



LBRO
Better Local Regulation

Implementing The Principles Of Good Regulation: a review of local authorities' activities in Wales

Foreword

1. This report, conducted by the Local Better Regulation Office (LBRO) for the Welsh Assembly Government, sets out the findings of the progress made by all 22 local authority regulatory services in Wales in working to the principles of good regulation, as outlined in the Climate Change Act 2008. The report is commended to Welsh Ministers as the basis on which they could grant to all local authorities in Wales the new civil sanctioning powers contained within the Single Use Carrier Bag Charge (Wales) Regulations 2010.
2. Within the report there are a number of findings which we suggest would assist local authorities in becoming more compliant with the principles of better regulation. We recommend that these findings should be addressed by LBRO and WAG developing a framework by March 2011, based on the requirements of the Regulators Compliance Code, that enables local authorities to demonstrate they are working to the principles of good regulation and that the introduction of SUCBCRs should be supported with guidance by March 2011, that clearly defines the sanctioning options available to local authorities.
3. This report comprises the evidence that the LBRO considered, the analysis of that evidence and the conclusions and recommendations that were able to be made based upon that analysis. The LBRO now submits this report to Welsh Ministers for their consideration, which it believes provides a sound basis on which to base an effective framework of assurance, and to make a judgement as to whether or not the civil sanctioning powers within the SUCBCRs should be granted to local authorities within Wales.

Contents

Foreword.....	2
Background	4
Methodology.....	6
Key Analysis.....	8
Summary of Review	12
Detailed Analysis.....	14
Source documents	28
Annex	30

Background

4. In his report of November 2006, Professor Macrory found that criminal prosecution was not always the most appropriate response to breaches of regulations and found that many such breaches went unpunished because regulators lacked the necessary means of tackling them¹. He recommended the introduction of a range of civil sanctions that would allow regulators to respond to non-compliance in ways that are flexible, proportionate and transparent. The Government accepted his recommendations in full and established a framework for their implementation through Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (RES Act). This framework establishes alternative sanctions and includes provisions for Ministers to grant sanctioning powers to those regulators who are enforcing, or capable of enforcing, in a way that is compliant with the principles of good regulation – i.e. in a way that is transparent, accountable, proportionate, consistent and targeted only at cases where action is needed. This framework has been replicated in other legislation, such as the Climate Change Act 2008.
5. The Welsh Assembly Government (WAG) is introducing a charge on single use carrier bags, with the aim of substantially reducing the use of them in Wales. The Single Use Carrier Bag Charge (Wales) Regulations 2010 (SUCBCRs) will introduce the requirement for retailers to charge for single use carrier bags and to keep accurate records relating to the charge. They will also grant local authorities in Wales the power to impose some civil sanctions, specifically Fixed Penalty Notices and some Discretionary Requirements, where such a charge is not levied or appropriate records are not maintained or published in accordance with the SUCBCRs. The SUCBCRs will come into force in March 2011.
6. Earlier this year, in order to be able to provide Welsh Ministers with an assurance that the civil sanctioning powers within the SUCBCRs can be granted to local authorities, the WAG asked the Local Better Regulation Office (LBRO) to provide a review of the progress of all 22 local authorities in Wales' in working to the principles of good regulation, as outlined in the Climate Change Act 2008, from which the civil sanctioning powers within the SUCBCRs are derived. As the LBRO is neither an audit nor an inspection body, and seeks to avoid imposing excessive burdens on local authorities by requesting considerable amounts of information, this review has been based on information that is already within the public domain. In a few limited areas, where we could not access relevant information from public sources, we have requested that information directly from local authorities.
7. This review considers only current practice by local authorities. To provide for Welsh Ministers with the assurance they require that this new approach to local regulation would in future be implemented in a manner that is consistent with the principles of good regulation, WAG and LBRO will work with local authorities to develop clear guidance and

¹ Regulatory Justice: Making Sanctions Effective, Professor Richard B. Macrory (November 2006)

establish a framework that will enable local authorities to demonstrate their compliance with the Regulators Compliance Code.

8. Given the timescale for implementing the SUCBCRs by March 2011, this report is not based on an in-depth assessment of each local authority but represents an overview of compliance across the 22 local authority regulatory services in Wales, supported by a table of evidence that details the information on which this narrative has been based.
9. The LBRO would like to thank all local authorities in Wales for their cooperation in providing information on which this report is based. We are particularly grateful to Helen Picton and Lee Jones at Bridgend, Dave Holland at Cardiff and Matthew Cridland and Andrea Pearce at Newport for providing us with a considerable amount of their time and information, without which this report would not have been as detailed as it is. We would also like to thank Gwent Police and Consumer Focus Wales for sharing with us detailed information of their procedures and research that were essential for this review.
10. This report and its accompanying annex comprise the extensive evidence that the LBRO examined when considering the progress that has been made by all 22 local authority regulatory services in Wales in working towards the principles of good regulation. It sets out the evidence that was considered and analysed under each of the key themes, together with any conclusions and recommendations that were able to be drawn from such analysis. The LBRO now commends this report to Welsh Ministers and the Welsh Assembly Government as a robust source of evidence upon which to base an effective framework of assurance, and to make a judgement as to whether or not the civil sanctioning powers within the SUCBCRs should be granted to local authorities within Wales.

Methodology

11. The methodology for this review has been based primarily on the framework developed by the Better Regulation Executive and National Audit Office for the Hampton Implementation Reviews of national regulators (HIRs). These reviews were conducted to assess national regulators' progress in implementing the recommendations of the Hampton Review and form the basis for assessing their suitability to receive civil sanctioning powers. The HIR framework provides a set of questions around the key themes of better regulation, most of which are also applicable to local authority regulatory services. The questions are aimed at assessing progress in implementation of the recommendations made by the Hampton Review² and subsequently codified by the Regulators Compliance Code³, the Principles of Good Regulation⁴ and the recommendations from the Macrory report.
12. LBRO piloted a local authority version of the HIR methodology, which comprised analysis against the set of questions to probe key issues in better regulation and a process of on-site verification by peer review, with Westminster City Council in 2008. The pilot found the questions and thrust of the approach to be fit for purpose in a local authority context, although the on-site verification process was resource intensive and judged to be unworkable across a large number of small, individual organisations.
13. Drawing on the experience of the HIR process and the pilot at Westminster City Council, this review set out to identify and examine existing, publicly available sources of information about Welsh local authorities' approach to regulation. Alongside this desk-based research, business views were actively sought to gauge their experience of local regulation in Wales. It used a desk-based review process and did not involve individual assessment or on-site work. The approach was agreed by the Welsh Assembly Government and followed consultation with Local Government Regulation. The process was designed to enable a robust review to be carried out while minimising the burden on local authority services and being mindful of the timetable for implementation. As a consequence some question areas have a greater volume of data than others. Alongside this, the review used Wales-specific and UK wide research and other publications to supplement the local authority data.

