

IMPACT ASSESSMENT

Enhancing consumer confidence -
Enabling greater efficiency in the
calibration of local authority
measurement standards

MARCH 2012

Title: Enhancing consumer confidence: Enabling greater efficiency in the calibration of local authority measurement standards IA No: BIS0340 Lead department or agency: BIS National Measurement Office (NMO) Other departments or agencies:	Impact Assessment (IA)		
	Date: 24/01/2012		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
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Summary: Intervention and Options			RPC Opinion: AMBER

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, One-Out?	Measure qualifies as Zero Net Cost
£2.9m	£0	£0	No	Zero Net Cost

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

Consumers (& businesses) have no way of ascertaining the purported quantity by weight, volume or length of goods offered for sale so Government intervenes (regulates) for consumer protection and fair competition to ensure that traders provide information and measurements they use are accurate. Local Authority Trading Standards (LATSS) must use accurate weights and measures standards to check traders' equipment for enforcement purposes. Currently LA standards must be checked for accuracy with standards held by NMO. In 1985 a new route for calibration of measurement standards emerged in the private sector which is more cost effective, but legal restrictions prevent LAs using that route for enforcement purposes.

What are the policy objectives and the intended effects?

The policy objectives are to improve efficiency of enforcement by opening up calibration services for checking LA weights and measures standards to competition, to enable the provision of the LA service at a lower cost than is achievable under the existing legal framework, without a negative impact on the accuracy of measurement standards or on business confidence in the UK measurement infrastructure. The intended effects are increased competition in the area of calibration services and a reduction in costs for LAs with continued business confidence in the UK measurement infrastructure.

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

The following options have been considered relative to a 'do nothing' option:

1. Amend the legislation;
2. Deregulate all standards used by local authorities.

The preferred option is 1: amend legislation to offer an alternative route to traceability. This option would allow trading standards to use UKAS accredited laboratories to verify their legal standards and eliminates the need to hold and maintain local standards. There would be no costs to business and local authorities would benefit from lower costs due to greater competition in calibration services. Some businesses may benefit from taking up the work previously carried out by NMO on behalf of the Secretary of State (a growth potential).

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year

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 ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ 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: Amend the legislation to offer an alternative route for calibration of measurement standards for traceability

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	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	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

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

There are no new costs.

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

There are no new costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	£0.336m	£2.9m

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

Taking Option 1, 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 £336,181 per annum.

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

While there is no direct cost to business, local authorities should benefit from lower costs and businesses may benefit from taking up the work previously carried out by the NMO on behalf of the Secretary of State.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

This IA assumes that the majority of local authorities will support the proposal. The major risk is that no commercial entity will offer the re-verification services currently provided by NMO. This situation happened in France some years ago when they also changed their system and were forced to pay a commercial operator to provide the service. For this reason it is appropriate that re-verification services currently provided by the Secretary of State through NMO would continue to be provided as a back-up (with no new costs). The consultation might help us refine the benefit estimates.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Evidence Base (for summary sheets)

Introduction

1. This impact assessment considers proposed changes in relation to the calibration of the standard weights and measures used by local authorities for inspecting and verifying the accuracy of measuring instruments used for trade. The Government's preferred option is to remove the legislative requirement that prevents LAs using alternative routes for calibration for traceability of measurement standards.

Background

2. Part I of the Weights and Measures Act 1985 deals with Units and Standards of Measurement. It stipulates which standards should be maintained and by whom and prescribes set calibration periods for measurement standards. It is important to have standards to ensure accuracy and consistency of measurement, ultimately enabling consumers to compare products for sale and make informed decisions.
3. Enforcement is carried out by Local Weights and Measures Authorities (LWMAs) (also known as Trading Standards) but in order for their checks to be accurate and for there to be confidence in the system, the standard weights and measures used by LWMAs for inspecting and verifying the accuracy of measuring instruments used for trade (for example, petrol pumps, water meters, weighbridges etc.) need to be sufficiently accurate, traceable back to national standards, and have the confidence of business and the metrology community.
4. LWMAs are responsible for maintaining local standards. However, some local authorities have voluntarily formed regional groups where only one of the authorities within the group holds a set of local standards against which the working standards from several authorities are then compared. This is because the activity of maintaining standards in a local standards 'laboratory' is not cost effective for every single local authority due to the relatively low usage of those local standards.

