

**Addressing National
Threats Through
Local Service
Delivery:**

**LBRO Summary
Report**

LBRO
Better Local Regulation

Foreword

The paradox of much 'local' regulation is that it tackles issues that go well beyond the communities of the local authority charged with the responsibility to address them. In some extreme cases – such as ports of entry for consumer goods – the potential 'problem' (in this case of product safety) is not only national or regional in its effects, but is also most efficiently dealt with in only one or a few local authority areas. This means that those local authority regulatory services that face this situation must tackle issues on a scale which may be beyond their resources. Yet if they are unable to meet the responsibility thrust upon them they will fail to protect people and communities across the country from harm even where they are best placed to do so.

This problem and this paradox have been recognised for some time. But up to now there has been no systematic exploration of its scale nor any firm and evidence-based proposals to deal with it. So LBRO commissioned an exploratory piece of work to develop a better understanding of the issue and specifically how local authorities deliver protection against risks that are national or regional in nature. We called these risks 'national threats'.

The benefits of local delivery of regulation are significant, effectively contributing to both local and national prosperity and protection:

- Local delivery allows for effective tailoring of service provision.
- Regulatory services' contribution to place-shaping demands that they are controlled locally.
- Efficiency can be increased by delivering regulatory services through local partnerships.
- Local delivery creates in part at least a one-stop-shop for business.

To deliver these benefits without imperilling national issues, we need to understand whether the system of local delivery functions effectively when faced with national threats. This is the first attempt at a systematic examination of this across the range of local authority regulatory functions.

The research found that there were a number of areas where 'risk' and 'response' were not aligned in this sense of disjuncture between local service and national threat, including imported consumer goods and foodstuffs, rogue trading and animal health. In respect of ports of entry the unique opportunity to prevent illegal or dangerous goods entering the UK market through regulation by local authorities at ports of entry is not being fully exploited. This evidence helped to underpin the Consumer White Paper published earlier this year, feeding directly to a centrally funded ports project. The other cases examined by the research showed that central coordination, funding or mandatory regimes are already in place, effectively to rectify the difficulties in meeting national threats. However these initiatives may, in some cases, have an uncertain future and there are other issues such as internet trading that will require coordinated responses.

The research sheds light on an important issue, and by generating an authoritative evidence base for understanding it, has informed important policy developments. This is a model which we have been implementing across LBRO's areas of operation. We welcome comments and views.



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Chief Executive
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Clive Grace
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November 2009

Purpose of the report

LBRO's national threats project seeks to examine the efficiency and targeting of the current regulatory system. In particular, the project is exploring the hypothesis that there may be a mismatch between the beneficiaries of local authority regulatory work, and its funding and structure, in relation to 'national threats'.

The project is exploratory by its very nature and stems from LBRO's mandate to examine system-wide issues in the local authority regulatory landscape and to act as a catalyst for change.

The first stage of the project was to test the hypothesis and to develop an evidence base. This was done through commissioning research and economic modelling – a very challenging undertaking, covering ground with little or no existing research or data. The hypothesis that guided the commissioning of the research is set out in detail below.

The second stage of the project will be used to explore the findings of the research with enforcement bodies and policy-makers. This is with a view to improving the collective understanding of the efficiency of the current regulatory system and to examine where and how the evidence base may be further developed.

In addition, the project links to LBRO's statutory role to manage the National Enforcement Priorities by providing evidence and thinking to inform LBRO's approach to this role.

Hypothesis¹

Our working hypothesis was 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. The examples used to illustrate this hypothesis were taken from ports – regulation at source for the benefit of the nation – and from biosecurity – where local authorities and other agencies must act in unison to deal with an animal disease outbreak.

In the hypothetical cases, local prerogatives could limit the resources available because the beneficiaries of a particular local authority regulatory service lie outside that particular local authority as well as within it. In other words, there could be a mismatch between the distribution of the costs of regulatory activity, and the benefits of that activity (a funding-beneficiary mismatch).

Since the activity of local authorities is focused on meeting local need, there may be a problem with the way that the nation's regulatory resource is allocated: national threats that can be best serviced by one local authority may not receive the funding and support they need. As a result, the nation may 'lose out' from under-servicing this national threat, or servicing it using several local authorities when this may be inefficient. In effect there could be a problem due to a lack of a holistic approach to risk.