² Reducing administrative burdens: effective inspection and enforcement, Philip Hampton (March 2005)

³ The Regulators Compliance Code: Statutory Code of Practice for Regulators (17 December 2007) is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business, the Third Sector and other regulated entities. The Code stresses the need for regulators to adopt a positive and proactive approach towards ensuring compliance by helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and responding proportionately to regulatory breaches. The Code currently applies to reserved matters enforced by local authorities in Wales, but not to matters devolved to the Welsh Assembly Government.

⁴ The Principles of Good Regulation are that regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent, and that regulatory activities should be targeted only at cases in which action is needed (Climate Change Act 2008, Schedule 6, section 23)

14. The framework is set out below and the full set of data is available in the spreadsheet that accompanies this report. The framework and key data sources are also summarised in the Annex.

A. Focus on outcomes

- Regulators should measure outcomes not just outputs
- Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take

B. Advice and guidance

- Regulators should provide authoritative, accessible advice easily and cheaply

C. Sanctions

- The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions
- Regulators should be transparent in the way in which they apply and determine administrative penalties
- Regulators should avoid perverse incentives that might influence the choice of sanctioning response
- Regulators should follow-up enforcement actions where appropriate

D. Data requests

- Business should not have to give unnecessary information, nor give the same piece of information more than once

E. Inspections

- No inspection should take place without a reason

The final HIR theme - design of regulations – was deemed not to be relevant in the local authority context.

Key Analysis

Overview

15. The key finding of this review element of the process of advising Welsh Ministers, is that there is evidence of a positive direction of travel by local authorities in working to the principles of good regulation. This, along with the associated guidance and frameworks that should accompany the introduction of the SUCBCRs, form a good basis for providing an assurance that local authority regulatory services will use the new civil sanctioning powers in accordance with the principles of good regulation.
16. All 18 local authorities in Wales that underwent assessment by Gwent Police as part of the Community Safety Accreditation Scheme have been found to be fit and proper employees of those enforcing similar powers to the civil sanctions that the SUCBCRs will introduce. More details of this assessment are found later in this report. With regard to enforcement of the new civil sanctioning powers, this assessment has provided valuable assurance that such enforcement will be carried out in a proportionate and consistent way. There is also an increasing use of intelligence among some elements of local authority regulatory services in Wales that is helping to improve the targeting of enforcement action on those cases where action is most needed.
17. One area where most improvement could be made is the transparency with which local authority regulatory services carry out their work. For example, many enforcement policies could and should be a lot clearer and more accessible for businesses and citizens. Going forward, this transparency will be key to building confidence in the use of these new sanctions. That said, in compiling evidence for this review process, all local authorities in Wales have been very helpful in providing relevant information that has been requested. Many have also sought advice on how they might improve the accessibility of their enforcement policy, not only in terms of clarity of the text and structure of the document, but also how best the policy might be made available on the authority website, and have been keen to engage in discussions on how approaches and procedures could be improved and made more consistent across Wales in future.
18. A summary of our analysis under each of the framework questions follows:

Outcomes

19. Much of the information that was available in this area was of limited value. Existing performance indicators focus on measuring outputs and those that provided quantitative data were relevant to only a small percentage of the total range of local authority regulatory services. Caution has been exercised when drawing conclusions from the performance information available. There is evidence of a strong move towards more outcome-focussed measurement of performance, with the Directors of Public Protection Wales (DPPW) keen to support local government ownership of performance, increasing transparency for businesses and citizens. There are also tools now available to local authority regulatory services that enable outcomes to be more readily identified and linked to local authority regulatory activities. Effective use of these tools would enable

local authorities to provide more easily clear, objective information on how their work contributes directly to national and local government agendas.

Advice and guidance

20. There is strong evidence that businesses in Wales feel that the role of local authority regulators is to provide advice as well as to enforce regulations, and that local councils are used as a source of advice by many businesses⁵. This is regarded as an important area for indicating how transparent local authority regulatory services are likely to be in providing information to businesses on the new civil sanctioning powers in the SUCBCRs.
21. Wales was identified as the best performing country in the UK in terms of local authorities' compliance with the requirements of the EU Services Directive⁶, which ensures that comprehensive information is accessible to businesses wanting to trade within local authority areas. Caerphilly was one of the best performing authorities in the UK and the best performing in Wales. Another example of best practice was the Business Charter developed by Flintshire Trading Standards, which explains clearly the services available to businesses within the Flintshire area.
22. However, the provision of information to businesses from individual local authority websites was more varied, with no consistency in the sources of national or other information to which an enquirer might be signposted or directed.

Sanctions

23. This area is of particular significance, as it will have a direct bearing on how local authority regulatory services might be expected to use the new civil sanctioning powers within the SUCBCRs, should they be granted. It was also the area where there was most information on the activities of local authority regulatory services.
24. The assessment process that 18 of the 22 local authorities in Wales underwent in applying for accreditation under the Community Safety Accreditation Scheme administered by Gwent Police has provided considerable assurance that those local authorities are fit and proper persons to supervise employees in issuing administrative penalties, and that they have in place many of the policies and procedures that would ensure the consistent and proportionate application of civil sanctioning powers under the SUCBCRs. As this assessment did not include some local authorities and was more

⁵ LBRO/FDS International Business Perceptions Survey (July 2010) 84% of Welsh businesses felt the role of local councils was to provide advice as well as to enforce rules and regulations; 47% of businesses use their local council for advice.

⁶ The EU Services Directive was adopted by EU member states in December 2006, and aims to open up the European internal market to cross-border trade in services by making it easier for service providers to set up business or offer their services in other EU member states. It imposes a number of requirements on all EU member states: to screen legislation and to amend or repeal non-compliant provisions; to set up a 'Point of Single Contact' to enable service providers to find out what they need to do to operate legally in the UK; to enhance administrative cooperation between member states; and to ensure consistency in the quality of information provided by service providers.

narrowly-focussed than the principles of good regulation, additional evidence has been considered that was relevant to all local authorities in Wales.

