

**IMPACT ASSESSMENT**

Enhancing Consumer Confidence  
through effective enforcement:  
Consultation on consolidating and  
modernising consumer law  
enforcement powers – A summary  
document for a package of measures  
on enforcement

MARCH 2012

<b>Title:</b> Enhancing Consumer Confidence through effective enforcement: Consultation on consolidating and modernising consumer law enforcement powers – A summary document for a package of measures on enforcement <b>IA No:</b> BIS0335 <b>Lead department or agency:</b> Department for Business, Innovation & Skills <b>Other departments or agencies:</b> Office of Fair Trading; Trading Standards Services; DETINI; District Authorities Northern Ireland; MHRA; IPO; NMO; Regulators under the Enterprise Act	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 07/03/2012		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
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<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> Not assessed

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCBS on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£2.9m	£0	£0	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

The 2009 Consumer Law Review identified problems with the consumer law enforcement framework. The main issue is that consumer law investigatory powers are scattered across 60 pieces of legislation, making them unclear and confusing for businesses and enforcers; Also, Trading Standards (TSS) ability to tackle rogue traders harming consumers across local authority (LA) borders is hindered by LAs having to enter into bureaucratic agreements; Other less significant issues reducing TSS efficiency are: Barriers to LATSS presenting cases in civil courts dis-incentivises the use of civil law enforcement; TSS statutory qualifications are too prescriptive; Legislation governing the calibration of measurement standards is too restrictive.

**What are the policy objectives and the intended effects?**

Government policy objectives in the area of consumer law enforcement are: to improve the effectiveness and efficiency of enforcement; whilst reducing the regulatory burden on businesses and rolling back state intrusion and protecting civil liberties. The proposed relatively minor legislative changes remove obstacles that prevent Trading Standards from operating in an efficient, cost effective way, and have zero or negligible costs to business. Proposal 1: Consolidation of powers into the generic set is the only one that will have a direct impact on business which is more than offset by the benefits.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

This IA summaries a package of measures across five policy areas and so has not been assessed by the RPC. Each IA assesses a number of options to tackle the above problems and explains the rationale for the preferred option. The main change is 1. Consolidating and simplifying consumer law investigatory powers into a generic set; Also, 2. Improving Trading Standards (LATSS) cross-border authorisation; Other minor changes are 3. Encouraging more proportionate use of enforcement by removing barriers to the use of civil enforcement, by enabling LATSS to present cases in civil courts and reducing any over-reliance on criminal prosecutions; 4. Replacing the statutory weights and measures qualification with a more flexible statutory competency requirement; and 5. Enabling competition in the calibration of measurement standards market. Government is proposing to bring forward a Consumer Bill of Rights which will be used as the vehicle to make the relatively minor legislative changes proposed in line with the Government's agenda on de-

**Will the policy be reviewed? It will be reviewed. If applicable, set review date:** 12/2019

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded:		Non-traded:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible SELECT SIGNATORY: 

Date: 28/03/12

# Summary: Analysis & Evidence

## Policy Option 1

**Description:** Summary of a package of measures to improve the effectiveness of enforcement

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £2.9m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional			
High	Optional			
Best Estimate				

#### Description and scale of key monetised costs by 'main affected groups'

To enable Trading Standards professionals to present cases in civil courts through an Approved Regulator, there would be a one-off cost of £2,000 for application by the Approved Regulator to the Legal Services Board. This cost would be recouped the Approved Regulator's membership fees.

#### Other key non-monetised costs by 'main affected groups'

For businesses costs may arise through extending enhanced powers of seizure. For enforcers costs may arise through the requirement to give reasonable notice; and seeking warrants to exercise power of entry for wholly or mainly private dwellings. Also, initial qualification opportunity costs in seeking accreditation of officers to present cases in civil courts. The costs of administering a national warrant scheme.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional			
High	Optional			
Best Estimate	Optional		£0.336m	£2.9m

#### Description and scale of key monetised benefits by 'main affected groups'

To amend the legislation to offer an alternative route to traceability, total savings to local authority trading standards under the new regime are estimated at £336,181per annum; £2.9m (10 yrs).

