

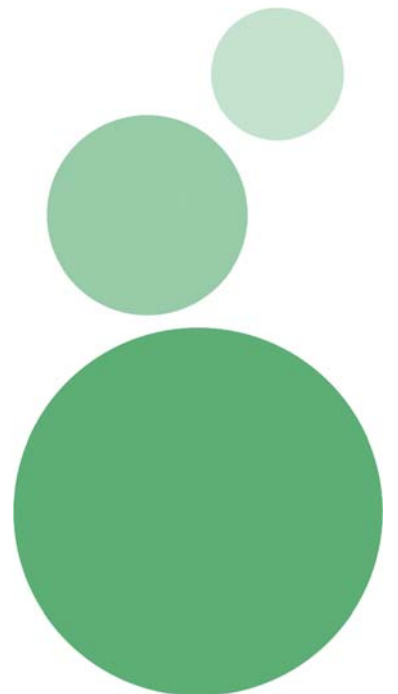


For the Local Better Regulation Office  
(LBRO)

Addressing national threats through local  
service delivery

Summary

15 July 2009



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## 1.0 Issue

The Local Better Regulation Office (LBRO) commissioned the Matrix Knowledge Group (Matrix) and Kings College, London, to investigate the possibility that in some instances the current system of local regulation may not sufficiently deal with some threats that have a national aspect. More specifically, the LBRO is concerned that “the current regulatory system may inhibit one local authority from providing a sufficient level of service to areas that benefit the whole (or a large part) of the nation, even when this is clearly in the interests of consumers and business”.

Provision of an insufficient level of service by one local authority may occur for a variety of reasons. The LBRO commissioned this study and report to focus on one systemic reason: the possible mis-match between who incurs the costs and who receives the benefits of local authority regulatory services (LARS).<sup>1</sup>

The mis-match, and hence risk of insufficient level of regulatory activity, occurs if:

- a local authority is better off under the scenario where it provides *less* regulatory services, while
- all local authorities combined would be better off under the scenario where the local authority provides *more* regulatory services.

The problem arises because local authorities, by nature, are inclined to fund services to a level that benefits their population while discounting benefits to residents and businesses of other local authorities.

## 2.0 Causes of mis-match of costs and benefits

Any mis-match between the local authorities that incur the costs of LARS and the local authorities that benefit from those LARS is, in economic terms, a type of externality. Externalities stem from:

1. the *displacement*, rather than elimination, of impacts. For example, disruption of the sale of counterfeit goods in one area may displace sales to another area.
2. the *remote source* of a hazard that LARS addresses. For example, a local authority will incur costs ensuring that goods entering the UK are safe at the point of import. Local authorities across the country where the goods are subsequently sold will benefit from this without incurring the costs.
3. the *conscious shift of costs* from one local authority to another. For example, a port authority might underfund the inspection of goods or vehicles if it knows they are ultimately destined for another port.

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<sup>1</sup> Local authority regulatory services are defined here as environmental health, licensing and trading standards which, along with the regulatory work of fire services, make up the remit of LBRO under the Regulatory Enforcement and Sanctions Act 2008

4. the *spread* of a hazard<sup>2</sup> across local authority boundaries. For example, pollutants from a large warehouse could spread into a neighbouring local authority.
5. the *systemic risk* of collapse of an entire system or market because of the interlinkages and interdependencies involved. For example, a local authority that does not control the movement of animals properly is likely to cause other local authorities to incur costs if an outbreak occurs.

The characteristics of hazards within the scope of LARS that lead to externalities from these sources are:

- the combination of criminal intent and mobility;
- the separation of the location of its source from its impact;
- transportability (i.e., the hazard can be moved from place to place); and
- transmittability (i.e., one occurrence increases the probability of more).