25. Use of the National Intelligence Model⁷(NIM) and the associated focus it brings to gathering and analysis of intelligence points to an increasing focus on targeting enforcement action on those cases where it is most needed. All 22 Welsh local authorities use NIM in some aspects of their regulatory services.
26. There have also been very few appeals made to individual local authorities or to the Public Services Ombudsman for Wales about the conduct of local authority regulatory services in Wales. However, reticence by businesses about their willingness to use these complaint methods would suggest caution in drawing significant conclusions from this. Over the last five years CIPFA trading standards statistics show a trend in Wales away from formal cautions and prosecutions and toward compliance focused actions.⁸
27. There is a particular issue surrounding the transparency of information on how sanctioning decisions are made as it was difficult to access the enforcement policy of some local authorities. A number of these were only obtained by making a specific request of the authority. Also, some authorities have more than one enforcement policy, making it less easy for business to establish clearly what approach they can expect from an authority if issues relate to more than one local authority service area. Very few of the policies examined contained links to and from relevant supporting or associated information that would enable businesses to access all relevant information.
28. Businesses have also expressed concerns that some officers within local authority regulatory services do not adopt a compliance approach when interacting with businesses, possibly moving to enforcement action before first exploring other compliance routes. Because no quantitative evidence was available on which to identify any specific areas for development, we intend to work with businesses and local authorities to establish how best we can capture this information in future, without imposing unnecessary burdens on either party.

Data collection

29. This area was the least relevant to this review, as the SUCBCRs do not require local authority regulatory services to collect data from businesses. However, the review found little information that was relevant, suggesting little coordination of data collection activities.

⁷ The National Intelligence Model (NIM) is an intelligence led Business Model, used primarily by Police Forces in the UK to gather and manage information in order to make the most effective decisions. The NIM was devised by the National Criminal Intelligence Service and adopted by the Association of Chief Police Officers Scotland in 2000. Essentially, the model professionalises the intelligence discipline by facilitating the identification of Priorities and the allocation of resources.

⁸ CIPFA Trading Standards Statistics 2009 and 2004

Inspections

30. There was little clear reference in the information available on local authority websites or within local authority regulatory services enforcement policies about each local authority's approach to inspections. There was limited published and accessible information available to indicate the methodologies used by local authority regulatory services to prioritise inspections and intervention activities according to risk. There were also few links between enforcement policies and other relevant guidance and information for businesses.
31. Also, while local authorities across the UK have to adhere to the various nationally agreed risk assessment schemes, we did not find clear information about how local authorities used such schemes, and statistical information that was available on the number of inspections completed was not sufficiently detailed to enable a thorough analysis to be undertaken and conclusions drawn from such analysis.

Summary of Review

32. Civil sanctioning marks a significant change in the responsibilities of local authorities in terms of their regulatory responsibilities and powers in relation to sanctioning. Given these new responsibilities and the associated concerns of businesses that these powers should be exercised in accordance with the principles of good regulation it is important that their introduction is supported by effective frameworks and guidance.

Recommendation

- **The introduction of SUCBCRs should be supported with guidance by March 2011 that clearly defines the sanctioning options available to local authorities.**
 - **LBRO and WAG should develop a framework by March 2011, based on the requirements of the Regulators Compliance Code, that enables local authorities to demonstrate they are working to the principles of good regulation and have in place appropriate governance arrangements to administer them effectively.**
33. This framework should include the following specific findings from the review to assist local authorities in becoming more compliant with the principles of better regulation:

Finding 1

Local authorities should provide links from the relevant areas of their website to appropriate external scrutiny reports conducted by national regulators and other bodies.

Finding 2

Local authorities should review their current provision of information to business available on their website to ensure that it is searchable in a way that is helpful to business.

Local authorities across Wales should agree a common set of links to national sources of business information relating to regulatory services that will provide consistency for businesses looking to operate across Wales.

Finding 3

Local authorities with a low score in the recent SOCITM survey of compliance with the EU Services Directive should look to learn from the experience of those other authorities achieving good practice in specific areas, and to put in place improvements to the accessibility of information and licensing forms for businesses, in line with the requirements of the Provision of Services Regulations 2009.

Finding 4

Local authorities in Wales should review their existing compliance and enforcement policies to take account of the new civil sanctions. They should use the opportunity to agree a clear and accessible compliance and enforcement policy for all their regulatory services, drafted with the business end user in mind with links to all relevant supporting and associated information.

Local authorities should include within their compliance and enforcement policy relevant information about their approach to risk assessment and inspections, with appropriate links to more detailed information and methodologies.

Finding 5

Local authorities and businesses work closely with LBRO and WAG to establish an agreed and proportionate way of capturing accurate data on local authority regulatory services interaction with businesses in Wales, to ensure that any civil sanctioning powers that are introduced lead to an increase in constructive compliance discussions between local authorities and businesses in Wales.

Finding 6

Local authorities should publish data on their choice of enforcement actions to demonstrate transparency in the way they apply and determine penalties.

Detailed Analysis

Introduction

³⁴. The total number of citizens in Wales is just under 3 million. There are 22 local authorities in Wales and the size of the population served by each ranges from 55,700 (Merthyr Tydfil) to 336,200 (Cardiff)⁹. There are just over 90,000 businesses across Wales, three quarters of which are very small with 0 to 4 employees, and the numbers of businesses served by each local authority ranges from 1,135 (Merthyr Tydfil) to 10,225 (Cardiff)¹⁰. More detailed information on each local authority can be found in the Annex.

Focus on outcomes

- *Regulators should measure outcomes not just outputs*
- *Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take*

Analysis

³⁵. In general terms, recent research carried out by RAND Europe identified that only 55 per cent of local authority regulatory services collect any information on the wider impacts of their services¹¹. A recent evaluation of the Peer Challenge initiative by Shared Intelligence also found a lack of an outcomes focus amongst participating local authorities and recommended that LBRO's impact and outcomes toolkit is used to breach the activity based culture of regulatory services¹². Whilst these research studies were not focused on Wales specifically, there is no reason to believe that the position in Wales is any different from that of local authority regulatory services across Great Britain.

- Use of Impacts and Outcomes and Economic Impact Toolkits

³⁶. In October 2009, the LBRO published a toolkit, developed by RAND Europe, to help local authorities establish the impacts and outcomes of the services delivered by all of their regulatory services¹³. To date, one local authority has already used the toolkit, and by the end of September 2010, the remaining 21 will have completed preparatory work on evidencing their impact through use of the toolkit.

