

# C

## LOCAL AUTHORITIES

---

**C.1** Local authorities have historically carried out inspection and regulation in a number of areas. Over the last twenty to thirty years, some of their powers have been centralised, but local authorities remain the sole inspecting authority for trading standards, food standards and food safety.<sup>1</sup> They also have joint responsibility (with the HSE) for health and safety issues in their areas. The powers of districts, counties and unitary authorities are different, and are described in more detail below.

### LOCAL AUTHORITY ORGANISATION

---

**England C.2** Outside cities, local government in England has traditionally been a two-tier structure, with counties made up of a number of districts. In most of Great Britain, this continues to be the case, but since the local government changes that followed the Local Government Act 1992, some areas have broken away from the county/district structure to form unitary authorities. Some former counties, such as Hereford & Worcester and Berkshire, have ceased to exist and ceded all their functions to unitary authorities.

**C.3** For the purposes of regulatory services, English local government bodies can be divided into three types:

- **Counties** – like Lancashire, East Sussex and Devon. Counties are made up of a number of districts. The smallest county is Shropshire, with a population of 285,700, and the largest is Kent, with a population of 1.3 million.
- **Districts** – smaller areas within counties. Examples include Copeland (Cumbria), Mid Sussex, and Richmondshire (North Yorkshire). The smallest district is Purbeck (Dorset), with a population of 44,100. The largest is Northampton, with a population of 194,100.
- **Unitary authorities** – these can be London boroughs, metropolitan boroughs (usually parts of former metropolitan counties), or new-style unitary authorities. Examples include Sefton (a metropolitan borough), Wandsworth (a London borough), Medway and Herefordshire (new-style unitary authorities). Unitary authorities vary considerably in size, from Rutland with only 34,900 people<sup>2</sup> to the city of Birmingham, with 976,400.

**Scotland, Wales & Northern Ireland C.4** In Scotland, Wales and Northern Ireland, all local government is unitary. In Scotland, Orkney is the smallest authority, with a population of 19,200, and Glasgow is the largest, with a population of 577,400. Wales' smallest authority is Merthyr Tydfil (55,000), and its largest is Cardiff (305,300).

**C.5** Local government is funded partly through the council tax, which is set and collected locally, and partly through a grant from central Government called the Formula Grant. The Formula Grant includes the Revenue Support Grant, which is based on an assessment of the council's needs, and their share of the National Non-Domestic Rate, which is a tax on local business. An average council's budget is split 25:75 between council tax and Formula Grant.

---

<sup>1</sup> except in slaughterhouses, which are the responsibility of the Meat Hygiene Service.

<sup>2</sup> the City of London – also unitary – has a smaller resident population (7,200), but a larger remit on account of the number of businesses based in its area.

**C.6** Some areas of funding from Government are ‘ring-fenced’ meaning the council have little or no discretion as to the amount of money spent on the service in question. In other areas, councils can spend money according to their own priorities. Budgets for regulatory services are not ring-fenced.

## **LOCAL AUTHORITY OFFICERS**

---

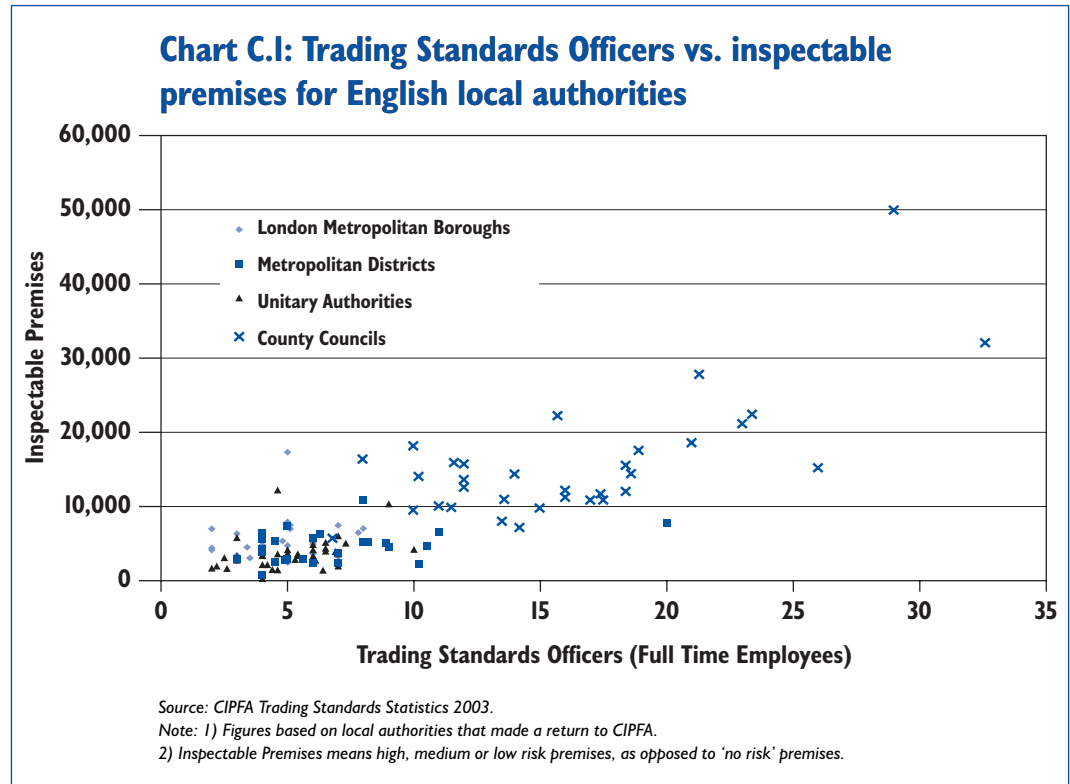
**C.7** The areas of regulation covered by the review are mostly carried out at local level by Environmental Health Officers (EHOs) and Trading Standards Officers (TSOs). Districts and unitary authorities employ EHOs, who in most areas are responsible for food safety, health and safety, animal welfare, housing standards, pest control, pollution control, noise control, port health, infectious disease control, health improvement, entertainment licensing, hackney carriage and private hire licensing, and other environmental issues. In London and Scotland EHOs also cover food standards. Counties and unitary authorities employ TSOs, who are responsible for food standards and implement the laws relating to weights and measures, the quality and fitness for sale of merchandise, fair trading, and consumer protection.