### 3.0 Approach

Based on the above characteristics, national threats<sup>3</sup> were divided into three categories that relate to the potential of a mis-match of local authorities that incur the costs and local authorities that receive the benefits of LARS:

- Category 1: threats where there is a potential discrepancy between the local authorities that bear the costs of and those that benefit from regulatory activity (ie. the threats at issue here).
- Category 2: threats where there is no or limited discrepancy between the local authorities that bear the costs of and those that benefit from regulatory activity (ie. the bulk of local regulation).
- Category 3: threats for which there is typically no local regulatory service activity because such activity is done by national organisations (ie. not relevant for LBRO).

This report assesses the likelihood that local authorities provide insufficient delivery in addressing four category 1 threats:

1. Unsafe goods imported into the UK
2. Contaminated foods imported into the UK
3. Animal diseases spread from one local authority to another
4. Mobile rogue builders/traders causing harm to residents

This likelihood was assessed though looking at specific case studies of each threat in different areas.

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<sup>2</sup> Something that can cause harm.

<sup>3</sup> For this report threat is defined as "An incident--or series of related incidents--likely to cause damage to the UK and / or its residents."

These four threats fall into two further categories:

- A. Threats that enter the UK at a one or few points of entry, or occur in only one or a few places, and for which most of the regulatory work falls on a few local authorities, i.e. threats 1 and 2 or 'regulation at source'; and
- B. Threats that are regulated by several neighbouring local authorities to provide a 'protective shield' due to the mobile or transmittable nature of the threat, i.e. threats 3 and 4.

Few local authorities bear the cost of preventing type A threats but the benefits are distributed across all local authorities. In these cases it is straightforward to model the relative costs and benefits and estimate the level of residual risk, as asked for in the brief from LBRO<sup>4</sup>. However, for type B threats where a network of local authorities are involved, the systemic risk is more complex to model and the potential for error is high. Consequently, as shown in Figure 1, the likelihood of insufficient delivery of LARS was assessed quantitatively for threats 1 and 2 but only qualitatively for threats 3 and 4.

Threat	Method used to assess insufficient levels of regulation resulting from discrepancy of who incurs costs and who benefits from regulation
Safety of imported goods (electronic goods, novelty goods, fireworks)	Quantitative
Contamination of imported food (fruit and vegetables)	Qualitative informed by draft quantitative model
Swine disease (classical swine fever)	Qualitative
Mobile rogue builders/traders (doorstep sales of property improvements, such as double glazing, driveways, roof repairs, etc.)	Qualitative

Figure 1: Type of test conducted by threat

## 4.0 Findings

**More market surveillance and inspection by Suffolk County Council of consumer goods arriving at Felixstowe, the case study port in the safety of imported goods threat, would benefit the region or nation but *not* Suffolk County Council.** If the level of resources

dedicated to inspected consumer goods at Felixstowe increases by 60 percent (or £51,000)<sup>5</sup>:

- the number of consignments identified at the port that contain non-compliant or unsafe products would increase from 96 and 22 to 168 and 38 respectively;
- UK consumers, public services, and businesses, would benefit by £2.2 million<sup>6</sup>;

<sup>4</sup> The level of the risk of the threat to the UK occurring that remains after the effect of preventative activities in reducing the risk are taken into account.

<sup>5</sup> The previous level of resource dedicated to this.

<sup>6</sup> In avoided harm.

- for each £1 invested UK consumers, public services, and businesses would benefit by approximately £40; but
- the gain to Suffolk residents and businesses from the increased surveillance would be less than the additional costs if the County Council paid for the additional surveillance.

**Current spending on market surveillance and inspection of non-EU consumer goods at ports—less than £200,000 annually—is estimated to save UK consumers, public services, and businesses approximately £7 million per year.** This is the difference between the estimated current negative annual impact on UK consumers, public services, and businesses of unsafe and non-compliant goods of £155 million and the impact of £162 million if local authorities did not undertake any market surveillance work at ports. These figures are based on an:

- estimate that 40% of goods imported into the UK from outside the EU arrive at Felixstowe; and
- the view of stakeholders that the level of market surveillance and inspection of consumer goods is less at other ports than at Felixstowe.