#### Other key non-monetised benefits by 'main affected groups'

The new generic set of powers will reduce disputes about officers' investigatory powers. Improved cross border authorisation will increase flexibility for LATSS to organise themselves regionally and specialise for greater efficiency. Enabling LATSS to present cases in civil courts will save costs of hiring external lawyers and double handling of cases. A general statutory competency requirement will increase flexibility for LAs in resourcing and structuring their teams. Competition in calibration of standards will offer savings to LAs.

Key assumptions/sensitivities/risks	Discount rate (%)
A number of assumptions underpin the initial cost and benefits estimates. Initial estimates are for illustrative purposes only. We acknowledge they are not totally robust, given that precise and reliable information is not available in these areas. The consultation may help refine to these estimates. Further evidence is required of enforcers' costs of giving reasonable notice and seeking warrants, and costs to business of enhanced seizure powers, warrant scheme costs, savings to local authorities in simplifying cross border authorisation, reduced officer training costs, reduced inspection costs and savings from the right to present civil cases.	3.5

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	OUT

# Evidence Base (for summary sheets)

## Strategic overview

1. Consumer empowerment is an important part of developing and sustaining competitive markets,<sup>1</sup> and in reducing the detriment consumers suffer over problems with the purchase of goods and/or services.<sup>2</sup> It is also key to supporting the Government's growth strategy. Government can help to support and empower consumers, and thus help drive competition by raising compliance with consumer law through improved enforcement.<sup>3</sup>
2. The Government has three objectives in relation to improving consumer law enforcement: to improve the effectiveness and efficiency of enforcement; whilst reducing the regulatory burden on businesses; and rolling back state intrusion and protecting civil liberties. This impact assessment is a summary document for potential reforms to five elements of enforcement proposed in a single consultation to address these objectives and so has not been assessed by the RPC.
3. This consultation seeks views on proposals for improving the effectiveness and efficiency of consumer law enforcement regime in accordance with the Government's objectives. The proposals in relation to consumer law powers will help meet the Government's commitments in the Red Tape Challenge in July 2011 to reduce the stock of regulation and the commitment to protect civil liberties<sup>4</sup> as outlined in the Protection of Freedoms Bill, currently before Parliament, by reviewing and consolidating powers of entry and improving safeguards to their use. Also, proposals to encourage the use of civil enforcement support the Government's commitment to prevent a proliferation of unnecessary new criminal offences.<sup>5</sup>

## Problem under consideration

4. In 2008, the Office of Fair Trading (OFT) found that around one-third of consumers reported at least one problem in the last 12 months with goods or services purchased, leading to a total value of consumer detriment of £6.6 billion across the economy.<sup>6</sup>
5. The National Audit Office (NAO) estimated in July 2011 that 70% of consumer detriment is likely to arise out of activities which cross local authority boundaries.<sup>7</sup> Data indicates that the cost of consumer detriment at regional and national level where offences occur across local authority boundaries is in excess of £4.8 billion. Consumer detriment created through mass marketed scams can be substantial and data indicates that detriment caused by these scams amounts to £3.5 million per year.
6. In 2009, the Consumer Law Review identified a number of problems with the consumer law enforcement framework. The main issue highlighted was:
  - Consumer law investigatory powers are scattered in around 60 pieces of legislation, and vary from legislation to legislation, making them unclear and confusing for businesses and enforcers. This increases familiarisation costs and the resulting complexity raises the likelihood of costly disputes over how powers are exercised;

<sup>1</sup> See, for example, Consumer Law and Business Practice, Consumer Law and Business Practice, Drivers of compliance and non-compliance, June 2010, OFT [http://www.offt.gov.uk/shared\\_offt/reports/Evaluating-OFTs-work/OFT1225.pdf](http://www.offt.gov.uk/shared_offt/reports/Evaluating-OFTs-work/OFT1225.pdf)

<sup>2</sup> OFT found that around one-third of consumers reported at least one problem in the last 12 months with goods or services purchased, leading to a total value of consumer detriment of £6.6 billion across the economy; Consumer Detriment, OFT, April 2008