### **Trading Standards Officers**

**C.8** According to Chartered Institute of Public Finance and Accountability (CIPFA) statistics, in 2002-03 there were 3,933 local authority staff involved in trading standards work in England and Wales. Of those, 3,042 were directly involved in service provision. Chart C.1 below shows the number of TSOs per inspectable premises for England. The largest local authority by inspectable premises is Kent and the smallest is Wokingham. The budget for all trading standards services in England and Wales was £166.5 million, of which £108.5 million was staff costs. This has risen in real terms every year for the last five years.<sup>3</sup> There were 533 trading standards staff in Scotland, including 409 directly involved in service provision. The budget for trading standards activity in Scotland was £19.5 million, with £13.1 million spent on staff costs.

---

<sup>3</sup> *Trading standards statistics 2003*, Chartered Institute of Public Finance and Accountancy, October 2003.



**C.9** TSOs were distributed unevenly between the different unitary authorities and counties in England and Wales. The authority with the highest staff/business ratio was the unitary authority of Wokingham (Berkshire), with 38 inspectable businesses per officer, while the authority with the lowest staffing per business was Lambeth, with 2,790 inspectable businesses per officer.<sup>4</sup>

**Who they are C.10** TSOs are professionally qualified local government officials. As mentioned they implement the laws relating to weights and measures, the quality and fitness for sale of merchandise, and fair trading. They are usually supported by Enforcement Officers, officers who do not have the professional trading standards qualification, but who often have some other relevant qualification.

**C.11** At present, though there are plans for change, the professional qualification for Trading Standards Officers is the Diploma of Trading Standards (DTS). Four universities<sup>5</sup> offer degrees in consumer protection, which entitle their holders to exemption from some DTS papers. The requirements for the Diploma are four examined papers on legal, technical and professional issues, coursework, a dissertation, a practical examination and an oral examination.

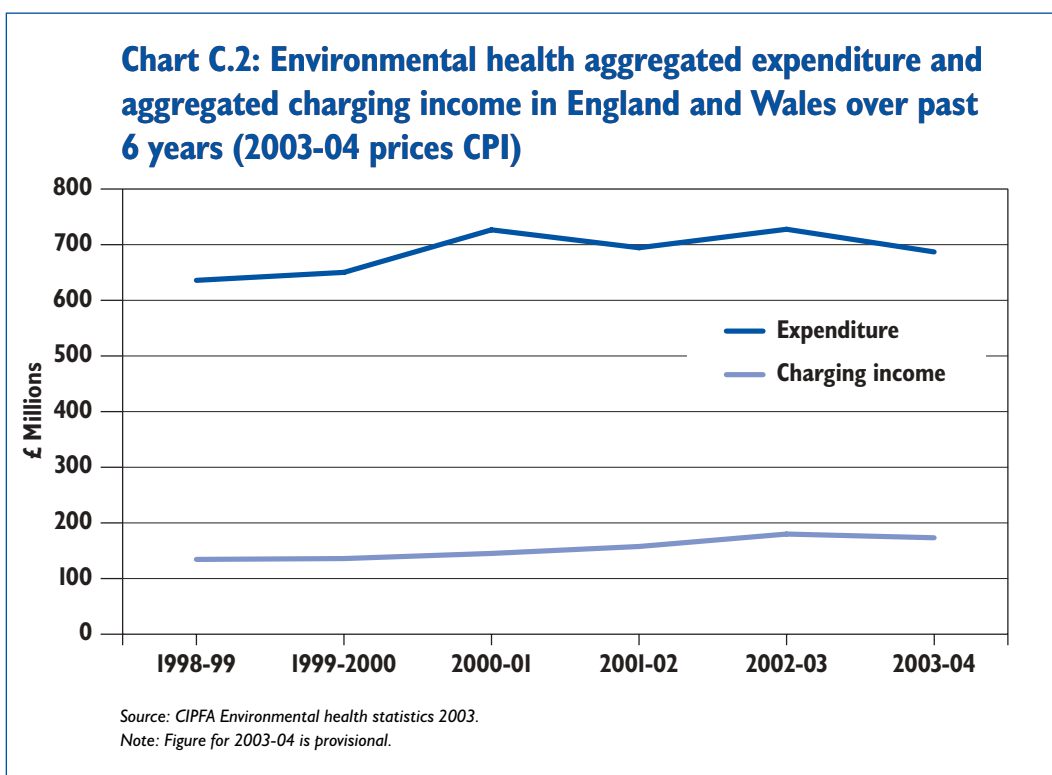
**What they do C.12** Trading standards work is divided between advice provision (to consumers and businesses) and field work. Field work includes both regular programmed inspections, sampling programmes, special projects, and proactive investigation.