³⁷. In June 2009 the OFT also published a toolkit to help local authorities to evaluate the direct economic impact of the fair trading work of their Trading Standards Services¹⁴.

⁹ ONS Mid-Year Population Estimates 2009

¹⁰ ONS Business Demography 2008

¹¹ Impacts and Outcomes of Local Authority Regulatory Services, RAND Europe and LBRO (2009)

¹² Regulatory Services Peer Challenge Evaluation - Final report, Shared Intelligence, 2010

¹³ Impacts and Outcomes of Local Authority Regulatory Services – The Toolkit, RAND Europe and LBRO (2009)

¹⁴ Trading Standards impact: An evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK, Office of Fair Trading (OFT 1085) (June 2009)

Using the same assumptions and principles as the RAND toolkit, this provides local authorities with a more detailed methodology to help identify the savings to consumers of individual actions (covering the provision of advice to consumers as well as more formal enforcement activity against businesses). Seven of the 22 local authorities in Wales have used or are in the process of using the toolkit to establish the value for money that they deliver to their local community.

- Peer Review and Peer Challenge reports

38. We looked at a sample of reports that were produced for local authorities who went through the Peer Review process which was developed by Local Government Regulation (LGR – formerly LACORS) and which ran from 2004-05 to 2007-08. These reports and the accompanying action plans contained some interesting material but in themselves did not provide sufficient objective data for use in this assessment process, as evidence is not available as to what actions have been taken to address any of the recommended actions. Also, the reports were several years old (some were undertaken in 2005) and were largely inwardly focussed, concentrating more on the management and organisation of the trading standards teams and less upon the services provided to businesses and others. However, 21 of the 22 local authorities participated in the Peer Review process and the one authority that did not has subsequently taken part in the pilot of the Peer Challenge process recently developed by LGR and the LBRO, which incorporates a similar mechanism of self-assessment followed by peer review of that assessment. All authorities in Wales have therefore submitted themselves to external scrutiny for the purposes of identifying areas for improvement, and have been willing to share their findings with us as part of this assessment process.

- Welsh performance indicators

39. Information available from the Wales Data Unit for 2007/08 and 2008/09 shows an overall increase in the percentage of significant breaches that were rectified by intervention by local authorities during the year for Trading Standards and for Animal Health¹⁵. Local Authority Food Hygiene Enforcement Data available from the Food Standards Agency for 2008/09 shows that all but one of the 22 local authorities in Wales achieved 85% or higher in terms of the number of interventions achieved¹⁶.

40. However, given the narrow range of performance indicators available for the whole of local authority regulatory services, and their lack of focus on outcomes, the figures quoted here and in the Annex should be treated as sample or illustrative data, and not a comprehensive picture of all activities undertaken by local authority regulatory services in Wales.

¹⁵ Wales Data Unit - dissemination website

<http://dissemination.dataunitwales.gov.uk/webview/index.jsp?language=en>

¹⁶ FSA Enforcement Data 2008/09 -

<http://www.food.gov.uk/enforcement/auditandmonitoring/mondatabyyear/ocd200809/>

- National Enforcement Priorities
41. National Enforcement Priorities (NEPs) have been agreed for local authority regulatory services in Wales, and were recently published in July 2010¹⁷. The Directors of Public Protection Wales (DPPW) were fully engaged in the process of agreeing these NEPs, as were the National Regulators who share similar powers¹⁸ selecting a small group of regulatory service managers to lead input from local authorities into discussions and into the final decision making process. Throughout the process, DPPW were keen to engage and were very supportive of the development of broader, collaborative outcome based priorities that reflect regulatory services contribution to the outcomes of One Wales¹⁹ as a whole, rather than narrower priorities based on professional areas of responsibility.
42. DPPW have also been keen to engage in an LBRO-led project looking to reduce data burdens on local authorities in Wales, and maximise use of data captured. This project could lead to the establishment of new performance indicators for local authority regulatory services in Wales, which are currently very output-focussed and which DPPW have been keen to replace with more outcome-driven measurements. DPPW are also keen that these new performance indicators are owned fully and reported on by each local authority, thus reducing the monitoring and audit burden on local authorities while increasing transparency, as local authorities become more responsible for demonstrating how their activities help to achieve the desired outcomes for Welsh citizens and businesses.
- External scrutiny reports
43. External scrutiny reports conducted by national regulators and other bodies can provide objective information to businesses and citizens on the performance of local authority regulatory services. However, we found that only one local authority website had a link to an external scrutiny report on the Food Standards Agency website where further information on the local authority's performance could be accessed.

Finding 1

Local authorities should provide links from the relevant areas of their website to appropriate external scrutiny reports conducted by national regulators and other bodies.

Advice and Guidance

Principles of good regulation:

- *Regulators should provide authoritative, accessible advice easily and cheaply*

¹⁷ National Enforcement Priorities for Wales, prepared by LBRO for the Welsh Assembly Government (2010)

¹⁸ The National Regulators comprise: Animal Health, the Department for Business, Innovation and Skills – Consumer and Competition Policy, Defra, the Food Standards Agency, the Gambling Commission, the Health and Safety Executive and the Office of Fair Trading

¹⁹ One Wales – a progressive agenda for the government of Wales (2007)

Analysis

- The Anderson Review

44. On 28 January 2009 Sarah Anderson published her Good Guidance Guide²⁰, in a response to a request by Government to lead an independent review of the best way to deliver regulatory guidance. This Guide recommended increased certainty over the information provided, making guidance more accessible, clearer and more consistent across government. We have borne these recommendations in mind when reviewing the advice and guidance provided to businesses by local authority regulatory services, and when making recommendations as to how that provision might be improved.

- Business survey data

45. In the LBRO/FDS International Business Perceptions Survey 2010, it was found that businesses in Wales were most likely to use their local council for advice (47%) followed by their trade association (45%). Welsh businesses are less likely to use external sources for advice than English businesses (41% in Wales compared to 57% in England). 84% of Welsh businesses feel that the role of local council regulators is to provide advice as well as to enforce rules and regulations. 59% of Welsh business had been in contact with their local authority in the last two years regarding local regulation (significantly more than in England). On average four out of five businesses in Wales found information provided by local authorities easy to understand²¹.

- Trading Places

46. Trading Places is a scheme developed by the LBRO that encourages greater understanding between all local authority regulatory services and the businesses they monitor, involving a two-day study course at businesses across the UK²². Seven of the 22 local authorities in Wales have already been represented at Trading Places sessions since the launch of the scheme, with 11 officers from those authorities taking part. A further session planned for the autumn 2010 will involve seven officers from four other local authorities visiting a Wales-based business.