<sup>3</sup> For example, OFT estimates that action on unfair trading practices by LATSS in 2007 led to consumer detriment savings of £228 million per year, including £7 million through disrupting the activities of rogue traders, [http://www.offt.gov.uk/shared\\_offt/about\\_offt/offt1085.pdf](http://www.offt.gov.uk/shared_offt/about_offt/offt1085.pdf)

<sup>4</sup> The Coalition: our programme for government, page 11, HM Government, May 2010, [http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition\\_programme\\_for\\_government.pdf](http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf)

<sup>5</sup> The Coalition: our programme for government, page 11, HM Government, May 2010, [http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition\\_programme\\_for\\_government.pdf](http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf)

<sup>6</sup> Consumer Detriment, Assessing the frequency and impact of consumer, problems with goods and services, Office of Fair Trading, page 23, April 2008, [http://www.offt.gov.uk/shared\\_offt/reports/consumer\\_protection/offt992.pdf](http://www.offt.gov.uk/shared_offt/reports/consumer_protection/offt992.pdf)

<sup>7</sup> Department for Business, Innovation and Skills, the Office of Fair Trading and Local Authority Trading Standards Services Protecting consumers – the system for enforcing consumer law, Report by the Comptroller and Auditor General, HC 1087SesSlon 2010–2012, page 8, National Audit Office, 15 June 2011, [http://www.nao.org.uk/publications/1012/protecting\\_consumers.aspx](http://www.nao.org.uk/publications/1012/protecting_consumers.aspx)

Other issues highlighted were:

- Trading Standards' ability to tackle rogue traders causing harm to consumers across local authority borders is hindered by local authorities having to enter into bureaucratic agreements when seeking to enforce across local authority boundaries. This also impedes specialisation and efficient resource deployment across regions as each local authority is required to have universal capacity to act within its borders;
  - Barriers to Trading Standards professionals presenting cases in civil courts dis-incentivises the use of more proportionate enforcement through civil law enforcement;
  - The Weights and Measures statutory qualification requirement for Trading Standards professionals is overly prescriptive and does not address continuing professional development;
7. In addition, feedback received from the enforcement community during NMO's 'reform project' in 2008 was that a better model for calibration and traceability of local authorities' measurement standards would be desirable to avoid duplication, but legislation governing the calibration such measurement standards was too restrictive.

## Rationale for intervention

8. Enforcement of consumer law is key to both the protection of consumers and to the Government's policy of promoting economic growth. It is therefore important that the consumer enforcement regime is as effective and efficient as possible, whilst imposing minimal burdens on legitimate businesses. The current budgetary environment also means that any public expenditure must be used in the most cost-effective manner. The regulatory framework within which Trading Standards operate is governed by legislation. Therefore, the issues and shortcomings identified above which stem from the operation of this framework require Government intervention to address them. Whilst the proposals are essentially deregulatory in nature and effect, the necessary intervention is legislative to enable amendment of the legislation, except in relation to proposals to remove barriers to the use of civil law enforcement, which we do not foresee would require any legislative changes.

## Policy objectives

9. The proposed changes have been guided by the following objectives:
- Improving the effectiveness and efficiency of enforcement; whilst
  - Reducing the regulatory burden on businesses; and
  - Rolling back state intrusion and protecting civil liberties.
10. The proposals summarised in this impact assessment seek to achieve these aims by proposing relatively minor legislative changes to remove obstacles that prevent Trading Standards from operating in an efficient, cost effective way, while imposing negligible additional costs to business. The main proposal is:
- To consolidate and simplify consumer law investigatory powers into **a generic set** for enforcement bodies such as Trading Standards and other regulators, such as the Office of Fair Trading, and those which have powers in the Enterprise Act 2002;

And also to:

- To improve and simplify Trading Standards **cross border authorisation** will enable enforcers to tackle rogue traders who cause harm across local authority boundaries by removing statutory restrictions;

The other less significant proposals are as follows:

- To encourage more proportionate enforcement by removing the statutory barriers to Trading Standards **presenting cases in civil courts** which will facilitate more use of civil enforcement when appropriate and reduce an over-reliance on criminal prosecutions;
- To replace the overly prescriptive **statutory Weights and Measures qualification** with a more general statutory competency requirement to ensure Trading Standards professionals obtain appropriate qualifications and maintain their competencies in the areas they enforce; and

- Enable competition in the **calibration of local authorities' measurement standards** market by removing statutory restrictions.
11. Individual Impact Assessments considered a number of policy options to achieve the policy objectives above, setting out costs and benefits of each option.