There has been a lot of analysis of this general problem in the literature of public finance and economics, although not in relation to local authority regulatory services specifically. This literature has examined a range of solutions involving better funding mechanisms (e.g. moving to central or co-funding), changes in organisational structure, and other more sophisticated approaches. The literature is clear that solutions need to be built in a way that is fit for purpose in terms of the problem at hand.

The benefits of local delivery are significant, effectively contributing to both local and national prosperity and protection:

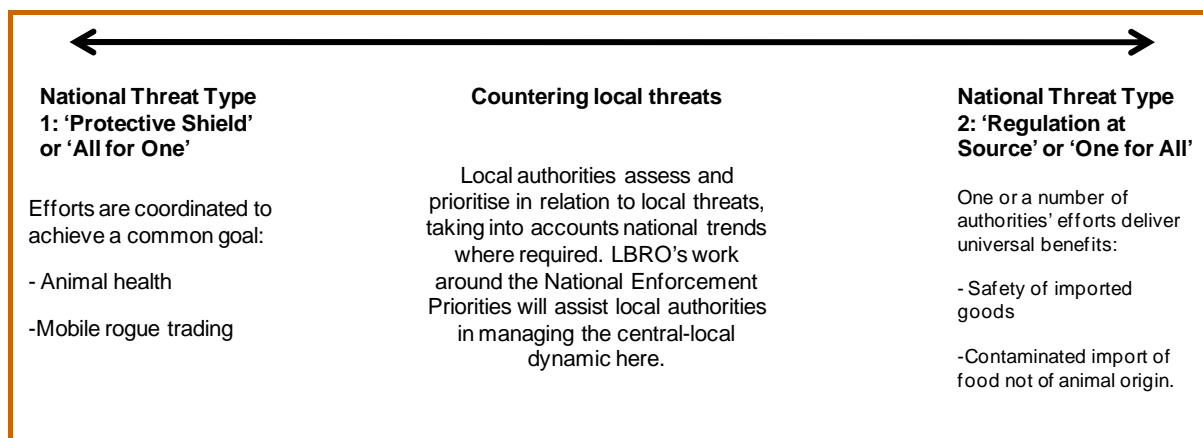
- **Local delivery allows for effective tailoring of service provision** – Local challenges foster a high rate of creative problem solving and innovative solutions that deliver outcomes that are wider than merely securing compliance. Local knowledge means that regulation can be conducted in a flexible manner, in a way that is context specific and takes into account the impact that interventions will have on local businesses in terms of local prosperity and the specific protection needs of groups in the communities. For example advice and support to new-start businesses could form a major part of regulatory work in an area seeking to establish incubator units.
- **Regulatory Services’ contribution to place-shaping demands that they are controlled locally** – ‘Place shaping’ is defined as the responsibility of local government and all the local partners in the public, voluntary and business sectors to create attractive, prosperous, vibrant, safe and strong communities where people want to live, work and do business. It is clear that regulatory services at a local level can be a useful part of the toolkit available to elected members in delivering almost every part of this vision. If regulatory services were to be run nationally, a lot of the more pro-active work based around delivering tangible outcomes for citizens and business in their community might be lost. For example, a seaside town or heritage location will prioritize work to advise and protect businesses providing leisure services, accommodation, transport and recreation.
- **Efficiency can be increased by delivering regulatory services through local partnerships with, amongst others, health, crime and disorder and economic development services** – By developing initiatives that use partnership working to deliver wider corporate outcomes, regulatory services will not only make cost and efficiency saving and avoid duplication of work with other departments but will also raise their own profile through increased participation. For example both regulation of sales of alcohol and licensing provisions can form a central part of a Crime and Disorder Reduction Partnership’s approach to tackling anti social behaviour.
- **Local delivery creates in part at least a one-stop-shop for business** – Regulatory services can use their high level of business interaction to offer effectively tailored business support, which in the current economic climate is crucial to local prosperity. In some councils, for example, regulatory services are now connecting with other council services in real and virtual one-stop-shops to coordinate business advice functions and provide them with a holistic support package.

In terms of LBRO’s role, the problem of a mismatch in distribution of benefits and costs is clearly a system-wide issue. It is unlikely that a single local authority would have the capacity or mandate to deal with such an issue. LBRO has been provided with statutory functions (such as advice to government and guidance to local authorities) that make us uniquely placed to investigate such a problem, and consider options for reform.