<sup>4</sup> the data here use a risk assessment scheme that, since April 2004, has been replaced by a new framework intended to improve consistency in business classification.

<sup>5</sup> Glasgow Caledonian, Manchester Metropolitan, Teeside, and the University of Wales Institute, Cardiff.

## Environmental Health Officers

**C.13** According to CIPFA statistics, in 2002-2003 there were 15,301 local authority staff involved in environmental health work in England and Wales. Of those, 12,192 were directly involved in service provision. The budget for all environmental health services in England and Wales was £718.1 million, of which £378.6 million was staff costs. Data for environmental health in Scotland is not currently collected by CIPFA. Chart C.2 below illustrates how aggregated environmental health expenditure and charging income in England and Wales has increased in real terms over the last six years.



**C.14** The local authority with the highest staff/population ratio was Westminster, with 0.24 environmental health officers per 1,000 citizens, whereas Hounslow, Brent and Barking and Dagenham all had only 0.03 environmental health officers per 1,000 citizens.

**Who they are C.15** EHOs are professionally qualified local government officials. Environmental health is a graduate profession and all EHOs have to pass a degree course accredited by the Chartered Institute of Environmental Health, either at undergraduate or postgraduate level. BSc and MSc degrees in environmental health are available at a number of universities around the country. All courses involve both theoretical and practical skills, and many will include a work placement element.

## Other local authority officers

**C.16** Local authorities employ other staff who carry out some smaller regulatory functions. The responsibilities they cover are listed in the next section.

## LOCAL AUTHORITY RESPONSIBILITIES

**C.17** The main regulatory functions of local authorities are:

- trading standards (carried out at county level in two-tier authorities);
- food standards (part of trading standards<sup>6</sup>);
- food safety (at district level in two-tier authorities);
- health and safety in non-HSE premises (at district level in two-tier authorities); and
- air and environmental pollution (at district level in two-tier authorities).

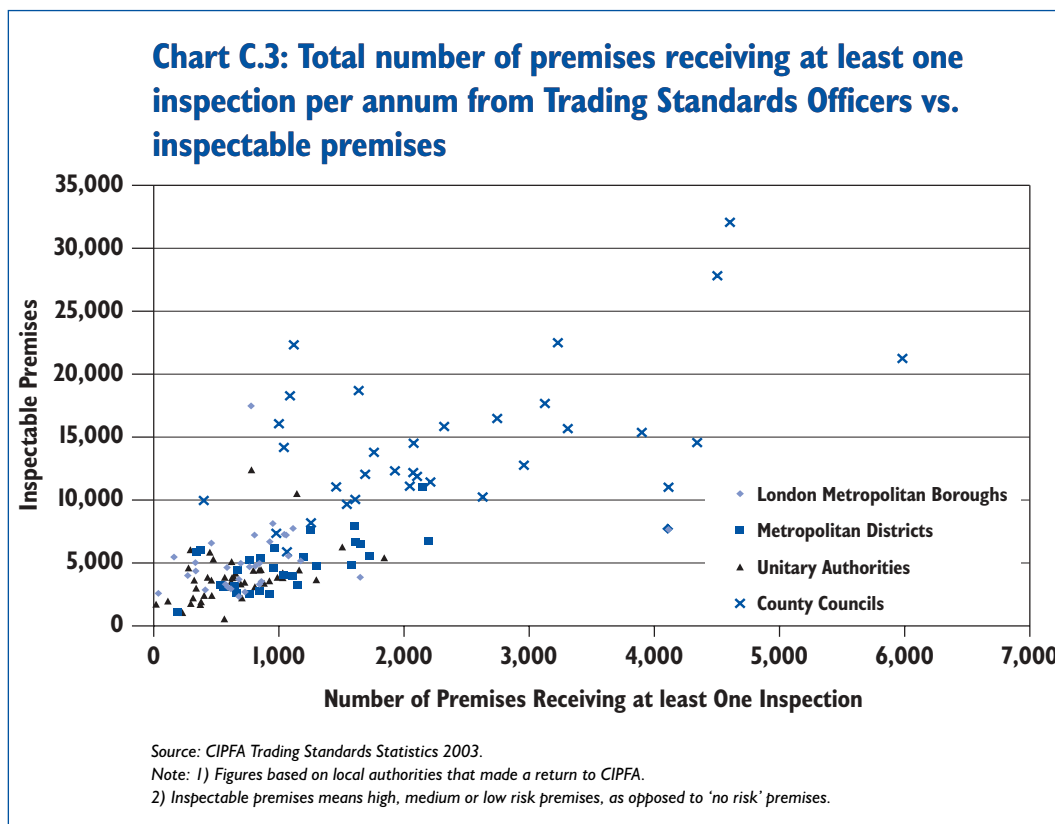
**C.18** They have interfaces with many central government Departments and agencies:

