

Mapping the
Local Authority
Regulatory Services
Landscape:
November 2009

LBRO
Better Local Regulation

**Wider
Organisational
Structures**

Part Three of Six

Themes:

- | | |
|------------------------|------------------------|
| 1 Legislation | 4 Resources |
| 2 Policy | 5 Performance |
| 3 Organisations | 6 Relationships |

Part 3: Wider Organisational Structures in the System

3.1 This section sets out the organisational structures in the system within which local authority regulatory services (LARS) operate.

Local government

3.2 LARS are a function of local government. Local government in England, Wales and Scotland is structured in two contrasting ways. In Scotland, Wales and parts of England, single tier 'all purpose' councils are responsible for all local authority functions. These are the unitary or metropolitan councils.¹ The remainder of England has a two-tier system, in which responsibilities are divided between district and county councils. The system in Northern Ireland has evolved differently but follows a single tier model.

3.3 Across the UK, there are currently 433 local councils summarised in Table 4. The reduction since last year is due to the creation of nine new unitary authorities in England from seven county councils and 36 non-metropolitan districts, taking effect from April 2009. The numbers of local councils will reduce further as a result of restructuring in Northern Ireland.

Table 4. Numbers of local councils in the UK

| | England | Scotland | Wales | Northern Ireland | UK |
|---|---------|----------|-------|------------------|------------------|
| Unitary or 'single tier' (including metropolitan councils) | 125 | 32 | 22 | - | 179 |
| County Councils | 27 | - | - | - | 27 |
| District Councils | 201 | - | - | 26 | 227 |
| Total Councils | 353 | 32 | 22 | 26 | 433 ² |

3.4 Local councils are autonomous entities operating under local democratic structures. As detailed in Part 1, they take their powers and duties from specific legislation which has been defined broadly as the duty to promote community well-being. The machinery of local government across the UK is steered by locally elected councillors representing local communities on a ward basis. Since the Local Government Act 2000, local government democratic governance can be through several types of council constitutions:

- A council leader with a cabinet
- A directly elected mayor with a cabinet
- A directly elected mayor with a council manager
- A streamlined committee system (for small areas)

The executive responsibility for LARS falls within one or more of the cabinet or committee portfolios, the remit of which is decided locally. The arrangements for where LARS sit are different from council to council.

- 3.5 Across the UK, the responsibility for the enforcement of regulation as a function of local government has increased over the years in response to the increase in regulation. Each unitary local authority currently, therefore, will enforce legislation for the regulation of environmental health, licensing and trading standards (as listed in the Regulatory Enforcement and Sanctions (RES) Act 2008) although in Scotland licensing is dealt with by Licensing Boards. A number of local authorities across the UK function as PHAs with responsibilities for health controls at sea and airports.
- 3.6 Unitary authorities cover all functions of LARS, but these are split in those parts of England with a two-tier system. Here, trading standards and environmental health are the responsibility of county and district councils respectively, while licensing is undertaken at both levels. A more detailed breakdown of how LARS' functions are apportioned by authority type is shown in Table 5.

Table 5. LARS' functions by authority type

| Main Enforcement Functions ³ | District | County | Single tier |
|---|----------|--------|-------------|
| Alcohol and entertainment licensing | ✓ | | ✓ |
| Animal health | | ✓ | |
| Public health | ✓ | | ✓ |
| Environmental protection (air pollution, noise pollution, nuisance) | ✓ | | ✓ |
| Fair trading | | ✓ | ✓ |
| Food labelling | | ✓ | ✓ |
| Food safety | ✓ | | ✓ |
| Health and safety | ✓ | | ✓ |
| Infectious disease control | ✓ | | ✓ |
| Pest control | ✓ | | ✓ |
| Pricing | | ✓ | ✓ |
| Private rented housing standards | ✓ | | ✓ |
| Product safety | | ✓ | ✓ |
| Taxi licensing | ✓ | | ✓ |
| Weights and measures | | ✓ | ✓ |

Fire and Rescue Authorities (FRAs)

- 3.7 The enforcement of fire safety legislation is carried out by the 58 FRAs across the UK. There are 46 fire service authorities in England. County councils provide 15 fire services and the rest are separate statutory bodies known as combined or metropolitan fire services. London is a regional fire service, and there are 3 regional authorities in Wales.⁴ The numbers of FRAs across the UK are listed in Table 6.