## Costs

12. Individual Impact Assessments provide cost estimates of the Options considered in each policy area for illustrative purposes only. Whilst Government has made use of all available evidence, including the knowledge on the ground from Trading Standards professionals, it is either not possible to monetise impact at this stage as we do not currently have evidence or we believe that the evidence available is not robust enough to provide a reliable estimate. We will use the consultation to gather further evidence to refine the costs estimates.

### *Costs to businesses*

13. The only costs to business are in relation to consolidation of investigatory powers through the extension of officers' enhanced powers of seizure to a small number of pieces of consumer legislation for purposes of consistency and transparency. These costs may vary quite significantly from case to case, and there is a high degree of uncertainty. These costs are estimated at £3.06m per annum, which equates to £26.3m over 10 years.

### *Costs to local authorities*

14. The main costs to local authority enforcers are in relation to the introduction of a requirement to give notice to businesses before exercising a power of entry. These costs are estimated to be in the range £895,652 - £1.79m per annum, which equates to £7.7m - £15.4m of net present value.
15. Other costs are in relation to the introduction of a requirement for enforcers to seek a warrant before exercising the power of entry to wholly or mainly private dwellings. These costs are estimated to £26,780 - £197,760 per annum; £0.23 to £1.7m over 10 years.
16. In addition, the total cost to local authorities which wish to obtain civil rights of audience for their officers is estimated to be in the range of £116,000 to £177,000 pa, £0.98m to £1.50m of present value over 10 years.

## Benefits

17. Whilst Government has made use of all available evidence, including the knowledge on the ground from Trading Standards professionals, it is either not possible to monetise impact at this stage as we do not currently have evidence or we believe that the evidence available is not robust enough to provide a reliable estimate. The exception is in relation to the estimates of savings in the Traceability Impact Assessment. We think this is more robust evidence, but we will use the consultation to gather further evidence to refine all the benefits estimates further.

### *Benefits for businesses*

18. Consolidation of enforcers' powers will reduce the burden on business through simpler, more transparent powers and additional safeguards to their use. The impact on enforcers as a result of the increased safeguards attaching to the use of powers will be offset by the improved convenience for law-abiding businesses. There will be benefits to businesses through enforcers being required to give reasonable notice and make appointments with businesses before carrying out inspections, and thus inspect at a time which is convenient to the trader. If a business can make an appropriate person available during the visit, this may help to reduce the duration of officers' visits. For illustrative purposes, the benefit is estimated to be 10% of the average cost of an inspection, which is estimated to amount to £4.3m per annum or £37m of present value.
19. Simpler, more transparent enforcers' investigatory powers will also mean less time for businesses in checking enforcers' powers and a reduction in time consuming disputes. For illustrative purposes, this may benefit businesses by an estimated £152,258 per annum, £1.31m of present value.

20. Making it easier for Trading Standards to work across local authority borders should mean that law-abiding businesses will gain from improved enforcement against rogue traders who operate across local authority borders. It will support more specialisation within Trading Standards Services across regions, which should deliver faster, more effective enforcement, reducing burdens on honest businesses. It should also mean greater public service efficiency which is good for the long-term business operating environment.
21. Where enforcers have a choice of enforcement route, more use of civil cases would enable enforcers to tackle minor and some larger corporate non-compliances more swiftly and cheaply than by using the criminal law. This should therefore deliver further financial savings for Trading Standards, as well as more proportionate sanctions for business.
22. A more general statutory qualification together with a general statutory competency requirement for maintaining ongoing competency will ensure competence of officers in the enforcement work they undertake whilst providing assurance to businesses as to officers' professional skills, perhaps specialising in certain areas in order to support businesses.
23. Businesses may benefit from taking up calibration of measurement standards work previously carried out by the NMO on behalf of the Secretary of State.