- with the Department of Trade and Industry (DTI), Office of Fair Trading (OFT), Department of Health, Home Office, National Weights and Measures Laboratory, Health and Safety Executive, Department of Constitutional Affairs, and the Office of the Deputy Prime Minister on trading standards;
- Food Standards Agency on food standards and food safety;
- Health and Safety Commission (HSC) and Department for Work and Pensions on health and safety;
- Defra and the Environment Agency on animal welfare, air pollution and private water supplies;
- Office of the Deputy Prime Minister (ODPM) on building control and private sector housing;
- Cabinet Office on enforcement standards;
- Department for Culture, Media and Sport on alcohol and entertainment licensing;
- Department of Health on infectious diseases and health protection;
- Department for Transport on taxi licensing; and
- Home Office on motor vehicle salvage, sex establishments, event safety and charity collections.

## Trading standards and food standards

**C.19** TSOs carry out inspections under over eighty different Acts of Parliament, and hundreds of associated regulations. Chart C.3 below shows the number of premises inspected per inspectable premises for English local authorities. The most important Acts are the Consumer Protection Act 1987 and the Weights and Measures Act 1985. All trading standards departments carry out inspections and provide advice to local businesses or consumers, but the quantity varies. Some provide civil law advice on issues such as faulty goods, although it is up to each local authority to decide if they should provide this service.

<sup>6</sup> Part of environmental health in London and Scotland.



## Food safety

**C.20** Food safety is monitored by EHOs, who are in turn monitored by the Food Standards Agency. Their work is carried out under the Food Safety Act 1990, and the statutory Codes of Practice issued under it. Food safety is distinct from food standards, which are part of trading standards except in London and Scotland.

**C.21** Food law is also made under the Animal Health Act 1981, the European Communities Act 1972, the Consumer Protection Act 1987, the Trade Descriptions Act 1968, and directly under EC Regulations.

**C.22** The recently revised Code of Practice sets out the policies and practices which food authorities must follow.

## Health and Safety

**C.23** The Health and Safety at Work etc. Act 1974 (HSWA) gives local authorities joint responsibility, with the Health and Safety Executive (HSE), for health and safety in their area. Premises are divided between the HSE and local authorities, with the HSE generally taking the more dangerous premises, and the local authority the safer ones.

**C.24** The HSC requires local authorities to have:

- a clear published statement of enforcement policy and practice;
- a system for prioritised planned inspection activity according to hazard and risk, and consistent with any advice given by the Health and Safety Local Authority Liaison Committee (HELA);

- a service plan detailing the local authority's priorities and its aims and objectives for the enforcement of health and safety;
- the capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health and safety failures;
- arrangements for benchmarking performance with peer local authorities;
- provision of a trained and competent inspectorate; and
- arrangements for liaison and co-operation in respect of the Lead Authority Partnership Scheme.

**C.25** If a local authority fails to meet its legal obligations under section 18 of HSWA, the Secretary of State can order an inquiry. If the Secretary of State is satisfied that a local authority has failed to perform any of its enforcement functions, he may make an order declaring the authority to be in default. The order may direct the authority to perform their enforcement functions in a specified manner within a specified period of time.

**C.26** If the defaulting authority fails to comply with such an order under section 45 of HSWA, the Secretary of State may enforce the order, or make an order transferring the enforcement functions of the defaulting authority to the HSE. In such a case, the defaulting authority pays HSE's expenses.

