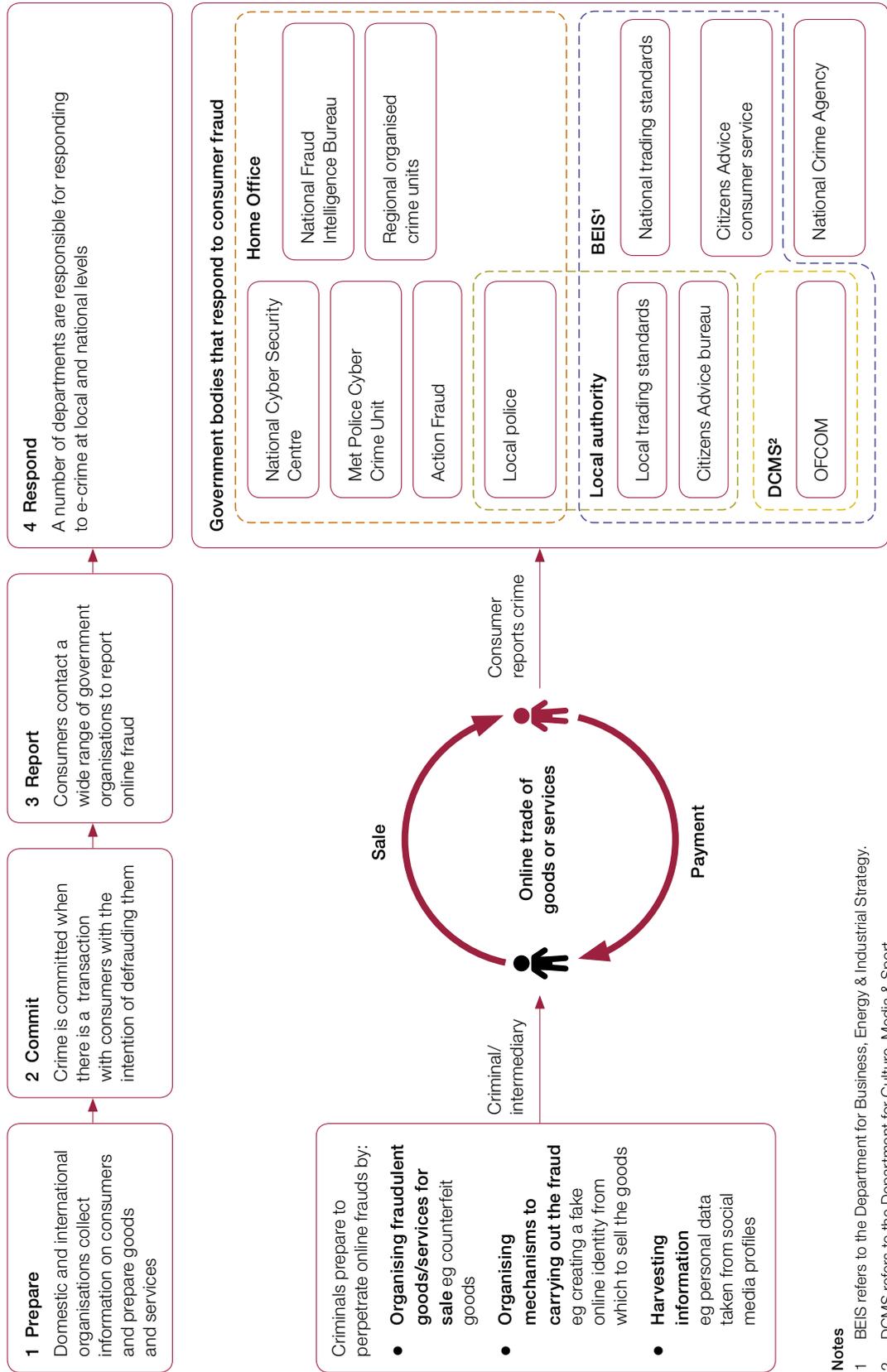
Shopping and auction fraud – involves fraudulent shopping scams that rely on the anonymity of the internet. Some of the most common complaints involve buyers not receiving goods or ones significantly less valuable than those advertised.

Source: Action Fraud

¹⁴ Based on Experimental Statistics from the Crime Survey for England and Wales, year ending June 2016. Estimates cover incidents occurring in the 12 months prior to interview.

