

IMPACT ASSESSMENT

Enhancing consumer confidence -
More flexible Trading Standards
qualifications and competencies

MARCH 2012

Title: Enhancing consumer confidence: More flexible Trading Standards qualifications and competencies IA No: BIS0337 Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: National Measurement Office, Local authority Trading Standards Services	Impact Assessment (IA)		
	Date: 11/01/2012		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
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Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0	£0	£0	No
			Zero Net Cost

What is the problem under consideration? Why is government intervention necessary?
 Local Authority Trading Standards Services (LATSS) enforce a wide range of consumer law. It is vital that officers maintain competencies in order to adequately advise businesses on their legal obligations and on how they can comply. Currently, all LAs must employ an Inspector of Weights and Measures with specific qualifications. This obligation on each local authority reduces LA flexibility to specialise and integrate LATSS work on a regional basis. Meanwhile there is no statutory requirement for LATSS professional competence or continuing professional development across all other areas of LATSS work. This carries a risk that in future some local authorities might be tempted to under-invest in qualified and competent staff.

What are the policy objectives and the intended effects?
 The Government wants to reduce local authority costs, where possible, and offer more flexibility for LATSS in resourcing and structuring their teams and working with neighbouring authorities to reflect the threats and priorities arising in their local area. But Government also wants to ensure that all local authorities have a more general obligation to employ suitably qualified and competent Trading Standards staff.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 The following policy options have been considered, in comparison to a 'do nothing' option:
 1: Replace the prescriptive statutory Weights and Measures qualification with a generalised statutory competency requirement that ensures officers have suitable qualifications and that ongoing competency is managed through continuous professional development;
 2: Retain the statutory Weights and Measures qualification, whilst in a addition introducing a general statutory competency requirement;
 The preferred Option is 1. This would provide flexibility for LATSS to focus officers' training and development needs to reflect the threats and priorities arising in their local area. It would present no costs to businesses, and LATSS would benefit from greater flexibility in maintaining their officers' competencies.

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 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: Replace the statutory Weights and Measures qualification with a less prescriptive, general statutory competency requirement

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: 0

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	0

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

None.

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

A more flexible statutory competency requirement will provide flexibility for LATSS to focus on the training and development needs of staff to reflect the threats and priorities arising in their local area and out of cross-boundary collaboration. The benefits cannot easily be quantified at this stage. Total savings to local authority Trading Standards under the new regimes are likely to be accrued over time, though more specialisation across regions. It would present no costs to businesses.

Key assumptions/sensitivities/risks

Discount rate (%)

Developing a Code of Practice to support a more generalised statutory competency requirement, which involves maintaining that competency, will help ensure appropriate standards are maintained.

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	Zero net cost

Summary: Analysis & Evidence

Policy Option 2

Description: Retain the statutory Weights and Measures qualification, whilst in addition introducing a general statutory competency requirement

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: 0

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	0

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

None.

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

The statutory requirement for officers to hold a competency requirement, which involves maintaining competency and which covers other areas of consumer law, will provide assurance to businesses. The benefits cannot easily be quantified at this time. Total savings to local authority Trading Standards under the new regimes are likely to be accrued over time, though more specialisation across regions. It would present no costs to businesses.

Key assumptions/sensitivities/risks

Discount rate (%)

Developing a Code of Practice to support the statutory qualification, coupled with a general statutory competency requirement, which involves maintaining competency, will help ensure appropriate standards are maintained.

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base (for summary sheets)

Introduction

1. This impact assessment considers proposed changes in relation to the statutory Trading Standards qualification. The Government's preferred option is to replace the statutory Weights and Measures qualification with a less prescriptive, generalised statutory competency requirement for all trading standards functions that ensures officers are suitably qualified and that ongoing competency is managed through continuous professional development (Option 1). This will ensure that Trading Standards professionals continue to be appropriately qualified and competent in relation to all the areas of regulation that they enforce.

Background

2. Currently the only statutory qualification requirement for Trading Standards appears in the Weights and Measures Act 1985.¹ This provides that the Secretary of State must provide for the holding of examinations for the purposes of ascertaining whether persons possess sufficient skill and knowledge for the proper performance of the functions of an inspector. Local authorities may only appoint weights and measures inspectors that hold this qualification.
3. A good example of a less prescriptive statutory qualification requirement is found under the Health and Safety at Work etc Act 1974. This enables enforcing authorities to appoint persons, having suitable qualifications as they think necessary to enforce relevant legislation. This leaves it to local authorities to determine what qualifications are suitable for officers to enforce the legislation.²
4. The Trading Standards Institute's (TSI) Trading Standards Qualification Framework³ enables local authorities to ensure that their officers are appropriately qualified and possess the necessary competencies at the point of qualification. The Local Better Regulation Office's (LBRO) Common Approach to Regulatory Competence provides common and transparent professional standards of competency for local authority regulatory services, to help ensure officers' ongoing competency. These underpin any statutory provisions, but are not in themselves binding on any individual local authority.