## Fire

**C.27** Fire safety and fire safety inspections are the responsibility of fire authorities, under the Fire Precautions Act 1971. Most are arranged on a county basis, but there are metropolitan fire authorities in London, South Yorkshire, West Yorkshire, Merseyside, the West Midlands, Tyne & Wear and Cleveland. The largest authority by far is London. Fire authorities are made up of elected officials from the counties or unitary authorities in their remit.

**C.28** In most areas, fire brigades deliver fire safety regulation. The nature and scope of regulation is about to change as a consequence of a regulatory reform order (RRO), currently under discussion. The RRO is designed to simplify and consolidate the existing fire safety legislation. It would move the multiple existing fire safety regimes into a single scheme, based on risk assessments. The statement that the Deputy Prime Minister made at the time, and the draft order, can be found on the ODPM's website.<sup>7</sup>

**C.29** Fire safety regulators have a large number of interfaces with other local bodies. Their role in approving plans brings them into contact with local planning and building control officers, while their ongoing inspection and certification role has to be co-ordinated with local environmental health offices and the HSE. The licensing justices (soon to be the licensing departments of local authorities) also consult fire authorities on the requirements for entertainment and on-licensed premises. Trading standards offices work with fire authorities on the fire safety of products.

**C.30** This multiple interface makes it particularly important for fire authorities to develop good co-ordination with other local bodies. There has, in recent years, been a move to regional co-ordination of fire services through Regional Management Boards.

<sup>7</sup> [http://www.odpm.gov.uk/stellent/groups/odpm\\_control/documents/contentservertemplate/odpm\\_index.hcst?n=4641&l=3](http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=4641&l=3)

## Animal welfare

**C.31** Local authorities are responsible for enforcement of some of the laws relating to animal welfare. Animal welfare is currently governed by a number of different Acts of Parliament, including:

- The Protection of Animals Acts 1911-2000
- The Performing Animals (Regulation) Act 1925
- The Pet Animals Act 1951
- The Cock Fighting Act 1952
- The Animal Boarding Establishments Act 1963
- The Riding Establishments Acts of 1964 and 1970
- The Protection against Cruel Tethering Act 1988
- The Breeding and Sale of Dogs (Welfare) Act 1999

**C.32** The Department for Environment, Food and Rural Affairs has recognised that the law in this area is complex, and has published a draft Animal Welfare Bill to consolidate and modernise existing legislation. Local authorities have expressed their support for this new approach. The draft Bill can be found at their website.<sup>8</sup>

**C.33** The secondary legislation proposed under a new Act preserves a role for local authorities in the inspection and licensing of premises related to animals. This may involve an extension of local authority activity into pet fairs, livery stables, animal sanctuaries, greyhound tracks and circus animal quarters. The provisional details are available on the website referenced above.

## Licensing

**C.34** The current licensing regime for alcohol sales, public entertainment, theatres, cinemas, late night cafes, and registered members' clubs is changing as a result of the Licensing Act 2003. Over the next year or so, the changes will be gradually introduced. When the new rules are fully operational, licences will be of unlimited duration rather than fixed for one or three years, as at present.

## Other responsibilities

**C.35** Local authorities are also responsible for inspections and regulation of:

- private drinking water supplies, such as springs on private land; and
- highways control.

---

<sup>8</sup> <http://www.defra.gov.uk/animalh/welfare/bill/index.htm>

## Related areas of work outside the scope of the review

**C.36** There are some areas of local authority work that are related to the activities of regulatory services, but which are not within the scope of this review. These areas of work have been excluded from the review because they do not relate to regular business inspections, or to ongoing business requirements, but are requirements for permission to do something new, which, once granted, is irrevocable. The main areas outside our remit are:

- building control; and
- planning.

## HOW LOCAL AUTHORITIES DO THEIR WORK

**C.37** Local authorities are not directly controlled by central Government, although some departments place audit and monitoring requirements on local authority regulatory services. An elected body of councillors agrees policies and priorities for the authorities, and the officials of the authority are responsible to them. The control of general policy and operations rests with the elected members, and for this reason the sketch of local authority practice below is a general picture, which will vary in its details from authority to authority.

### The role of central Government

**C.38** There are ten different central government departments with responsibility for providing local authorities with direction and scrutinising their performance. They are listed in paragraph C.19 above.

**C.39** The Food Standards Agency has the widest powers of any central government department over local authority regulatory services. Under the Food Standards Act 1999 it can, among other things:

- require information from local authorities relating to food law enforcement and inspect any records;
- enter local authority premises, to inspect records and take samples;
- publish information on the performance of enforcement authorities;
- make reports to individual authorities, including guidance on improving performance with the requirement to publish and respond; and
- ask another local authority to take over responsibility for a failing food authority (though this has never happened).

**C.40** The HSC has less specific powers – it can advise both HSE and local authorities on inspection activity, can request annual reports from each local authority, and take over failing authorities. In practice, however, the HSC's power to intervene are conditional on approval by the Secretary of State. The process can also be drawn out and so the HSC have, in general, taken a less activist stance than the Food Standards Agency. The DTI has weaker powers and only sets policy for trading standards, although it has powers to require information, inspect individual offices, and approve TSO qualifications in respect of weights and measures.