### *Benefits for local authorities*

24. The generic set of powers will mean that investigatory powers are simpler and more transparent for enforcers. This will reduce the need for officers to check what their powers are in each circumstance and realise benefits which for illustrative purposes we estimated at £1.6m per annum and £10.7m over 10 years. It will also reduce the training costs for new officers. Again for illustrative purposes it is estimated that Trading Standards will save £18,888 per annum which equates to £163,000 over the life of the policy.
25. Simplifying cross border authorisation will make it easier for Trading Standards to tackle rogue traders operating across local authority borders, by removing the need for bureaucratic memoranda of understanding (MOUs) with neighbouring local authorities. Trading Standards will save time in developing memoranda of understanding which, for illustrative purposes, we have estimated as providing savings in the range of £37,400 - £88,000 per annum which equates to £0.32 - £0.75m over 10 years. The main benefit will arise over time out of increased flexibility for Trading Standards to organise themselves regionally and specialise locally for greater efficiency.
26. More use of civil cases would enable enforcers to tackle minor and some larger corporate non-compliances more swiftly and cheaply than by using the criminal law. This should therefore deliver further financial savings for Trading Standards, as well as more proportionate sanctions for business. Enabling Trading Standards professionals to present cases in County Courts we have estimated for illustrative purposes will save Trading Standards £250,000 per annum, which equates to £2.15m over 10 years.
27. Replacing the statutory Weights and Measures qualification with a more flexible statutory competency requirement which continues to ensure suitably qualified and competent officers, will offer local authorities more flexibility in resourcing and structuring their services, especially at a time when they are under increased budgetary pressures.
28. Removing restrictions in the Weights and Measures Act would allow a different route for the calibration of local authorities' measurement standards and would remove the requirement to hold local standards, and remove the requirement for the 5-yearly re-verification. This would generate savings under the new regime of £336,181 per annum which equates to £2.9m of present value.

## Rationale and evidence that justify the level of analysis used in the Impact Assessment (proportionality approach)

29. We have used all existing available evidence and the knowledge on the ground from key stakeholders to provide initial estimates in the individual IAs. However, we acknowledge that there is a degree of uncertainty around these estimates. We acknowledge that some of the estimates in the Impact Assessments are not robust; estimates have been used where possible based on sampling of Trading Standards Services. The consultation will be useful in gathering further evidence as well as help us identify evidence gaps. Further estimates will be developed during the consultation based on responses from businesses and enforcers.

## Risks and assumptions

24. Businesses and local authority Trading Standards Services support the proposals in the Impact Assessments.
25. Throughout the text of the individual IAs we have used a number of assumptions to underpin the initial estimates of cost and benefits associated to this policy. Initial estimates are set out for illustrative purposes only, except in relation to the Traceability Impact Assessment which we believe is more robust evidence. We do acknowledge they are not totally robust, given that precise and reliable information is not available in these areas. The consultation might help us refine the costs and benefits estimates.
26. We will use the consultation to seek further evidence of the costs and benefits in relation to the generic set of powers, in particular evidence of enforcers' costs for giving reasonable notice, and seeking warrants in relation to powers of entry to wholly or mainly private dwellings, and further evidence as to the costs to business of the extension to officers' enhanced seizure powers. Further evidence will also be sought of the reduction officers' training costs, and evidence of savings on inspection costs to businesses and checking officers' powers.
27. We will be seeking further evidence in relation to the costs of administering a national warrant and in relation to the savings to local authorities in relation to the cross border authorisation proposals. It is assumed that the estimated impact on the Yorkshire and Humber Scambuster team is representative of all 11 Trading Standards regions in relation to the impact of proposals to improve cross border authorisation. While we acknowledge this is not a robust estimate, it does help provide a ballpark figure, which can then be refined in the consultation process.
28. We will seek further evidence of the savings to local authorities which seek accreditation for their officers to enable them to present cases in civil courts.
29. Developing a Code of Practice on the LATSS qualification will support a more generalised competency requirement to guard against lowering of competency standards.
30. The risk with enabling more competition in the calibration of measurement standards is that no commercial entity will offer all the re-verification services currently provided by NMO. In that case, the status quo would remain and the gains would not be realised.