Problem under consideration

5. Weights and measures is just one area of consumer law that local authority Trading Standards have a duty to enforce, but there is no equivalent statutory requirement for skills and knowledge in relation to other consumer law that local authorities enforce, nor do Trading Standards staff have to hold a qualification or proof of continuing professional development in relation to other consumer law.
6. The current statutory Weights and Measures qualification provides assurance of Trading Standards professionals' skills and knowledge in Weights and Measures enforcement at the time of qualification. However, it does not provide assurance of officers' continuing competency in weights and measures enforcement, through any requirement for continuous professional development.
7. In response to the Consumer Law Review, in 2009, Trading Standards East Midlands commented:⁴

"TSEM does not see the necessity for a statutory qualification requirement for Inspectors of Weights and Measures when it is not required for other areas of consumer law. It would be preferable for local trading standards authorities to be required to employ competent officers. We believe that "competency" should be defined in terms appropriate to each piece or group of legislation."

¹ Section 73(1) Weights and Measures Act 1985

² See Section 19(1) of the Health and Safety at Work etc Act 1974

³ The Trading Standards Institute is a professional membership association which represents trading standards professionals in the UK and overseas in local authorities, the business and consumer sectors and in central government,

<http://www.tradingstandards.gov.uk/quals/tsqfqualification.cfm>

⁴ Consumer Law Review Responses S-Z, Page 52, Department for Business, Innovation and Skills, 2008,

<http://www.berr.gov.uk/files/file52000.pdf>

8. In a TSI survey of the Association of Chief Trading Standards Officers in October 2011, 98% of respondents felt it would be of benefit to have a generic and core competency for all enforcement staff which would underpin specialist knowledge requirements. Out of the respondents, 38 favoured qualifications which are maintained with a competency framework, whereas 24 favoured maintaining the current system with the statutory Weights and Measures qualification but adding other consumer law that officers must enforce.

Rationale for intervention

9. The current statutory qualification only provides assurance of Trading Standards professionals' skills and knowledge in Weights and Measures enforcement at the time of qualification. It does not provide assurance of officers' continuing competency in Weights and Measures enforcement nor other regulatory areas enforced by Trading Standards.
10. An additional indirect cost associated with having a prescriptive relatively costly statutory qualification⁵ is that it reduces the flexibility for local Trading Standards Services in structuring and resourcing their teams in order to support business effectively. Local authorities need the flexibility in resourcing and structuring their teams to reflect the threats and priorities arising in their local area. But at the same time, businesses must be assured that officers' competencies are developed and maintained for the areas of work they undertake.

Policy objective

11. Government policy in this area is intended to support the objective of improving the effectiveness of enforcement. The existing statutory requirement under the Weights and Measures Act would be repealed. A more general statutory competency requirement will be introduced for local authorities to ensure Trading Standards professionals obtain appropriate qualifications and maintain their competencies. A less prescriptive qualification requirement would help officers attain a level of competency in the areas of regulation that they are enforcing and the continuing professional development will help in keeping that competency up to date. It would be the responsibility of local authorities to determine what appropriate competencies are required for the areas of work officers undertake. Local authorities would be able to appoint officers who have suitable qualifications and experience as they consider necessary, rather than specifying a specific qualification, such as that under the Weights and Measures Act. This would increase flexibility for local authorities to resource and structure their services perhaps specialising in certain areas, and cooperating with neighbouring authorities.
12. The statutory requirement would be supported by a voluntary Code of Practice to assist local authorities in understanding the types of qualifications and continuing professional development that would provide assurance as to officers' professional skills.

Options identification

13. In considering options for reform in this area, two options were identified:
 - Option 0: Do nothing;
 - Option 1: Replace the statutory Weights and Measures qualification in with a less prescriptive general statutory competency requirement;
 - Option 2: Retain the statutory Weights and Measures qualification, whilst in addition introducing a general statutory competency requirement.

⁵ See details on the cost of qualification below

Options analysis

Option 0: Do nothing

14. The 'do nothing' option maintains the status quo. This maintains the prescriptive statutory Weights and Measures qualification and misses the opportunity to remove it in favour of less prescriptive statutory requirement whilst introducing a flexible approach to continuous professional development. Therefore, it will not be possible to realise the potential savings that a less prescriptive requirement is likely to provide.