**It is unclear if local authorities that regulate ports provide a sufficient level of inspection of imported food from the perspective of the UK as a whole, even though it is most practical that inspection of imported food is undertaken at ports.** An examination of the situation at Southampton Port Health Authority, the case study local authority, was unable to identify a clear-cut mis-match of costs and benefits because:

- data on the impact of contaminated food on human health was either not readily available or not robust enough to model; and
- national, funded schemes mitigate the risk of insufficient delivery of local regulation, although such funding is not necessarily guaranteed as it is subject to an annual bidding process.

**There is a hypothetical risk that local authorities with small rural economies may not invest enough in the prevention and mitigation of an outbreak of animal diseases because:**

- if an outbreak occurs mitigation will bring little benefit to them directly although it would benefit local authorities with large rural economies; and
- they experience little direct benefit from preventing infected animals *leaving* the area.

This assessment is based on a conceptual analysis of the distribution of the costs and benefits and qualitative data in relation to the threat of animal disease. Further study would need to determine the size of this risk.

**In tackling mobile rogue builders/traders, once central spending on regional collaboration efforts, such as Regional Intelligence Officers and Scambusters expires, local authorities are likely to under-invest in preventative and enforcement activities from the perspective of the region and UK as a whole.** This is because individual local authorities are likely to under-invest in regional enforcement activities because of the uncertainties inherent in determining if it is worth their while.

**Based on these case studies, the risk of insufficient enforcement activities is easier to identify in situations where a few authorities provide services for the whole country, such as regulation at ports.**

**For three of the four cases studied there is not enough robust data to assess whether the UK would benefit from higher or lower levels of local regulation.** This makes it very hard for local and the central government to adopt a risk-based approach to regulation. Typically the data gaps are in:

- the uncertainty in the probabilities of the threats materialising;
- the value of the impacts of different threats; and
- the outcomes of regulatory services.

**LARS professionals may be motivated by, among other reasons, the desire to:**

- protect the reputation of the authority or the port in their area;
- do “the right thing”; and
- meet their professional obligations and satisfy their peers in other local authorities.

**For three threats (the two involving ports and the threat of the spread of animal diseases) professionals who deliver regulatory services are concerned about the low probability of a major problem (such as outbreak of Foot and Mouth Disease, for example).** The impact of such incidents is very difficult to predict as the results of the cost-benefit model are very sensitive to small numbers.

**The government and/or national regulators have developed and funded initiatives to resolve the clearest risks of insufficient delivery of local regulatory services in three of the four threats reviewed in this project:**

- Threat that imported foods may be contaminated:
  - food of animal origin is statutorily required to be inspected at ports, and the corresponding costs incurred by local authorities are recharged to the importer;
  - statutory checks are also required on inspecting food not of animal origin that have been identified as ‘high risk.’ In some cases the costs of inspection can be recouped from the importers. EU legislation is expected to standardise this provision in the future;
  - the Food Standards Agency provides grants to local authorities to conduct discretionary sampling of other food not of animal origin that is otherwise not funded.
- Threat of spread of animal diseases:
  - local authorities by statute have to maintain a minimum standard of regulation and enforcement
  - local authorities are expected to conduct preventative and mitigation activities based on a nationally agreed upon risk framework;
  - Defra provides direct funding to help authorities maintain standards based on the level of risk;

- central government also provides funding (the Bellwin scheme of emergency financial assistance) for unforeseen activities necessary when outbreaks do occur.
- Threat of by mobile rogue builders/traders:
  - OFT has funded Regional Intelligence Officers who work with TSOs and collate intelligence within a region;
  - BIS funds regional Scambuster teams to work with local authorities and offer expertise in particular cases, or take on cases from the regional tasking group with sufficient risk and detriment to consumers in the region; and
  - regional groups of TS help co-ordinate activities across regions.

**The 'fixes', referred to above, themselves have characteristics that make them less than ideal, even if they are currently workable:**

- they typically involve temporary funding and are not mainstream. For example, the funding for Scambusters, RIOs, animal health and welfare are temporary measures;
- they mitigate the problem (conflict described above) rather than address it at source; and
- they may add to the complexity of local regulatory services which itself carries risks of confusion and inconsistencies.