## Direct costs and benefits to business calculations (following "One-In, One-Out" OIOO methodology)

31. The only sources of costs on business by these proposals relate to the changes to consumer law investigatory powers. The costs relate to the extension of enhanced seizure powers which are currently applied to most consumer legislation, but with a number of exceptions. These costs are offset by introducing stronger safeguards before enforcers' powers can be used which is aimed at reducing the burden on businesses, e.g. the introduction of a requirement for officers to give reasonable notice and thus inspect at a time which is convenient to the trader.



32. The guide on OIOO indicates that specific enforcement action is out of scope for OIOO purposes.<sup>8</sup> Therefore, it is concluded that the impacts regarding improving cross border authorisation, enabling Trading Standards to present simple civil cases in Court, introducing a more flexible statutory competency requirement for Trading Standards, and enabling more competition in the calibration of measurement standards market are out of scope. Whereas the consolidation of investigatory powers are in scope for OIOO purposes.
33. The proposals and their impacts are discussed in more detail in the individual impact assessments. Overall, the proposals are deregulatory and the net impact on businesses of these proposals is likely to be positive. Whilst the estimates of costs and benefits of these proposals may not be robust, on the basis of these estimates, the net impact on businesses is likely to be positive and therefore amount to an 'OUT'. Therefore, at this stage no corresponding 'out' has been identified as necessary. However, we will undertake further work during the consultation, including seeking views from affected businesses to improve estimates in this regard, so that we will be able to state with more certainty the magnitude of the costs and benefits of the proposals.

## Statutory Specific Impact Tests

### *Justice Impact Test*

34. We are discussing with the Ministry of Justice more fully to ascertain the size of any impacts and will complete a Justice Impact Test before publishing the consultation, which is due in January 2012:
- The impact associated with the requirement for officers to seek a warrant to exercise powers of entry to premises which are wholly or mainly private dwellings are likely to be negligible as it is current best practice for officers to seek a warrant under the existing regime to exercise a power of entry into these types of premises.
  - The proposal to align the penalties for obstruction offences is likely to have negligible impact on the justice system due to the very small number of obstruction offences prosecuted.
  - The proposal to give Trading Standards professionals the ability to appear in civil cases may increase the number of civil proceedings, but this impact will likely be offset by a corresponding reduction in criminal prosecutions where enforcers have a choice of enforcement route.

### *Micro-business moratorium*

35. The legislative vehicle to make the changes proposed in this consultation is the Consumer Bill of Rights which will not come into force before April 2014, so the moratorium on micro-businesses does not apply to these proposals.

### *Other Impact Tests*

36. After initial screening the potential impact of this proposal on race, disability and gender equality, it has been decided that there will be no impact. It is not expected to have any impact on the Convention Rights of any person or class of persons, it will not affect small firms, or have an effect on rural proofing. We do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.

## Sunset clauses

37. Sunset clauses for any 'INs' will be included in the proposed Consumer Bill of Rights as necessary during the passage of the Bill.

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<sup>8</sup> Paragraph 16 - Measures that are out-of-scope of the OIOO Rule, include: viii. **specific enforcement action** - individual enforcement or inspection activities, or actions to ensure compliance with regulations;" One-In, One-Out (OIOO) Methodology, page 5, July 2011

## Summary and preferred option with description of implementation plan

38. In summary, the five impact assessments cover the following policy areas being considered:

- Consolidating and modernising consumer law investigatory powers into **a generic set** for enforcement bodies such as Trading Standards; and other regulators, such as the Office of Fair Trading, and those which have powers in the Enterprise Act 2002;
- **Cross-border cooperation and authorisation** - Improving and simplifying Trading Standards' ability to work across local authority boundaries and to enable enforcers to tackle rogue traders who cause harm to consumers abroad by clarifying their powers in law;
- Encouraging more proportionate and efficient enforcement by removing the barriers to Trading Standards **presenting cases in civil courts** which may encourage more use of civil enforcement and reduce an over-reliance on criminal prosecutions;
- Increasing the flexibility of Trading Standards **statutory qualification** by removing overly prescriptive requirements and improving competency requirements across all work areas; and
- Enabling competition in the **calibration of measurement standards** market by removing statutory restrictions.