## Assessing risk

**C.41** HSE, the Food Standards Agency, and Local Authorities Co-ordinators of Regulatory Services (LACORS) give guidance to local authorities in shaping their risk assessment programmes. The Cabinet Office has issued guidance to local authorities on risk rating.<sup>9</sup> It says:

“[L]ocal authority enforcers use various approaches to enforcement work depending on the prevailing circumstances, level of risk, political and stakeholder will and other external influences. We expect local authority enforcers to adopt a balance of techniques and approaches in order to ensure the safety and well-being of the public and of the environment and not to rely on any one method. We believe that assisting compliance is every bit as important as detecting non-compliance. The targeting of resources where they are most effective and at areas of highest risk is essential in providing the public with an effective service.”

**Food safety C.42** The risk assessment programme for food safety and standards is set out in considerable detail in the Food Safety code of practice,<sup>10</sup> which derives from European legislation. The risk assessment criteria, set out in Annex 5 of the Code of Practice, provide that all food premises should be subject to some sort of surveillance, although a recent revision of the code has allowed alternative enforcement methods to be used with the lowest-risk premises. The Food Standard’s Agency assesses risk on the basis of scores awarded for:

- the type of food and method of handling (5, 10, 30 or 40 points);
- the method of processing (0 or 20 points);
- the number of consumers who could be at risk (0, 5, 10, or 15);
- whether the consumers are in a vulnerable group (0 or 22 points);
- the level of current compliance on hygiene (0, 5, 10, 15, 20, or 25 points);
- the level of current compliance on structural requirements (0, 5, 10, 15, 20, or 25 points);
- the confidence in management and control systems (0, 5, 10, 20, or 30 points); and
- whether the food is at risk from *Clostridium botulinum* or (for ready-to-eat foods), *E. Coli* O157 or another VTEC (0 or 20 points).

**C.43** Businesses in the lowest risk category (31 points or less) need not be inspected (although the code makes clear that they can be if local authorities decide to). However, they have to be subject to ‘alternative enforcement methods’ at least once every three years. The most risky premises (scoring above 92 points) must be inspected at least every six months.

**Trading standards C.44** LACORS issue a risk assessment scheme for trading standards. This is based on an individual score for each business within a local authority. This score will direct enforcement actions including inspection, surveys, and test purchases. The scheme comprises a national element that deals with the potential risk according to the business type, and a local element that is particular to the individual business and determined by local authorities.<sup>11</sup>

<sup>9</sup> *An introductory guide to performance management in local authority trading standards and environmental health enforcement services*, Cabinet Office, 1999.

<sup>10</sup> *Food Safety Act 1990 Code of Practice*, Food Standards Agency, October 2004. Available at <http://www.food.gov.uk/multimedia/pdfs/codeofpractice.pdf>

<sup>11</sup> *Trading standards risk assessment scheme*, LACORS, February 2004.

## The Home Authority Principle

**C.45** The main way in which authorities join up their work is through the Home Authority Principle. The principle requires that local authorities should pay particular attention to goods and services originating in their area that are distributed or sold in different local authority areas. The operation of the principle depends on communication between all parties involved. The home authority principle only applies to TS and EH offices, although a similar arrangement (the Local Authority Partnership Scheme) is used in relation to health and safety.

**C.46** An authority with a company head office or production centre in their area should act as a focus for communication and liaison between the company and other local authorities. An authority performing this role is called the 'home authority'. A home authority should establish contacts with the decision-making base of the company so that company-wide issues and procedures can be discussed and influenced.

**C.47** A home authority should be able to provide information or advice on centrally managed company procedures when contacted by other authorities dealing with local outlets of the same company and/or the products/services provided. From the home authority's point of view, this sort of liaison may highlight issues concerning the effectiveness of the business's central procedures, which can then be discussed with the appropriate contacts at the company head office.

**C.48** Communication between a home authority and other authorities should therefore encourage a better overall understanding of the company and hence a more uniform and coordinated approach to enforcement and any advice given to that company. For these reasons authorities should wherever possible seek advice from the home authority and keep them informed if they have concerns regarding company wide policies and procedures. In this respect liaison with the home authority is particularly important before taking a decision to pursue formal action.

**C.49** Although the principle does not have any strict legal status, the need to follow it is clearly highlighted by LACORS and various government codes of practice to which authorities should have regard.