Problem under consideration

5. Since the 1985 Act was introduced there has been a gradual but progressive move for measurement standards in the UK (except for these statutory weights and measures purposes) being managed through laboratories accredited by the United Kingdom Accreditation Service (UKAS). Standards used for these legal metrological purposes, i.e. for weights and measures verification and inspection, are therefore tested using a different system to those being used for non-legal purposes (i.e. within a UKAS accredited testing or calibration laboratory). The different systems have different re-calibration requirements so the situation can arise that a single standard could have two different calibration 'values' arising, one from the legal route and one from the UKAS route.
6. Current restrictions in Weights and Measures Act 1985 mean that local authorities must use the National Measurement Office (NMO) to calibrate their standards. This provides no flexibility for any alternative, equally efficient routes for calibration and thus traceability of standards.

Rationale for intervention

7. Consumers (& businesses acting as consumers) have no way of ascertaining the purported quantities of weights, volume or length of goods offered for sale so the Government intervenes (regulates) for reasons of consumer protection and fair competition to ensure that information on quantity is provided and measurements are accurate. Local authority (LA) Trading Standards must use accurate weights and measures to check equipment and maintain confidence in the measurement infrastructure. Currently all LA standards must be traced back through those held by the NMO. However, since 1985 a new route for traceability emerged in the private sector, but there is a legal restriction preventing LAs using that route for the standards for weights and measures enforcement. The objective is to improve efficiency of enforcement through accurate working standards held by local authorities (LA) by opening up calibration services to competition, to enable the provision of the service at a lower cost than is achievable under the existing legal framework, without a negative impact on the accuracy of standards or on business confidence in the UK measurement infrastructure. The intended effects are increased competition in the area of calibration services and a reduction in costs for LAs, with continued business confidence in the UK measurement infrastructure.
8. Feedback received from the enforcement community during the 'reform project' in 2008 was that a better model for calibration and traceability of standards would be desirable to avoid duplication in the calibration of standards. Some smaller authorities thought it would be more cost effective to continue to calibrate their standards through NMO. This was based upon the assumption that LAs would still need to hold secondary standards and to hold a calibration laboratory to calibrate their working standards. The current proposal is to remove the requirement to hold local standards completely therefore making larger savings for LAs as compared to the current set up.

Policy objective

9. The policy objectives are to improve the efficiency of enforcement through delivering the outcomes of accurate working standards used by local authorities for checking measuring instruments and continued business confidence in the UK measurement infrastructure, but at a lower cost than is achievable under the existing legal framework.

Options identification

10. In considering options for reform, three potential options were identified:

Option 0: Do nothing;

Option 1: Amend the legislation to offer an alternative route for calibration of measurement standards for traceability;

Option 2: Deregulate all standards used by local authorities.

Options analysis

Option 0: Do nothing

11. This Option maintains the status quo and local authorities would still have to submit their local standards to NMO for re-verification once every five years and maintain their laboratory facilities and staff - even if the standards have been verified separately by the UKAS route for non-legal (commercial) purposes. Given that the cost to maintain laboratory facilities is an additional expense for local authorities (estimate £6 k per annum), there will be continued pressure within cash-strapped authorities to withdraw from holding standards and contract this function to another authority. NMO believes that the continuous trend to 'outsource' the laboratory functions and facilities will end up at a critical point whereby there are no metrology laboratories or expertise left for local authorities to continue outsourcing. This in turn may lead to national weaknesses in the enforcement of technically complex weights and measures legislation and the eventual possibility of consumer detriment and an unfair business market. Secondly, the do nothing option misses an opportunity to remove the statutory monopoly that NMO currently has in the provision of traceability to local authorities, and the possible savings that will follow from this.