39. Overall, these proposals will enable more effective and efficient enforcement, whilst reducing the burden on businesses. The proposals will simplify consumer law enforcers' powers, enable enforcement against rogue traders, but also encourage more proportionate enforcement where appropriate. Finally, the proposals will support the Government's aim of rolling back state intrusion and protecting civil liberties by introducing stronger safeguards to the exercise of enforcers' powers.

40. In each of these areas, potential options for intervention are considered and the rationale for the preferred options indicated. A section at the end of each impact assessment summarises the analysis and justification for the preferred policy choice.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. The PIR Plan is detailed below. If there is no plan to do a PIR the reasons are given reasons below.

### **Basis of the review:**

The Government is proposing to bring forward a Consumer Bill of Rights which will be used to make any legislative changes proposed in this impact assessment. All Acts are now subject to post legislative scrutiny 3-5 years after Royal Assent. If the Consumer Bill of Rights is brought forward to Parliament, it is likely to be in 2013 and it could receive Royal Assent in 2014. Therefore, a review of these proposals would be carried out as part of the post-legislative review in 2017-2019. However, a separate review will be carried out in relation to proposals to obtain civil rights of audience for Trading Standards; the specific elements of this review are outlined separately.

### **Review objective:**

The review of these proposals, except for civil rights of audience, is intended to ensure that the measures taken to improve enforcement are achieving the desired objectives: improving the effectiveness and efficiency of enforcement, whilst reducing the regulatory burden on businesses and protecting civil liberties.

In relation to proposals to obtain civil rights of audience for Trading Standards, the review by the Legal Services Board would assess the systems put in place by the Approved Regulator to ensure standards relating to reserved activities are appropriately maintained including the systems the Approved Regulator has put in place to moderate standards of assessments, inspecting courses, reviewing course material, and assessing the quality assurance activities undertaken.

### **Review approach and rationale:**

The review of these proposals, except for civil rights of audience, would evaluate the effectiveness of the proposed changes within this impact assessment. As these proposals contribute to the improved enforcement effectiveness and efficiency which feed into the new consumer landscape proposals, any review will take account of these landscape changes. The review will incorporate stakeholders' views that will include consumer groups, business groups, LATSS, and the other consumer law enforcers. The level of cross border consumer detriment will be monitored in the future as part of the consumer landscape changes.

The review of the regime for Trading Standards civil rights of audience will be in accordance with the standard review approach by the Legal Services Board as part of its supervisory role under the Legal Services Board. The costs to Trading Standards of taking civil proceedings will be monitored.

### **Baseline:**

The current costs of checking officers' powers. The current cost of inspections. The current costs to Trading Standards of taking civil proceedings. The current cost of supplying measurement calibration checks. The current costs of operating across local authority boundaries.

**Success criteria:** [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

All the above costs are reduced.

Trading Standards make more use of civil procedures and integrate their activities across local authority boundaries, delivering efficiency savings.

### **Monitoring information arrangements:**

Feedback from businesses, consumer groups, LATSS and other consumer law enforcers will be achieved through regular engagement. The Government will monitor the ongoing costs of the new arrangements through evaluation through existing funding arrangements, annual reports and management information.

More general information about the conditions facing consumers can be collected through surveys

and the European Commission's Consumer Market Scoreboard, currently published bi-annually. In relation to civil rights of audience, monitoring of the arrangements put in place by the Approved Regulator will be carried out as part of their standard regulatory controls.

**Reasons for not planning a review:** N/A

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