- Information for businesses

47. A comprehensive search of all local authority websites for the availability of clear information for businesses was undertaken. On the whole, it was possible to access relevant information within two clicks of the keyboard. However, the level of information available varied considerably, with much of it organised around the local authority service structure than from a business user perspective (i.e. arranged separately under Trading Standards and Environmental Health headings). One particular tool used by three of the local authorities in Wales that was particularly business friendly was TS Broadcast, which enables a business to enter details about the relevant sector and type of business and which then provides bespoke information for the search criteria entered.

²⁰ The Good Guidance Guide: taking the uncertainty out of regulation, Sarah Anderson (2009)

²¹ LBRO/FDS International Business Perceptions Survey (July 2010)

²² <http://www.lbro.org.uk/lbro-projects-trading-places.html>

Another authority provides a similar bespoke searching mechanism that tailors information to business-specific enquiries within their local authority website.

48. We also discovered huge variation in the signposting or linking to national sources of information for businesses. Some websites provided clear links to Business Link or ERWIN (Everything Regulation, Whenever It's Needed, a web site designed by Trading Standards to provide all Trading Standards related business (mainly retail based) information), from where business can access comprehensive information in one place. Most also provided links to the websites of national regulators (e.g. Food Standards Agency, Health and Safety Executive and Office of Fair Trading), from where further business information can be obtained.
49. Overall, we found very little consistency in the provision of information to businesses via local authority websites. This means that businesses wishing to operate across a number of local authority areas in Wales will have to access numerous sources of information in order to satisfy themselves that they have read and understood all available guidance on complying with appropriate legislation. Smaller businesses operating in only one locality may also, as a result, receive or be able to access differing levels of compliance information or support from those received by competitors elsewhere in Wales.

Finding 2

Local authorities should review their current provision of information to business available on their website to ensure that it is searchable in a way that is helpful to business.

Local authorities across Wales should agree a common set of links to national sources of business information relating to regulatory services that will provide consistency for businesses looking to operate across Wales.

- Primary Authority referral protocols
50. There is no evidence of any local authority in Wales failing to follow the referral procedure required for Primary Authority.
- SOCITM report on implementation of EU Services Directive
51. The Society of Information Technology Management (SOCITM) recently published the results of a survey, carried out between 19 April and 21 May 2010, which was conducted on behalf of the Department for Business, Innovation and Skills (BIS) into how well local authorities and other competent authorities have implemented the provisions of the EU Services Directive, as transposed by the Provision of Services Regulations 2009²³. As well as requiring greater transparency over the costs and time taken by competent authorities to process applications from businesses to operate under legislation

²³ Better connected for business: implementation of the EU Services Directive in the UK in 2010 – June 2010 - http://www.socitm.net/downloads/download/330/better_connected_for_business_implementation_of_the_eu_services_directive_in_the_uk_in_2010

administered by them, the regulations require that the competent authority provides a range of specific information, plus the capability for businesses to make applications electronically. The survey covered all 433 local authorities across the UK as well as 107 other competent authorities within the UK.

52. The survey found that Wales was the best-performing country in terms of compliance with the spirit of the EU Services Directive, with 36% of local authorities rated satisfactory or better (compared with 22% in England, 16% in Scotland and 12% in Northern Ireland). Caerphilly was the best performing local authority in Wales, scoring the maximum rating, (on a scale from zero to three), and was particularly praised for ease of finding information on their website. Seven other authorities scored a rating of two, with some good practice identified in a number of specific areas. However, eight of the 22 authorities scored zero (compared with only one local authority out of 32 in Scotland achieving the lowest rating). So, while performance in Wales is far better than the UK average, substantial improvements can still be made by at least a third of local authorities in Wales.

Finding 3

Local authorities with a low score in the recent SOCITM survey of compliance with the EU Services Directive should look to learn from the experience of those other authorities achieving good practice in specific areas, and to put in place improvements to the accessibility of information and licensing forms for businesses, in line with the requirements of the Provision of Services Regulations 2009.

Sanctions

Principles of good regulation:

- *The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions*
- *Regulators should be transparent in the way in which they apply and determine administrative penalties*
- *Regulators should avoid perverse incentives that might influence the choice of sanctioning response*
- *Regulators should follow-up enforcement actions where appropriate*

Analysis

- Community Safety Accreditation Scheme (CSAS)
53. The Police Reform Act 2002 introduced a system whereby persons who are not police officers may exercise certain police powers. Section 40 of this Act enables a Chief Officer of Police to establish and maintain a scheme under which such powers could be granted (Community Safety Accreditation Scheme – “CSAS”²⁴). In June 2007, the five Greater Gwent authorities (Blaenau Gwent, Caerphilly, Monmouthshire, Newport and

²⁴ http://www.gwent.police.uk/info_point/csas.htm#

Torfaen) approached Gwent Police with a view to Trading Standards Officers becoming accredited to issue Penalty Notices for Disorder to individuals caught selling alcohol to anyone under the age of 18. This would remove the necessity of having a uniformed police officer present during test purchases of alcohol organised by Trading Standards, thus freeing up police resources and streamlining Trading Standards activity.

54. Although the CSAS is in respect of employees only, Gwent Police, who have led the roll-out of the CSAS across Wales with the agreement of the other three Police forces in Wales, felt that they also needed to satisfy themselves that employers (i.e. local authorities) who want to take the benefit of the CSAS have appropriate procedures and policies in place to supervise properly accredited employees. They therefore decided to accredit employers as well as employees. The onus was on each local authority to demonstrate to the satisfaction of the Chief Officer of Gwent Police that they were a fit and proper person to supervise employees in carrying out the functions for which accreditation was to be granted.
55. The accreditation process entailed each local authority providing required policies and procedures, including a code of conduct for employees; a written, easy to use complaints procedure that is available to the public; suitable staff guidance and training; records of complaints; information about the employee's supervisory structure; the recruitment and equal opportunities policy of the local authority; and the system that the local authority intended to use for the administration of the PND scheme. Each local authority would also be subject to additional inspections and vetting procedures if deemed necessary by the Chief Officer. Before granting accreditation, the Chief Officer would also seek endorsement of the local authority from the Divisional Commander and Crime and Disorder Reduction Partnership.
56. Once accreditation was granted to the local authority, each nominated individual who would be permitted to issue PNDs had to undergo a similarly rigorous assessment, which involved consideration of appraisals or reports, as well as extensive checking of personal details against security information held by the police and others.
57. To date 18 of the 22 local authorities in Wales have undergone the accreditation process, all successfully. The breadth and depth of the assessment of these local authorities and their employees carried out by Gwent Police as part of the CSAS accreditation process provides considerable assurance that many of the policies and procedures that we would expect to see in place within any authority seeking civil sanctioning powers are already in place and have been subject to extensive scrutiny by a reputable external body. The willingness of each local authority to submit itself to such rigorous assessment shows a high degree of accountability for the work of their regulatory services. Also, the fact that the initiative for moving to accredit local authorities to issue PNDs came from the Trading Standards Services within a number of authorities, provides clear evidence of the fact that local authorities in Wales are keen to work collaboratively to achieve efficient ways of working effectively with key partners in delivering targeted services to their local citizens and businesses.