The 'protective shield' and 'regulation at source'

In addition to the hypothesis, two concepts are guiding our thinking in this project.

As illustrated below, national threats are issues that cannot be dealt with effectively by every given local authority in isolation. Under the first variant, the coordination of all regulatory services up to a given standard is required to mitigate a threat that could affect any given single locality, for example to respond to an outbreak of animal disease. The second variant deals with cases where it is most effective for one or a number of authorities to deliver a greater degree of services to national benefit, for example in the monitoring of imports at ports.



There is an association between these concepts and the issues that arise when businesses trade across local authority boundaries. The Primary Authority scheme, where a single local authority takes a lead role in the regulation of a particular business, is effectively a version of the 'regulation at source' model. The advice given by the Primary Authority provides benefits to the other local authorities by creating a framework for the regulation of a particular business.

It is also worth noting that the increase in internet trading poses a unique set of challenges for regulation that are likely to require a 'protective shield' or 'regulation at source' model depending on which is most efficient and effective.

Analytical approach

The approach to examining this hypothesis was based on economic cost-benefit analysis in order to provide quantifiable evidence where possible. This was supplemented by research into existing data and consultation with practitioners. Given the complexity of the task, we convened an expert panel to assist the consultants and to guide and shape the work at key stages. The members of the expert panel are given at Annex 1.

The analysis took a two-stage approach, summarised below. Full details are given in the Matrix Knowledge Group Methodology Report.

1. Research to uncover the scale and scope of potential funding-beneficiary mismatch. This led to a 'long-list' of relevant national threats, from which a short-list of threats was selected for more detailed examination.
2. Case study work for each of the four selected threats, engaging practitioners and key stakeholders as far as possible. This included cost-benefit analysis where relevant data was available. The short-listed threats were:
 - Safety of imported consumer goods (electronic goods, novelties, fireworks)
 - Contamination of imported food (not of animal origin)
 - Mitigation of animal disease (Classical Swine Fever)
 - Effective regulation of mobile rogue builders/traders

The outputs of the research are:

- Long list report
- Full report – available on request
- Summary report
- Methodology report

Findings and impact of the report

In recognition of the complex and exploratory nature of the analysis conducted by Matrix Knowledge Group, we invited comments on the research report from the key stakeholders for each short-listed threat.

The organisations we received comments from are listed at Annex 1.

Where possible, factual inaccuracies and errors highlighted by the respondents were addressed in the consultant's reports. However there were two points that some respondents felt were not fully reflected in the reports:

1. There is a general acceptance across local authorities that each carries a different 'disproportionate burden' of regulation.
2. DEFRA and its delivery bodies have a significant role in preventing and mitigating animal disease outbreaks alongside local authorities.

These concerns will be taken on board in subsequent work of this project.

Safety of imported goods

This type of regulation 'at source' provides a unique opportunity to prevent illegal or dangerous goods entering the UK market. The cost benefit-analysis demonstrates that the opportunity to minimize the risk to UK consumers and businesses through the most efficient method of regulation at source, ie at the port of entry, is currently not being fully exploited.

The findings of this case study, summarised below, underpinned the Consumer White Paper published by BIS in July 2009.

The Felixstowe case study demonstrates that, without any regulation, the level of detriment to UK citizens and economy is estimated to be £160 million nationally. This includes impacts on consumers such as costs of injury or death through house fires and the impacts on businesses of product recall. This is a conservative estimate as it is based on a sample of goods entering the UK from outside the EU, namely electronic goods, toys and novelties. At current levels of regulation, the level of detriment to UK citizens and economy is still estimated to be £155 million.

At current levels of regulation there is a benefit to the UK as a whole of approximately £35 for every £1 spent on local regulation of goods entering ports of entry. This is indicative for the nation as a whole, based on the circumstances at Felixstowe, but is likely to be a minimum. Importantly, the economic model demonstrates that there is no net benefit in monetary terms to the citizens and economies of the local authorities regulating ports of entry stemming directly from that regulatory activity. This is because that activity is effectively for the benefit of the citizens and economies of the nation as a whole.