Table 6. Numbers of FRAs in the UK

| | FRAs |
|------------------|-----------------|
| England | 46 |
| Scotland | 8 |
| Wales | 3 |
| Northern Ireland | 1 |
| UK | 58 ⁵ |

3.8 FRAs have a wide remit set out in the Fire Service National Frameworks for England and Wales respectively under the following 4 themes:

- Prevention, protection, response (including fire safety)
- Resilience
- Diversity
- Governance and Improvement

Port Health Authorities (PHAs)

3.9 PHAs and local authorities have a number of different port health functions which together protect the public, environmental and animal health of the UK. These include ensuring infectious disease does not spread from vessels, enforcing controls on imported food and sampling shellfish beds for contamination. PHAs are also an integral part of the strategy to deal with national emergencies. PHAs are represented by the Association of Port Health Authorities.

3.10 There are over 150 inspection points for PHAs at airports, sea ports and other points of entry to the UK and a breakdown of these is given in Table 7. The majority of port health functions are delivered by local authorities, although a small number of standalone PHAs exist.

Table 7. Numbers of PHAs in the UK

| | Estimated PHA Inspection Points |
|------------------|---------------------------------|
| England | 68 |
| Scotland | 62 |
| Wales | 11 |
| Northern Ireland | 10 |
| UK | 151 ⁶ |

National regulators

- 3.11 There are a number of bodies responsible for enforcing legislation, regulating markets or monitoring standards, collectively known as national regulators.⁷ Not all of the national regulators are inside this landscape, for example those covering the privatised industries, financial sector or education.
- 3.12 The remit of national regulators may not always extend beyond England. There is usually an equivalent body in a devolved administration for a national regulator without a legislative remit. Alternatively, a national regulator may work in partnership with the devolved administration and have a dedicated office.
- 3.13 The national regulators that have direct involvement in this landscape are listed below and Table 8 summarises their UK coverage. There are others such as the Health Protection Agency, Intellectual Property Office and the UK Border Agency that also have an interest. The extent to which national regulators enforce legislation with local authorities or provide guidance to local authorities varies with each national regulator. Further details are given in Part 6.
- **Animal Health Agency:** an executive agency of DEFRA, primarily responsible for ensuring the health of Britain's farmed animals, which also works on behalf of the Scottish Government and the Welsh Assembly Government.
 - **Environment Agency (EA):** a non-departmental public body of DEFRA and an Assembly Sponsored Public Body of the National Assembly for Wales that is responsible for protecting and improving the environment in England and Wales. The Scottish Environment Protection Agency has a similar remit in Scotland and the Northern Ireland Environment Agency in Northern Ireland. The Environment Agency and local authorities have complementary powers in some areas, such as air quality, contaminated land and environmental protection regulation. They also have a duty to consult each other on some issues, such as planning and waste.
 - **Food Standards Agency (FSA):** a UK government department that oversees local authority enforcement activities for food law. This agency is responsible for advising ministers and the devolved authorities on food safety and standards matters. It also negotiates with the EU on behalf of the UK in relation to food safety legislation.
 - **Gambling Commission:** a non-departmental public body of DCMS and the independent regulator of all commercial gambling in the UK excluding the National Lottery and spread betting. It provides guidance to local authorities responsible for the licensing of premises for the purposes of commercial gambling.
 - **Health and Safety Executive (HSE):** a non-departmental public body sponsored by the Department for Work and Pensions. It deals with health and safety at work, providing direct services and advice to LARS through its Local Authority Unit and field partnership teams. There is a Health and Safety Executive for Northern Ireland.
 - **Meat Hygiene Service:** an executive agency of the Food Standards Agency responsible for the protection of public health and animal health and welfare in Great Britain. The Livestock and Meat Commission for Northern Ireland has a wider remit but is the equivalent body for Northern Ireland.

- National Measurement Office (NMO): an executive agency of the Department for Business Innovation and Skills responsible for ensuring that all trade measurements are accurate, legal and fair to buyer and seller. As well as having policy responsibility for weights and measures and hallmarking legislation, NMO carries out a variety of regulatory functions.
- Office of Fair Trading (OFT): a non-ministerial government department with responsibility for the enforcement of competition and consumer law. It is the UK's competition authority. The OFT provides support for trading standards where their remits overlap and coordinates the national intelligence function.