## Encouraging compliance

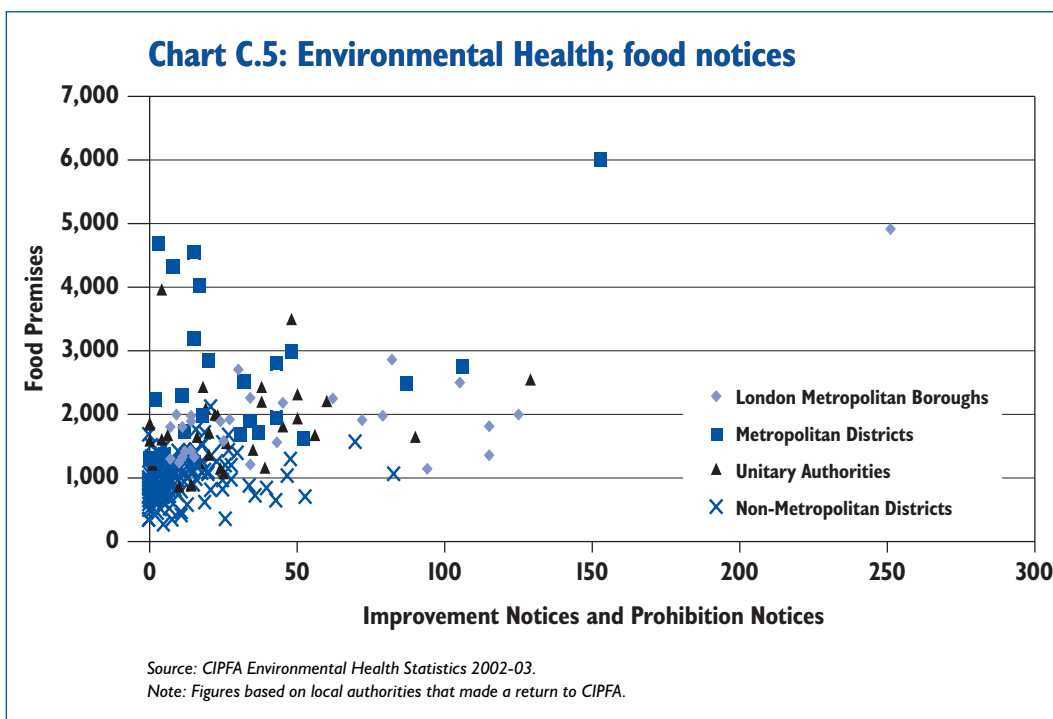
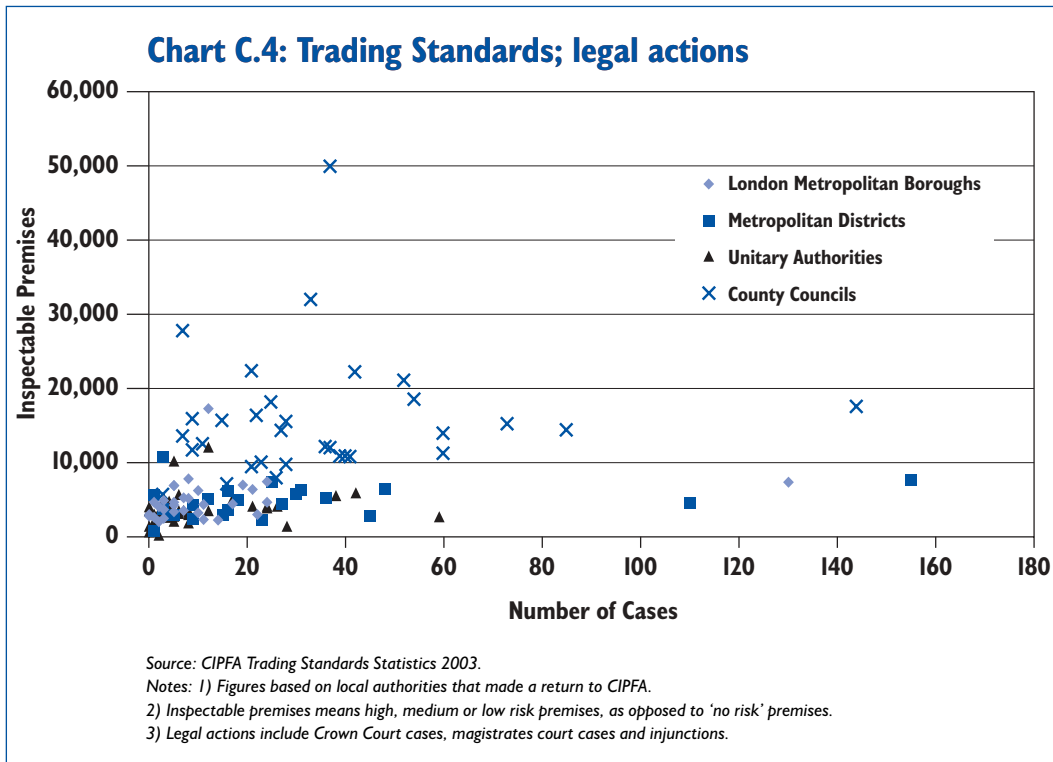
**Compliance incentives** **C.50** Some local authorities use positive incentives to encourage businesses to comply with regulations. A number use award or recognition schemes, where businesses that show they perform well in a certain area can show a sticker or other mark in their window. These schemes exist for food safety and environmental health, but are particularly common in the second-hand car business, with a number of local authorities running motor trade registration schemes to improve consumer confidence in second-hand car sales.