If the level of local regulation were to increase, to a similar level as was previously at the Port of Felixstowe, the benefit to the UK as a whole would be approximately £40 for every £1 spent. Again, this is indicative based on the circumstances at Felixstowe.

Contaminated import of food not of animal origin

The case study found that there may be a disincentive for a local authority or port health authority to provide a level of regulatory activity that provides the greatest benefit nationally. However the evidence gathered was not as conclusive as the imported goods example above. This was due primarily to the fact that the potential mismatch is already partly mitigated by the mandatory testing regimes for some food items and considerable focus and funding from the Food Standards Agency on imported food regulation.

Prevention of animal disease

Whilst the report concluded that there is a potential for mismatch – local authorities with sub-urban economies may be unlikely to undertake the level of mitigation activity that is desirable from a regional or national perspective once an outbreak has occurred because mitigation will be unlikely to benefit them as much as others – the hypothesis was not effectively proven.

It is clear that the case study requires a more sophisticated understanding of the agencies involved in dealing with animal disease outbreaks. This understanding may help to resolve the inherent difficulty of modelling this kind of ‘protective shield’ failure. However it may also be the case that such a failure is unlikely to occur in practice given the steps taken following the 2001 outbreak of Foot and Mouth Disease.

Unfair trading practices (mobile rogue trading)

The report found that once central spending on regional collaboration efforts, such as Regional Intelligence Units and Scambusters expires, individual local authorities are unlikely to provide a sufficient level of enforcement at a regional level because they will find it difficult to agree to pool their resources because of the uncertainties inherent in whom the service will benefit. The case study reinforces the case for these centrally funded initiatives.

Next steps

Following the publication of the Consumer White Paper, funding is being made available to pilot risk-based approaches to tackle unsafe consumer goods at key ports of entry. LBRO will be working with BIS, local authorities and the UK Border Agency on this. As noted in the White Paper internet trading generally, and the protection of intellectual property more specifically, are emerging challenges in this area. The Office of Fair Trading has been tasked with developing a strategy to tackle internet trading.

The evidence base for the remaining three threats is not as strong but will act as a starting point to begin to take forward and shape discussions. LBRO will engage with partners to gain a better understanding and to examine how the evidence base may be further developed. The type of displacement of illegal activity highlighted in the mobile rogue trading case study is a live issue for businesses. LBRO has for example been made aware of such issues by the automotive industry.

The report's findings have also helped to clarify the distinction between issues that might be nationally relevant but can be effectively managed by individual authorities and the unique nature of the 'national threats' that the project focuses on. This is helpful for LBRO's thinking in relation to the National Enforcement Priorities.

We are hopeful that the findings of this report provide the beginnings of an evidence base for practitioners and policy-makers, in order to effectively manage risk in a system built on local delivery when dealing with national and global issues. We welcome views and comments.

If you wish to give feedback, please contact Ffiona Kyte at ffiona.kyte@lbro.org.uk or on 0121 226 4000.

Annex 1. Stakeholder consultation

Expert Panel

Paul Connolly, Serco Consulting (Lead Expert and Expert Panel Chair)
Steve Greenfield, Chief Trading Standards Officer, Suffolk County Council
Kirsty Dawes, Association of Port Health Authorities
Sandra Westacott, Association of Port Health Authorities
Rachel Holloway, Better Regulation Executive
Graham Russell, CEO LBRO
Sarah Smith, Director of Delivery and Performance LBRO
Michael Gibson, LBRO Board Member

Stakeholders providing comments on the findings

Southampton City Council
Hillingdon Borough Council
North Yorkshire County Council
Suffolk Coastal Port Health Authority (Felixstowe)
Surrey County Council
Local Authorities Coordinators of Regulatory Services
UK Border Agency
Food Standards Agency
Department for Business, Innovation and Skills
Department for Environment, Food and Rural Affairs

Thanks also to Bryan Lewin and Ian Gray (plus colleagues at the Chartered Institute of Environmental Health).

References

¹ Hampton (2005) *Reducing administrative burdens: effective inspection and enforcement*

Sutherland, D. R. Price and I. Joumard (2005): *Fiscal rules for sub-central governments: design and impact*, OECD Economics Department Working Paper 465.

Cornes, R. And Sandler, T. (1986): *The Theory of Externalities, Public Goods and Club Goods*, Cambridge University Press