Table 8. UK coverage of national regulators with a direct interest in this landscape

| National Regulator | UK Coverage | | | |
|-----------------------------|-------------|-------|--|---|
| | England | Wales | Scotland | Northern Ireland |
| Animal Health | Yes | Yes | Yes | Livestock and Meat Commission for Northern Ireland |
| Environment Agency | Yes | Yes | Scottish Environment Protection Agency | Northern Ireland Environment Agency |
| Food Standards Agency | Yes | Yes | Yes | Yes |
| Gambling Commission | Yes | Yes | Yes | Department for Social Development |
| Health and Safety Executive | Yes | Yes | Yes | Health and Safety Executive for Northern Ireland |
| Meat Hygiene Service | Yes | Yes | Yes | Livestock and Meat Commission for Northern Ireland |
| National Measurement Office | Yes | Yes | Yes | Yes |
| Office of Fair Trading | Yes | Yes | Yes | Yes Department for Enterprise Trade and Investment |

Central government departments

- 3.14 Regulatory policy is developed and promoted primarily through government departments. They have the common feature of setting overarching policy aims, providing guidance and producing legislation.
- 3.15 As highlighted in Part 1, local authorities across England, Wales, Scotland and Northern Ireland are responsible for enforcing legislation derived from EU Directives. The implications of devolution are that some Whitehall departments will rely on secondary legislation to implement EU Directives on reserved matters in devolved nations.

Whitehall

3.16 The Whitehall departments with the most direct interest in this landscape are as follows and further detail is given below.

- Department for Business, Innovation and Skills (BIS)
- Department for Communities and Local Government (CLG)
- Department for Culture, Media and Sport (DCMS)
- Department for Environment, Food and Rural Affairs (DEFRA)

Direct interest is defined here as providing a combination of policy direction, guidance or stipulating regulatory or other outcomes. This list not exhaustive however as there are other departments with an interest in LARS such as:

- Cabinet Office
- Department of Health
- Department for Transport
- Department for Work and Pensions
- Home Office
- HM Revenue and Customs
- HM Treasury
- Ministry of Justice

- Department for Business, Innovation and Skills: BIS was formed from the merger in 2009 of the Department for Business, Enterprise and Regulatory Reform and the Department of Innovation, Universities and Skills. BIS promotes the creation and growth of business and leads work to create the conditions for business success through competitive, flexible and fair markets. It has an interest in consumer protection legislation and, as well as being the voice for business across government, is responsible for regulatory reform policy and works across government and the regions to raise levels of UK productivity. BIS now has science, innovation, skills and further and higher education responsibilities and sponsors a number of bodies including the Intellectual Property Office and the National Measurement Office. It is responsible for legislation on intellectual property, weights and measures and hallmarking, much of which is enforced by LARS. The BRE is a unit within the department and sponsors LBRO.

- Department for Communities and Local Government: CLG has responsibility for policy in relation to local government and FRAs across England. This includes regulation of private sector housing. It has the power to promote new legislation and guidance within existing legislation and allocate resources for specific activities. The department also sets the overall performance framework for local authorities in England.

- Department for Culture, Media and Sport: DCMS is responsible for gambling and licensing policy as well as policies for arts, sport and the regulation of the media. It aims to improve the quality of life for all through cultural, sporting and other recreational activities and through the strengthening of the creative industries. The Secretary of State provides guidance for the setting of gambling licensing fees which is reviewed by an independent panel.

- Department for Environment, Food and Rural Affairs: DEFRA seeks to enable everyone to live within their environmental means. DEFRA champions sustainable development and is also the focal point for rural and environmental policy, with a role in both European Union and global policy making. The Directorate General for Animal Health and Welfare oversees regulatory functions relating to animal health. LARS are coordinated through the Delivery Partners Co-Ordination Unit (DPCU).
- 3.17 The devolved administrations have government departments or directorates which map onto this landscape.

Part 3: End Notes

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- 1 Local Government Structure Fact Sheet available via the Local Government Association website www.lga.gov.uk
 - 2 Source: *Mapping the Local Authority Regulatory Services Landscape: Towards a common understanding* (2008) and updated to reflect the creation of nine new unitary authorities from seven county councils and 37 non-metropolitan districts from April 2009
 - 3 Based on National Enforcement Priorities for Local Authority Regulatory Services, Peter Rogers, Crown Copyright 2007, Table 2.3
 - 4 Based on a study carried out on behalf of LBRO by James McVey, October 2009.
 - 5 Based on information as of October 2009 from DCLG and the devolved administrations. See relevant websites
 - 6 Numbers based on the Port Directory on the Association of Port Health Authorities website. See www.apha.org.uk/port_directory.asp
 - 7 These are set up variously as executive agencies, non-departmental public bodies, government departments and non-ministerial government departments