Figure 24
Infrastructure to address online fraud

Responsibility is spread across many bodies



Source: National Audit Office analysis

3.26 Police stakeholders told us that Trading Standards were able to bring experience and knowledge and a different group of legislative provisions, which were often complementary to police powers and helpful in disrupting fraud. For example, under the provisions of the Consumer Rights Act 2015, Trading Standards officers can enter a trader's premises on reasonable suspicion that a trading standards related offence has been committed whereas the police would need an entry warrant. **Figure 25** provides an example of Trading Standards working jointly with other enforcement agencies to tackle investment fraud. The Consumer Protection Regulations, which are enforced by Trading Standards services and national consumer protection bodies also have relevant provisions banning practices such as copycat websites.

3.27 The interaction between the consumer protection bodies and other agencies tackling online consumer fraud is not yet well developed. The National Crime Agency itself has stated that the pace of technology and criminal cyber capability currently outpaces the UK's response.

3.28 The number of referrals from the National Fraud Intelligence Bureau to Trading Standards at 5% of the total in 2015-16, is very low in comparison with referrals to the police (**Figure 26**). Furthermore, the level of referrals to Trading Standards has only increased slightly over the three-year period from 2013 to 2015, against a near doubling of referrals to the police, and despite the large increase in the reported levels of fraud. We found that the National Fraud Intelligence Bureau struggled with the fragmented nature of Trading Standards, and was concerned about the lack of a Memorandum of Understanding or necessary data-sharing protocols. The Bureau also told us it felt there has been a lack of engagement by Trading Standards. National Trading Standards has now seconded an officer to the National Fraud Intelligence Bureau to improve the working arrangements and level of understanding. Furthermore, National Trading Standards is working on a closer relationship with the Bureau, for example to help inform its national tactical assessment.

Figure 25

Trading Standards involvement in tackling investment fraud

A number of different government agencies came together to tackle investment fraud in the City of London

Investment fraudsters offer high returns on a variety of fictitious investments, such as gold, diamonds and fine wine, often using a City of London address to pose as a legitimate business. In 2014-15, total losses through scam investments were an estimated at £1.3 billion.

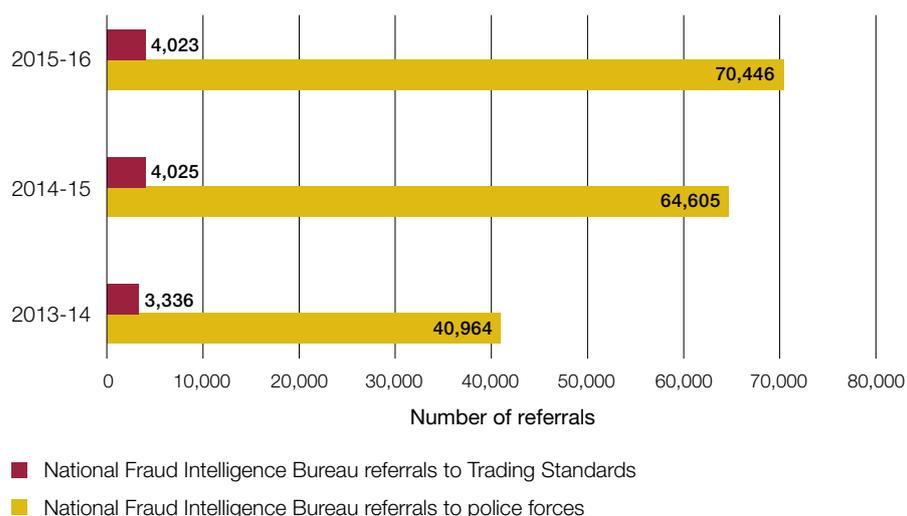
Operation Broadway, established in 2014, is a multi-agency taskforce involving the City of London Trading Standards, the City of London Police, the Metropolitan Police, National Trading Standards Scambusters, the Financial Conduct Authority and HM Revenue & Customs and aimed at tackling investment fraud. Trading Standards officers used their statutory powers of entry to visit 78 office addresses used for accommodation or mail forwarding facilities to businesses or individuals engaged in investment fraud. Operation Broadway has achieved two criminal convictions to date.