Costs

15. Currently, the National Measurement Office stipulates certain minimum qualification requirements for a candidate to be awarded the section 73 statutory Weights and Measures qualification.⁶ The total cost of minimum qualification requirement is £4,836 per officer.⁷
16. As at April 2011 there were 4,300 full time equivalent Trading Standards staff in Great Britain.⁸ In April 2008, approximately, 1,400 officers held the statutory Weights and Measures qualification, but not all these officers may be proactively involved in enforcement of Weights and Measures.⁹ TSI report that in 2010, 571 officers sat exams for the TSQF, of those 29 qualified in Weights and Measures and in 2011, 881 officers sat the exams, of those 40 qualified in Weights and Measures.
17. The Weights and Measures course involves 21 days face to face training, including sitting the examinations per officer, plus a further 200 hours per officer are required to complete the two portfolios. Assuming an 8 hour day, this amounts to a total of $(168 + 200) = 368$ hours of training per officer. If it is assumed that 40 officers take the Metrology course, and assuming officers' costs are £20.6 per hour,¹⁰ the productivity lost is estimated as $40 \times 368 \times £20.6 = £303,232$ per annum. The course costs are estimated as $40 \times £4,836 = £193,440$ per annum. This means that the qualification opportunity cost is $£303,232 + £193,440 = £496,672$ per annum.

Benefits

18. The statutory Weights and Measures qualification provides assurance of officers' level of competency at the time of qualification.

Option 1: Replace the statutory Weights and Measures qualification with a less prescriptive general statutory qualification and competency requirement

19. In this Option the statutory Weights and Measures qualification would be replaced by a less prescriptive and more general, statutory competency requirement which would include a requirement for officers to be suitably qualified, and to maintain their competency. This statutory requirement could be fulfilled through the current Trading Standards Qualification Framework and TSI's Trading Standards Practitioner definition and the LBROs' Common Approach to Regulatory Competence, which provides assurance that officers maintain necessary knowledge and skills to enforce the

⁶ This is as follows: The Core Skills Certificate in Consumer Affairs and Trading Standards which comprises of 3 examinations; (Legal Systems, Law of Contract and Consumer Protection Environment) and the core skills portfolio of evidence; the Legal Metrology Service delivery module which comprises the Weights and Measures Law examination; Weights and Measures Technology examination; Legal Metrology portfolio of evidence; Practical and Oral examination.

⁷ These costs are based information from the Trading Standards Institute and on the provision of face to face training, and are as follows: Therefore Foundation in consumer affairs and trading standards (FCATS): (Legal Systems: Training Course £750; Examination costs £102 +VAT, Law of contract and Tort: Course £750; Examination £102 +VAT, Consumer Protection and Environment: Course £750; Examination £102 +VAT (Combined Fee for all 3 papers £245 +VAT), Core Skills Portfolio: External Verification £140 +VAT). In addition a candidate would need complete and pass the Legal Metrology Service delivery module from the Diploma in Consumer Affairs and Trading Standards: (Weights and Measures Law examination: Training Course £750; Examination £102 +VAT, Weights and Measures Technology examination: Training Course £750; Examination £102 +VAT, Legal Metrology portfolio of evidence: External Verification £110 +VAT, Practical and Oral examination: £387 +VAT).

⁸ 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 21, National Audit Office, 15 June 2011, http://www.nao.org.uk/publications/1012/protecting_consumers.aspx

⁹ Chartered institute of Public Finance and Accountancy statistics 2008

¹⁰ Based on Inspectors of factories, utilities and trading standards median Hourly pay - Excluding overtime (£16.99). Source: ASHE 2010; plus 21% non-wage labour costs, in order to get total labour costs as suggested by Eurostat http://epp.eurostat.ec.europa.eu/portal/page/portal/labour_market/labour_costs/main_tables, see table tps00113

requirements of legislation, support businesses effectively and deliver successful outcomes for consumers and business.

20. The new statutory competency requirement will be backed up by a voluntary Code of Practice. The Code will set out the qualifications and competencies officers in Trading Standards should possess for the work they perform and how they can be assessed and maintained. Defining qualifications and competencies through a Code of Practice will provide an effective mechanism to provide the assurance to businesses, and sign-post employers to a flexible tool and enable local authorities to benchmark their officers' skills and competencies. It will also enable local authorities more flexibility in resourcing and structuring their services, especially at a time when they are under increased budgetary pressures.

Costs

21. If the statutory requirement to hold a Weights and Measures qualification were removed, the cost associated with it would be taken away, but it is likely that most, if not all, authorities would replace the relevant training and development with other courses and training options in order to meet the general requirement to employ competent staff. But local authorities should not incur any extra costs given that local authorities should already be taking the trouble to employ competent staff.