- Enforcement policies
58. In his report, Professor Macrory made recommendations about improving the transparency of regulators, so that industry and the public have an opportunity to be informed of their rights and responsibilities and of enforcement activity. He said that all regulators should have a published enforcement policy, which should enable consistent decision making and safeguards for stakeholders. In his opinion an enforcement policy should:
- set out what action the public, and the regulated community, can expect from a regulator when a regulatory breach has been identified;
 - specify the range of enforcement options available to the regulator, when enforcement action is likely to be taken and in what circumstances; and
 - explain the regulator's policies for risk based enforcement, enforcement action in cases of conflicting regulations, the provision of advice and the information it requests from business.
59. The majority of local authorities in Wales have accessible enforcement policies for their regulatory services functions. All of these will need updating to reflect the use of civil sanctioning powers as and when they are granted to local authorities. Some are comprehensive and extremely clear, enabling businesses to understand easily what approach and treatment they can expect from the relevant authority, although nearly all could be improved through providing more links to further advice and guidance, explanations of enforcement options and other information.
60. However, a significant minority of local authority websites were very difficult to navigate, and the relevant enforcement policy was only located by contacting the authority directly. In one case we are still awaiting sight of the regulatory services enforcement policy. This causes concern, as it will lead directly to uncertainty on the part of businesses operating within this authority as to how they can expect to be treated. It also increases the possibility of inconsistency of approach on the part of local authorities if all have not stated publicly that they are committed to enforcing in line with the principles of good regulation.

Finding 4

Local authorities in Wales should review their existing compliance and enforcement policies to take account of the new civil sanctions. They should use the opportunity to agree a clear and accessible compliance and enforcement policy for all their regulatory services, drafted with the business end user in mind with links to all relevant supporting and associated information.

Local authorities should include within their compliance and enforcement policy relevant information about their approach to risk assessment and inspections, with appropriate links to more detailed information and methodologies.

- Appeals against local authority enforcement activity

61. From the statistical information that we obtained from the annual report of the Public Services Ombudsman for Wales²⁵, it is clear that very few formal appeals have been made about the conduct of local authorities in Wales. However, it has not been possible to break down these statistics to identify those complaints made about the conduct of regulatory services.
62. 15 of the 22 local authorities also provided details of complaints / appeals made directly to the authority about any action that had not been taken in accordance with the enforcement policy of the authority. Of these, only two had received complaints, none of which were upheld.
- Use of intelligence
63. Since the creation of a regional intelligence function for Trading Standards Services in Wales in 2007, there has been strong growth in the supply and use of intelligence data across Wales. From an initial inflow of 139 intelligence submissions in 2007, this has grown to 1,392 in 2009²⁶. This growth, coupled with the detailed analysis of the captured intelligence undertaken by the Regional Intelligence Officer, is evidence of a move towards identifying and agreeing priority areas for enforcement and compliance activity across Wales. This has led to greater coordination and consistency of approach, directly helping to meet the requirement that all enforcement action should be targeted at those cases requiring most attention.
64. The reports of the Welsh Scambuster team and updates provided for the Welsh Heads of Trading Standards (WHoTS) group show an increasing level of coordination of activity against those businesses about whom most complaints and intelligence has been gathered. It also shows strong support for the national delivery units (Scambusters and Illegal Money Lending teams), which enable a more consistent and targeted approach to be adopted against the worst offenders in Wales.
- Consistency of approach
65. In our discussion with some business representatives, some have expressed concerns about the consistency of approach of some Welsh local authorities in taking enforcement action against individual stores of multi-site retailers. While some regulatory services will pursue compliance issues with the head office of a multi site business, via the Primary, Home or Lead Authority as appropriate, some officers within some authorities persist in trying to pursue enforcement action against individual store managers over issues that many businesses feel could most effectively be tackled by discussion with the corporate head office who could, in the opinion of businesses, resolve issues effectively and efficiently. Some businesses felt that they were sometimes given inadequate opportunity to explain how a presumed breach may have occurred or to offer to put things right before enforcement action was initiated. We were unable to quantify the proportion of cases in which businesses felt that an inappropriate approach or action was taken by a local authority regulatory service. We are therefore working with businesses to explore how best all instances of local authority regulatory services interaction with businesses

²⁵ The Public Services Ombudsman for Wales – Annual Report 2009-10 (June 2010)

²⁶ Welsh Heads of Trading Standards - Review of Strategic Assessment 1 October 2009 – 30 September 2010

might be captured in future (i.e. identifying more easily the proportion of local authorities adopting a compliance approach, as opposed to an immediate move to enforcement action).

66. That said, we found no instances of Welsh local authorities failing to notify the Primary Authority through the processes established under the Primary Authority Scheme.

Finding 5

Local authorities and businesses should work closely with LBRO and WAG to establish an agreed and proportionate way of capturing accurate data on local authority regulatory services interaction with businesses in Wales, to ensure that any civil sanctioning powers that are introduced lead to an increase in constructive compliance discussions between local authorities and businesses in Wales.