Source: National Audit Office literature review

Figure 26

National Fraud Intelligence Bureau referrals to Trading Standards, 2013-14 to 2015-16

Trading Standards have had comparatively few referrals from the National Fraud Intelligence Bureau



Note

1 The data reflects the number of referrals as at 16 November 2016.

Source: National Audit Office analysis of Action Fraud data

International cooperation

3.29 International cooperation and the ability to take action across borders is increasingly important due to the changing nature of commerce. Consumer bodies are able to collaborate with international partners through ICPEN (a network of consumer enforcement agencies from around 60 countries) and the European Consumer Protection Cooperation system. The Competition and Markets Authority coordinates and leads various activities on behalf of the UK consumer protection regime. For example, its role as the UK Single Liaison Office means it can refer problems between the relevant bodies in the UK and the European Economic Area where a consumer is experiencing a problem with a trader based in another state. The Department will keep these arrangements under review in the light of changes in the United Kingdom's relationship with the European Union.

Appendix One

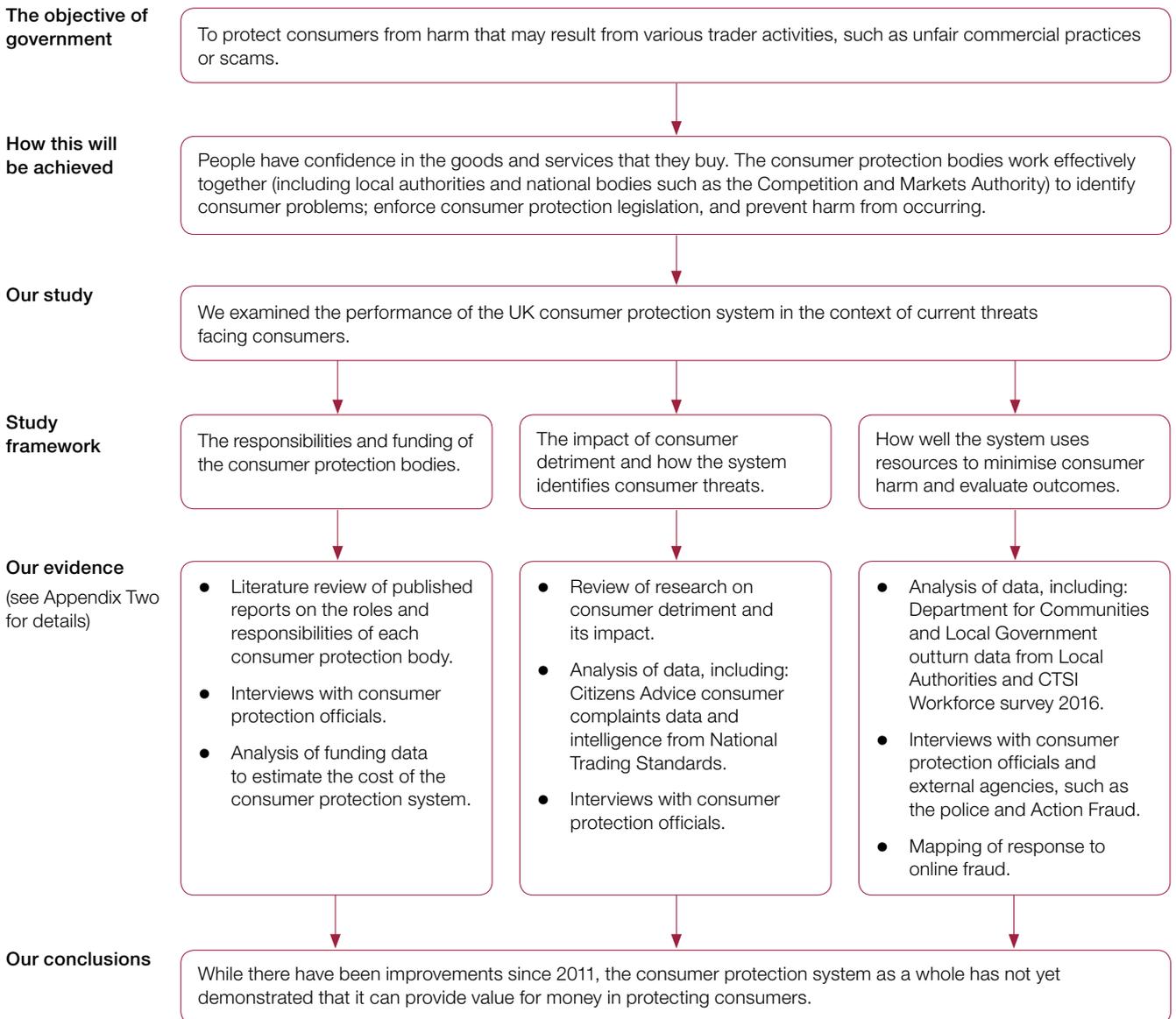
Our audit approach

1 This study examines the performance of the UK consumer protection system since our last report in 2011 and in the context of the threats facing consumers currently.