Benefits

22. This option will provide more flexibility for local authorities to decide the level of competency officers require based on the area of law they are enforcing and how they can ensure they maintain knowledge and skills to enforce the requirements of legislation. Officers' qualifications and ongoing development can then be determined by the threats and priorities in their local area and by the scope of enforcement work officers carry out. This will ensure that officers' competencies are focussed on the needs of the local area allowing local authorities to resource and structure their teams more flexibly.
23. There may be modest savings in any revision of the training arrangements course to support a more generalised statutory requirement. Respondents to the TSI survey of the Association of Chief Trading Standards Officers in October 2011 outlined the various ways in which they currently maintained officers' competencies, for example, through the TSI qualification framework, continuing professional development, development discussions and shadowing and mentoring of staff.
24. These methods would not necessarily be any cheaper overall than requiring officers to obtain the Weights and Measures qualification, but they can be more tailored to the particular needs of the local authority and applied in such a way as to keep expertise up to date. Therefore, it is unlikely that local authorities would save money in the short term as a result of this change. The change will simply offer them more flexibility on how they meet this obligation and will facilitate specialisation and cross-boundary collaboration between groups of local authorities. If anything, in the longer term this should save the local authorities money. As they collaborate more across local authority boundaries and specialise more, they can make their training more specific and focussed and should be able to provide it at lower cost. However, the savings are very difficult to determine at this stage.

Option 2: Retain the statutory requirement for a Weights and Measures qualification, whilst in addition introducing a new flexible approach to continuous professional development

24. This Option maintains the current statutory Weights and Measures qualification and is supplemented by a general statutory competency requirement to maintain competency in weights and measures enforcement and other areas of enforcement. It recognises the technical nature of Weights and Measures enforcement, and ensures officers' qualifications and competencies are maintained for the benefit of regulated businesses and consumers.
25. This Option does provide assurance to businesses and consumers that officers are required to achieve and maintain their competency. However, it limits the flexibility that local authorities can exercise over officers' qualifications in relation to Weights and Measures.

Costs

26. The costs of the statutory Weights and Measures qualification would remain at around 496,672 per annum as in Option 0. An additional statutory qualification should not add any further costs as local authorities already use the TSI Qualification framework to train their officers and no changes are envisaged to the framework to accommodate the general statutory competency requirement.

Benefits

27. The statutory qualification together with the general statutory competency requirement for maintaining ongoing competency will provide assurance to businesses as to officers' professional skills.
28. However, some of the benefits from Option 1 around providing Local Authorities with more flexibility to decide the level of competency and ongoing development officers require will be lost.

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

29. This impact assessment covers a proposal to replace the statutory Weights and Measures qualification requirement placed on local weights and measures authorities. The proposal has no effect on business. It is deregulatory in the sense that it removes the prescriptive statutory requirement for a specific qualification and places no additional burden on businesses. It may over time offer modest savings for local authorities by giving them more flexibility over training and development options, but these cannot be quantified at this stage.
30. The guide on OIOO indicates that specific enforcement action is out of scope for OIOO purposes.¹¹ Therefore it is concluded that the measure is OUT of scope for OIOO purposes. Although local weights and measures authorities (local government) should eventually benefit from this simplification, the savings cannot be 'banked' as they are not identifiable and in any case not part of business or civil society.

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

31. The level of analysis in this Impact Assessment is less than for an Impact Assessment that would have a greater effect on business.

Risks and assumptions

32. There is a risk that standards of officers' weights and measures enforcement competencies will be reduced as a result of there being no specific statutory Weights and Measures qualification requirement. Developing a Code of Practice to support the statutory qualification provision will help ensure appropriate standards are maintained. A minority of Inspectors of Weights and Measures has expressed concern that removing the specific statutory qualification, might affect their ability to be an expert witness in court, but there is no requirement for the qualifications of expert witnesses to be statutory¹² and there is no evidence from the field of health and safety that this is a problem. Local authorities and individuals would, of course, retain the option of continuing to seek qualification as an Inspector of Weights and Measures.

Summary and preferred option with description of implementation plan

33. The preferred approach is Option 1: To replace the prescriptive statutory Weights and Measures qualification with a generalised statutory competency requirement for Trading Standards professionals which involves continuous professional development. It will provide assurance that

¹¹ 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

¹² Practice Direction Experts and Assessors, http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/civil/contents/practice_directions/pd_part35.htm#IDADKD2

officers maintain necessary knowledge and skills to enforce the requirements of legislation, support businesses effectively and to deliver successful outcomes for consumers and business. This would offer local authorities more flexibility in resourcing and structuring their services, especially at a time when they are under increased budgetary pressures.

34. The proposed Consumer Bill of Rights 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.

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