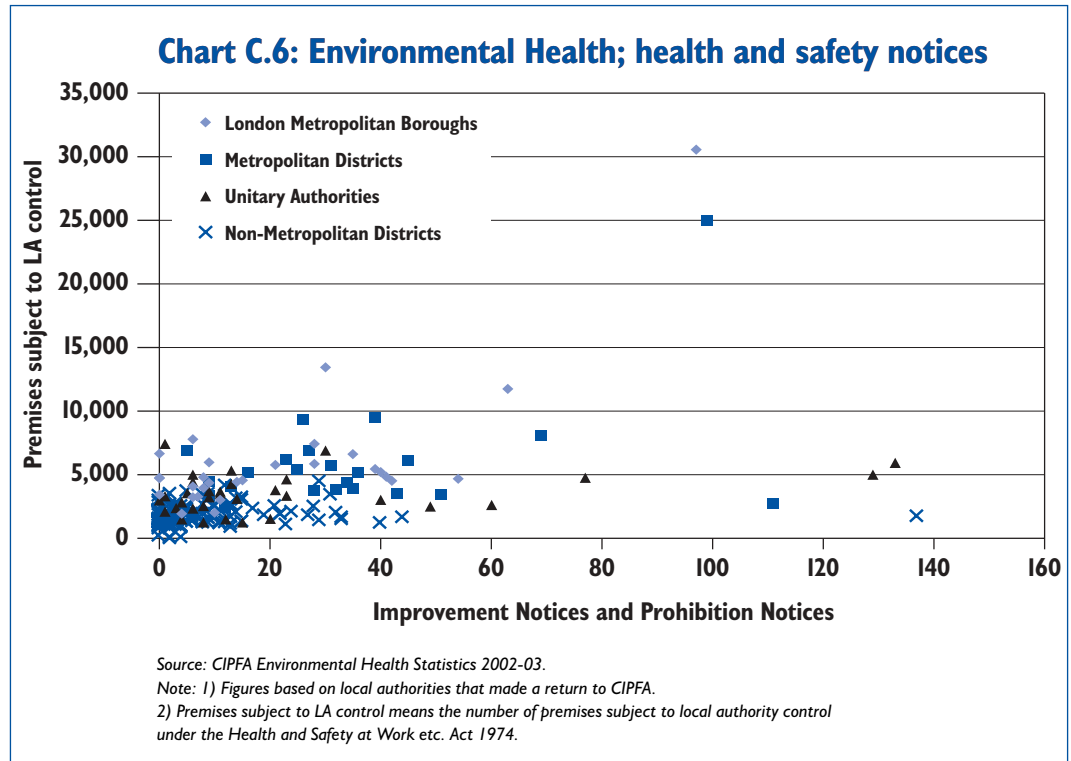
**Penalties** **C.51** Like the HSE and Environment Agency at national level, environmental health offices can issue enforcement or improvement notices to businesses, requiring them to make some improvement or to refrain from doing something contrary to the regulations. Businesses who break these notices can be prosecuted in a magistrates' court.

**C.52** TSOs can prosecute businesses and individuals for breaches of trading standards legislation. In some cases, they can also use 'Stop Now' orders, which order a business to stop an illegal or unfair trading activity.

**C.53** In respect of food, EHOs and TSOs have power to prohibit the use of premises, equipment, or particular procedures if they think that health is being put at risk. They can also seize and detain food that is not fit for human consumption.

**C.54** The charts below show local authority enforcement activity. Chart C.4 shows the aggregated number of Crown Court cases, magistrates' court cases and injunctions obtained by the different trading standards offices. Charts C.5 and C.6 show the number of improvement and prohibition notices issued on food safety and health and safety respectively, indexed against the number of premises subject to local control.





**Appeals C.55** Appeals from local authority enforcement decisions are usually made to the Chief Executive of the authority concerned, although there are appeals from some seizure and prohibition powers to the magistrates’ courts. If a business is still unhappy with its treatment, it can appeal to the Local Government Ombudsmen.

**C.56** The Local Government Ombudsmen’s jurisdiction covers all local authorities (excluding town and parish councils). They may investigate complaints by members of the public who consider that they have been caused injustice by maladministration in connection with action taken by, or on behalf of, local authorities in the exercise of their administrative functions. However, the Ombudsmen may not investigate the commencement or conduct of civil or criminal proceedings. In 2002-03, 3 per cent of the ombudsmen’s 17,600 cases were related to environmental health. The number related to trading standards was smaller, and is not available.