- CIPFA and other statistics

67. The Chartered Institute of Public Finance and Accountancy (CIPFA) collects data annually from local authorities including data on their enforcement activities. The response rate varies so care needs to be taken when using the statistics. In 2008-09, the number of statutory notices served by Welsh local authorities relating to environmental health varied from 5 to 732 and for trading standards varied from 0 to 702. The number of prosecutions initiated and formal cautions given by environmental health departments varied from 1 to 76 for 2009 and for trading standards varied from 0 to 76. Over the last five years the CIPFA trading standards statistics show a trend in Wales away from formal cautions and prosecutions (38% decrease) and toward compliance focused actions (143% increase in letters of informal caution and advice issued)²⁷. Over the same time period the number of businesses in Wales increased by 6%²⁸.
68. Figures available from the WAG website for 2008/09 show that there is a very wide variation in the number of Fixed Penalty Notices (FPNs) that have been issued by local authorities across Wales for littering, dog fouling, graffiti, fly posting and noise²⁹. Some authorities appear very active, while others have issued no FPNs in these areas, suggesting that focus on enforcement in these areas is very much subject to local prioritisation, as it should be. This potential discrepancy highlights the need for clear guidance on how to use the new civil sanctioning powers, ensuring that all local authorities are adopting similar approaches when assessing risk and prioritising action in this area.

²⁷ Cipfa Trading Statistics 2009 & 2004. Cipfa Environmental Health Statistics 2008/09 & 2003/04. Note response rate for environmental health lower than trading standards (EH 2008/09 - 50%, 2003/04 - 55%; TS 2009 - 73%, 2004 - 91%).

²⁸ ONS Business Demography 2008

²⁹ Local authorities must submit a Fixed Penalty Notice Returns Form to WAG annually.

<http://wales.gov.uk/topics/environmentcountryside/epq/cleanneighbour/fixedenalty>

- Use of civil powers under Enterprise Act 2002

69. Under the Enterprise Act 2002 (EA 2002), all local authority Trading Standards Services have had access to civil powers whereby they can accept undertakings from business in lieu of court proceedings. To date, only seven of the 22 local authorities in Wales have used these powers, and only two have used them more than once³⁰. This low level of activity is not unusual across the UK and may be due to a number of reasons. In December 2006 the Office of Fair Trading published a report into the impact of training and use of civil powers available to local authorities under the EA 2002³¹. In it they reported that, although about a quarter of Trading Standards across the UK found no barriers to using the civil powers under EA 2002, many Trading Standards found preparing for civil cases using EA 2002 action more time consuming than criminal cases. This factor may well have a bearing on the future use of civil sanctioning powers under the SUCBCRs, where many local authorities have expressed concern about the resources required to reach the due diligence stage at which they would be able to impose an administrative penalty.

Finding 6

Local authorities should publish data on their choice of enforcement actions to demonstrate transparency in the way they apply and determine penalties.

Data collection

Principles of good regulation:

- *Business should not have to give unnecessary information, nor give the same piece of information more than once*

Analysis

70. We found very little evidence that UK local authority regulatory services place large data collection burdens on businesses. There are issues about a lack of data sharing by public bodies and businesses find repeated requests for similar data frustrating. However, further research would be required to fully explore this issue, but this is outside the scope of this review.

71. However, where businesses are required to provide information to a local authority as part of a registration or licensing scheme, the findings and recommendations relating to compliance with the EU Services Directive, included under Advice and Guidance above, are valid here.

Inspections

³⁰ <http://www.offt.gov.uk/OFTwork/consumer-enforcement/traders/la-by-period/>

³¹ Evaluation of Enterprise Act training for TSS - Evaluation report prepared for the Office of Fair Trading by IFF research on the training of Local Authority Trading Standards Services (TSS) in Part 8 of the Enterprise Act, Office of Fair Trading (OFT549 December 2006)

Principles of good regulation:

- *No inspection should take place without a reason*

Analysis

- Clarity on inspection approach within enforcement policy
72. Only five of the enforcement policies that we have seen refer to the local authority's approach to inspections, although about half do make reference to following a risk based approach to enforcement. However, none of them had links to other relevant information about how the local authority prioritises its inspections, nor to the risk assessment processes or methodologies that it follows.
73. We would therefore recommend that local authorities should include within their corporate enforcement policy far more information about their approach to risk assessment and inspections, with appropriate links to relevant supporting information and methodologies.
- CIPFA statistics
74. Only half of the 22 local authorities in Wales had made voluntary returns of data on which we could base our analysis but the sample that we did have showed that not all premises located within a local authority area had been subject to a local authority inspection³². This suggests that each of these 11 local authorities are applying a risk-based approach to the inspections that are actually carried out, ensuring that premises assessed as high-risk are subject to greater levels of inspection. However, we had access to only limited data in this area, so this is very much an assumption and is not a finding based upon quantitative available data.
- Adoption of and adherence to risk-assessment schemes
75. Local authorities across the UK have to adhere to nationally agreed risk assessment schemes, which often drive subsequent inspection activity. The five risk assessment schemes most commonly used within environmental health and trading standards are:
- The Health and Safety Executive / Local Authorities Enforcement Liaison Committee (HELA) Health and Safety Inspection Rating System;
 - The OFT Trading Standards Risk Assessment Scheme;
 - The FSA Food Hygiene Intervention Rating Scheme
 - The FSA Food Standards Intervention Rating Scheme
 - The DEFRA Local Authority Integrated Pollution Prevention and Control (LA-IPPC) and Local Authority Pollution Prevention and Control (LAPPC) Risk Method
76. Most of the statistics about inspection activity collected nationally make reference to risk categories and provide evidence that a risk-based approach is being taken towards inspections. The FSA conducted audits of the food law enforcement service of all local authorities in Wales between 2001-2005, following which an action plan was agreed for each local authority. The vast majority of these action plans appear to have been updated since, although there appear to have been no updates made since 2007 and it

³² CIPFA Environmental Health Statistics 2008/09

is not clear to anyone accessing the information when any updates were made. The FSA has also carried out in 2010 a programme of focused audits on nine local authorities in Wales, selected according to the number of approved establishments within the local authority area. These audits looked specifically at their arrangements for implementing official controls at approved establishments, with a focus on approved dairy, meat products and fish and shellfish establishments.