We assessed:

- the funding and responsibilities of the consumer protection bodies;
- how successfully the system identifies consumer threats, and the impact of consumer detriment; and
- how effectively the system uses its resources to minimise the occurrence of consumer problems, and evaluates outcomes.

2 **Figure 27** summarises our audit approach. Our evidence base is described in Appendix Two.

Figure 27**Our audit approach**

Appendix Two

Our evidence base

1 We reached independent conclusions on the performance of the UK consumer protection system after gathering and analysing evidence. We collected our evidence between June 2016 and September 2016. Our audit approach is outlined in Appendix One.

2 We used several study methods to reach our conclusion on value for money. Our study methods are described below.

3 We interviewed policy officials at: the Department for Business, Energy & Industrial Strategy (the Department), which is responsible for consumer protection policy; the Department for Communities and Local Government, which administers the centrally provided revenue support grant to local authorities; and, the Cabinet Office. We also interviewed policy officials from the Consumer and Competition Policy Unit at the Scottish Government, Trading Standards Scotland and the Society of Chief Officers of Trading Standards Scotland.

4 We interviewed officials from the following organisations:

- Chartered Trading Standards Institute;
- Citizens Advice;
- Competition and Markets Authority; and
- National Trading Standards.

5 We conducted semi-structured interviews, reviewed documents, and observed meetings with National Trading Standards teams, including:

- e-Crime;
- Illegal Money Lending (Wales);
- Intelligence;
- Safety at Ports and Borders (two teams);
- Scambusters (two teams); and
- Scams.

We also observed case tasking and allocation discussions at national, regional and local levels.

6 We carried out 25 case study visits and interviews with local authority Trading Standards services. These included semi-structured interviews with different Trading Standards officers, document review, and analysis. The case studies included 15 interviews with London borough Trading Standards officers. We also performed two pilot visits.

7 We attended several meetings of the bodies in the consumer protection landscape to observe the system coordination. The included Consumer Protection Partnership meetings, National Trading Standards Board meetings and the Association of the Chief Trading Standards Officers Annual General Meeting.

8 We assessed how effectively the system is using its resources by analysing Department's and consumer bodies' data returns. This included information about:

- cost of enforcement;
- cost of advice and advocacy;
- activities at national, regional and local level.

We analysed Local Authority Trading Standards services' finances in England using revenue and outturn data held by the Department for Communities and Local Government. We also analysed the Chartered Trading Standards Institute Workforce Survey 2016 to provide data on capacity and skills, and to calculate the overall spend on consumer protection at the local level.

9 We examined a range of literature to estimate the value of consumer detriment and its impact, and to provide insight on other areas of consumer protection. The literature included:

- Europe Economics, *An analysis of the issue of consumer detriment and the most appropriate methodologies to estimate it*, 2006 and Europe Economics, *Handbook to assess consumer detriment*, 2006.
- Citizens Advice, *Consumer detriment, Counting the cost of consumer problems*, 2016.
- Raine et al. report, *The impact of local authority trading standards in challenging times*, 2015.
- Chartered Trading Standards Institute, *Workforce Survey 2016*, 2016.
- University of Portsmouth, *Annual Fraud Indicator 2016*, 2016.
- European Commission, *Consumer Conditions Scoreboard, Consumers at home in the Single Market*, 2015.

10 We examined how consumer protection bodies use consumer complaints data, and intelligence generated by consumer protection officials:

- We analysed Citizens Advice Consumer Service complaints data from 2012-13 to 2015-16, and Citizens Advice contact data over a similar period.
- We analysed data on the number of intelligence logs from the National Trading Standards Intelligence team.
- We studied data on consumer detriment from enforcement professionals, including agencies such as the police.

11 We met a number of third parties such as Action Fraud, City of London Police, Metropolitan Police Falcon Cyber Crime Unit, and the Business Consumer Coordination Group. We also spoke with several academics (University of Birmingham and University of Portsmouth) as well as charities (UK Age) and consultancies (Europe Economics).

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