Discarded option

Option 2: Deregulate all standards used by local authorities

12. This Option would remove any requirement on Local Authorities to use traceable standards in weights and measures enforcement. Although many Local Authorities would choose to have their standards tested by a UKAS accredited laboratory, there would be no legal requirement to do so.
13. This Option could deliver greater savings for Local Authorities than Option 1 as there would be no requirement to hold any standards or to have them tested for accuracy against traceable standards. However, such savings could only be delivered at a cost of reducing the accuracy and reliability of any standards used.
14. It is a fundamental feature of all measurement infrastructures that the standards used for legal purposes should be controlled and their value linked to national (and international) measurement standards i.e. they must be traceable. It is also a recommendation of the OIML (an international treaty organisation for the harmonisation of legal metrology to eliminate technical barriers to trade) in their Recommendation D1 "Elements for a law on metrology".
15. The removal of any requirement for traceability for the standards used for checking measuring instruments is likely to reduce confidence in the measurement infrastructure. Traceable standards provide the legal certainty in legal disputes involving quantity – courts do not need to question the validity of measurements made by enforcement officers using these standards because the Act provides certainty. Therefore, this Option would make legal enforcement much more difficult and open to challenge.
16. Therefore, this Option is not recommended as it is unlikely to deliver the policy objective of ensuring the accuracy of standards used for enforcement purposes or maintaining confidence in the measurement system.

Option 1: Amend the legislation to offer an alternative route for calibration of measurement standards for traceability

17. The proposal is to provide an alternative calibration route for legal standards via UKAS or equivalent accredited laboratories while still maintaining the existing Secretary of State route through NMO. The proposal will modernise the system which may have been appropriate at the time of the 1985 Act when local authorities carried out a lot more inspections and the standards were used a lot more. The NMO would maintain the capability to calibrate the standards in the event that no accredited laboratories offer the service.

18. The proposal would open up the market to allow competition with regard to calibration of the standards which would benefit those who need their standards calibrated. The UKAS system and legal system would no longer be in conflict with each other and the need for duplication would be removed. The proposal would remove the unnecessarily prescriptive requirements from primary legislation providing flexibility and future-proofing for the development in the science of the maintenance of standards in the future.
19. Only local Government will be directly affected by the proposal. The regulation will not apply to small businesses or affect the business environment in which they operate except in that some UKAS calibration laboratories may gain some more calibration work which was previously only able to be carried out by the NMO.

Costs

20. There are no costs to businesses or local authorities.

Benefits

Benefits to local authorities

21. At the time of writing there are 74 Local Weights and Measures Authorities that hold local standards. They must have their standards re-verified by NMO at least once every 5 years. Based upon figures from the 2011 re-verification 'tour' supplied by the NMO Certification Services Calibration Team and covering nine local authorities, the total cost of the 9 re-verification exercises was £20,175 – or an average of £2,242 per authority. However, only 74 (of the 202) local authorities actually continue to hold local standards (the rest have an arrangement to get their working standards checked against these remaining sets of local standards under an option permitted under section 101 of the Local Government Act), so the total cost for this activity is £2,224 x 74 for each five year tour or £33,181 per annum for all 74 authorities.
22. Based upon the 2011 LACORS (Local Authorities Co-ordinators of Regulatory Services) "fees guidance 2011/2012", the cost of maintaining working standards is £6,000 per local authority. This would include the cost of the laboratory space and maintenance of the working standards. So for all 202 authorities the total fixed cost would be (£6,000 x 202) i.e. £1,212,000 per annum.
23. So under the current system, the total cost to authorities is (£33,181 + £1,212,000) i.e. £1,245,181 per annum.