77. LBRO, working with the key national regulators has established a common risk framework for local authority regulatory services. When implemented this will improve the ability of local authorities to apply a systematic approach to the application of risk assessment methodologies used to determine the type and frequency of risk based interventions.
- E-coli report
78. In March 2009, Professor Hugh Pennington published his report of the public enquiry into the major outbreak of *E.coli* 0157 in South Wales in September 2005, in which a five-year old boy died³³. Within his report, Professor Pennington made 24 recommendations aimed at public sector bodies and food businesses. In March 2010 Consumer Focus Wales (CFW) published a report on progress made in implementing those recommendations³⁴. In their report CFW found that much of the work undertaken by public (including local) authorities in response to the enquiry had been thorough, timely and appropriate. Every local authority has adopted a red flagging system to highlight issues of concern for future inspections and has drawn up an action plan to deliver the recommendations in the report.
79. However, CFW also found that three of Professor Pennington's recommendations were not being put into action, and that there were other areas where they believed that more work needed to be done. The WAG Food Group, set up in response to the outbreak, reported earlier this year that action in response to all but two of the recommendations have been met or are in the process of being met.
80. These varying views highlight a very real tension between consumer expectations of levels and depth of inspections, especially of food premises, and the resources available to local authority regulatory services to carry out such in-depth inspections. The CFW report highlights a need for greater levels of resource in this area due to a shortage of qualified environmental health professional specialising in food hygiene but, within the current economic climate and need for cost savings across all of government, such additional resources are going to become increasingly difficult to secure.
81. However, the CFW report did highlight inconsistency in levels of transparency between local authorities over what is being done to address the Pennington recommendations. They found that the action plans that local authorities have drawn up have not been presented in a way that is accessible to the public, although they contain a great deal of

³³ The Public Inquiry into the September 2005 Outbreak of *E.coli* O157 in South Wales, Chairman Professor Hugh Pennington (March 2009)

³⁴ Protecting consumers from *E.coli* 0157: Progress on implementation of the Pennington Report in Wales, Consumer Focus Wales (March 2010)

positive information about what has been achieved, which could help to re-build public trust.

Source documents

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Welsh Heads of Trading Standards, *Review of Strategic Assessment 1 October 2009 – 30 September 2010*

Annex

Single Use Carrier Bag Charge (Wales) Regulations 2010 Review criteria and publicly available data

<p>Hampton / Macrory requirement drawn from HIR methodology</p> <p>Focus on outcomes</p> <ul style="list-style-type: none"> Regulators should measure outcomes not just outputs Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take 	
<p>Requirement</p> <p>Clear, robust evaluation methods applied to enforcement activity.</p> <p>Evaluation information readily and easily accessible (and understandable) for businesses and consumers.</p> <p>LBRO/LGR Excellence Framework Criteria 4.1.1: Desired outcomes for the Service are agreed, corporately owned, and reflect national, regional and local needs and priorities. 4.3.1. There are effective scrutiny arrangements in place.</p>	<p>Publicly available data</p> <p>Impacts and outcomes (LBRO); Economic Impact Toolkit (OFT); External scrutiny, review or audit (e.g. FSA audit reports) – all evidence of accountability; Trading Standards peer review and peer challenge – indication of willingness to improve and be subject to external challenge; Wales performance indicators, and DPPW/CIEH best practice standards; National Enforcement Priorities (Wales); National regulator/policy department activity and performance monitoring data; LBRO/FDS International business survey data (context/triangulation).</p>
<p>Hampton / Macrory requirement drawn from HIR methodology</p> <p>Advice and guidance</p> <ul style="list-style-type: none"> Regulators should provide authoritative, accessible advice easily and cheaply 	
<p>Requirement</p> <p>Advice to business should be readily and easily accessible from local authority websites and other means, and should provide businesses with clarity on what they need to do to comply with relevant legislation, in line with EU Directive.</p> <p>LBRO/LGR Excellence Framework Criteria 2.3.2 Advice and guidance is tailored, appropriate and provided in a way that customers can rely on.</p>	<p>Publicly available data</p> <p>Advice currently available to businesses on local authority websites; Use of Trading Standards Wales website to provide business information; Links to national sources of guidance (e.g. Wales Business Link) / signposting from local authority websites; Views of Welsh Business Reference Panel members; Referrals to Primary/Home/Lead authorities; LBRO/FDS International business survey data (context/triangulation)</p>

Hampton / Macrory requirement drawn from HIR methodology

Sanctions

- The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions
- Regulators should be transparent in the way in which they apply and determine administrative penalties
- Regulators should avoid perverse incentives that might influence the choice of sanctioning response
- Regulators should follow-up enforcement actions where appropriate

Requirement	Publicly available data
<p>Ensure that all 22 local authority enforcement policies are publicly available and reflect Hampton principles. Also ensure that these policies reflect the reality of business experience with local authority.</p> <p>LBRO/LGR Excellence Framework Criteria 3.2.3: The Service takes a proportionate approach to dealing with regulatory non-compliance and makes decisions about enforcement and sanctioning activities that are transparent and focused on delivering regulatory compliance.</p>	<p>Local authority published enforcement policies, and the number of appeals made against local authorities on the basis of non-adherence to their published enforcement policy;</p> <p>Police training and assessment of all 22 Welsh Trading Standards services to be able to enforce PNDs under crime and disorder legislation;</p> <p>Use of intelligence in prioritising and targeting enforcement action;</p> <p>CIPFA and national regulator/policy department activity and performance monitoring data;</p> <p>Usage of Enterprise Act powers where monitored by OFT;</p> <p>Appeals against local authority misuse of powers (handling, total number and proportion upheld);</p> <p>Appeals to Ombudsman (total number and proportion upheld);</p>

Hampton / Macrory requirement drawn from HIR methodology

Data requests

- Business should not have to give unnecessary information, nor give the same piece of information more than once

Requirement	Publicly available data
<p>Databases are subject to appropriate data handling processes, are up to date and fit for purpose. Internal data sharing takes place across regulatory functions and the wider authority where relevant.</p> <p>LBRO/LGR Excellence Framework Criteria 3.1.3: The Service uses information and ICT effectively in service preparation and delivery</p>	<p>Forms that collect information from businesses available on local authority websites;</p> <p>Evidence of data sharing across authorities (Primary/Home/Lead Authority referrals);</p> <p>Business perspective / survey through members of Welsh Business Reference Panel.</p>

**Hampton / Macrory requirement drawn from HIR methodology
Inspections**

- No inspection should take place without a reason

Requirement	Publicly available data
LBRO/LGR Excellence Framework Criteria 3.2.1: Risk-based regulation is embedded in every level of decision-making	Local authority published enforcement policies; National regulator/policy departments' data on adherence to national risk-assessment schemes; CIPFA statistics; LBRO Retail Enforcement Pilot lessons learned reports (background).

**Hampton / Macrory requirement drawn from HIR methodology
Design of regulations**

- All regulations should be written so they are easily understood, easily implemented, and easily enforced, and all interested parties should be consulted when they are being drafted
- When new policies are being developed, explicit consideration should be given to how they can be enforced using existing systems and data to minimise the administrative burden imposed

Requirement	Publicly available data
Not applicable, as regulations not drafted by local authorities	Not necessary