If the legislation is amended to allow a different route for traceability and to remove the requirement to hold local standards, the 5-yearly re-verification cost element would disappear. Also because there will be no need to provide the full laboratory facilities to hold and maintain local standards and the manpower to make checks between local and working standards, local authorities will be free to have their working standards certified by any UKAS accredited laboratory i.e. they can look for "a better deal". NMO currently charge £33 for the UKAS calibration of a typical working standard weight (i.e. OIML Class M1). This is 33% more expensive than the £22 currently charged by an alternative existing UKAS accredited laboratory. Assuming that competition results in lower prices (*"Open and vigorous competition is good for consumers because it results in lower prices, new products of a better quality and more choice. It is also good for fair-dealing businesses, which flourish when markets are competitive"*¹), we estimate the costs of this activity could fall by approximately 25% which will reduce the costs to (£1,212,000 x 0.75) i.e. £909,000 per annum.

24. So the total costs to local authorities under the new regime will be £909,000 per annum.
25. Savings under the new regime = (£1,245,181 - £909,000) i.e. £336,181.
26. We believe this estimate is robust, but we will test this in the consultation.

Question: Do you have any evidence that could help to refine the benefits estimate presented above?

¹ OFT - The development of targets for consumer savings arising from competition policy Economic Discussion Paper 4, June 2002

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

27. This policy has been considered before but the very small level of savings has not justified the Parliamentary time required to make the legislative changes to Primary Legislation. However, following the Consumer Law Review in 2009 there is a proposal for a Consumer Bill of Rights which might be set before Parliament in 2013. This Bill provides an appropriate vehicle to make the legislative changes which are part of a package of measures aimed at making enforcement by Trading Standards more effective, efficient and consistent. Although the potential savings do not benefit business directly as they apply to local authorities, the savings may partially offset the recent cuts in central and local funding, and help to maintain levels of service and the competence of weights and measures inspectors. The level of analysis in this Impact Assessment is therefore less than for an Impact Assessment that would have a greater effect on business.

Risks and assumptions

Option 1

28. This Impact Assessment assumes that the majority of local authorities will support the proposal in Option 1. The major risk is that no commercial entity will offer the re-verification services currently provided by NMO. This situation happened in France some years ago when they also changed their system and were forced to pay a commercial operator to provide the service. For this reason it is appropriate that the re-verification services currently provided by the Secretary of State through NMO would continue to be provided as a back-up, in the event that there are no commercial providers. The UKAS website lists 18 established UKAS accredited mass calibration laboratories, but no accredited length or volume calibration laboratories. Therefore it is possible that the Secretary of State will need to continue to provide this service as a back-up for length and volume calibration but not for mass. There will be no new costs to the Secretary of State because this back up is already in place – because the NMO is currently required to calibrate the local standards currently held by local authorities. This activity is currently funded under the National Measurement Service Legal Metrology Programme. Therefore, there will be no new costs if we change to the new regime – indeed there may be scope to reduce the current costs given that there are already a range of commercial suppliers for mass calibration.
29. We believe this estimate is robust, but the consultation might help us refine the benefits estimate.

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

30. This impact assessment covers a proposal to amend the statutory requirements placed on local weights and measures authorities in support of their duty to enforce the Weights and Measures Act 1985.
31. The proposal has no effect on business. It is deregulatory in the sense that it removes the statutory monopoly on traceability from the Secretary of state (NMO) and it offers modest savings for local authorities. *It also offers a small potential for growth in the private sector should they take up the option to provide the re-verification services.*
32. The guide on OIOO indicates that specific enforcement action is out of scope for OIOO purposes.² Therefore it is concluded that the measure is OUT of scope for OIOO purposes. Although local weights and measures authorities (local government) will financially benefit from this simplification, the savings cannot be ‘banked’ as they are not part of business or civil society.

² 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

Statutory Specific Impact Tests

33. After 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.

Summary and preferred option with description of implementation plan

34. The preferred option is Option 1: Amend the legislation to offer an alternative route for calibration of measurement standards for traceability. The implementation plan is to make the legislative changes through the proposed Consumer Bill of Rights.

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