

## COMMERCIAL ENFORCEMENT REVIEW –STAGE 3 REPORT

### STAGE 3 REPORT

This Stage 3 Report covers:

- An analysis of the Strengths and Areas for Improvement
- An appraisal of how the Challenge element of Best Value has been addressed
- Information gathered from the consultation exercises
- Information gathered from the benchmarking exercises

The options appraisal part of the process

## **1 BACKGROUND**

### **1.1 REVIEW PROCESS**

The Stage 1 Report covered the initial data collection stage of the process together with the proposed consultation action plan and benchmarking information plan. This was completed and approved by Environment Monitoring and Review Committee on 11 April 2002.

The Environment Scrutiny Committee were invited to consider the progress of the Commercial Enforcement Review on the 26 September 2003 by means of a situation report which concluded that Markets and Fairs did not easily sit within the rest of the services under review and the need to collect more up to date data.

The continued delay in progressing this review has been the result of many factors, including;

- Ongoing pressure of work on key officers both on the review team and in terms of the services managers increased operational rather than strategic or managerial activities;
- Outbreak of Legionnaires Disease in affecting performance in 2003/4;
- The restructuring of the Directorate during the summer of 2004.
- The introduction of the Licensing Act 2003.
- The Report of the Hampton Review

Progress has also been influenced by the lack of clarity in the approach by the Council as to what should happen with existing reviews following the CPA Inspection in 2002. It has been unclear as to the future of the programme of reviews; should they be suspended or revisited or continued. There is still no corporate approach or guidance and this had led to hesitation in progressing the review.

In addition, the services in this review have been subject to other improvement activities and quality assurance methods, such as Herefordshire Driver Assessments and achieving ISO9001, consequently the services have been improving whilst the review had been going on, so much so that it was felt that the potential added value of the review has been diluted.

### **1.2 MAJOR CHANGES AND IMPROVEMENTS**

The main impact of the Directorate-wide restructure on this review is the transfer, in 2003, of taxi licensing from Highways/Transportation Division to the Licensing section in Environmental Health and Trading Standards which has been radically expanded to deal with the new Licensing Act 2003.

Whilst the Directorate restructure in June / July 2004 did not fundamentally affect the structure of the services being reviewed (apart from the Licensing Section), there was a considerable amount of effort and resource needed to inform the restructure of the Division as a whole. Whilst the functions stayed

broadly the same the restructure meant that of the three sections that are subject to review Trading Standards and Licensing both had new section managers appointed.

ISO 9001 accreditation has been achieved across the Division with the Quality Management Systems Audit in February 2005. The Audit revealed no non-conformances and made a small number of observations including;

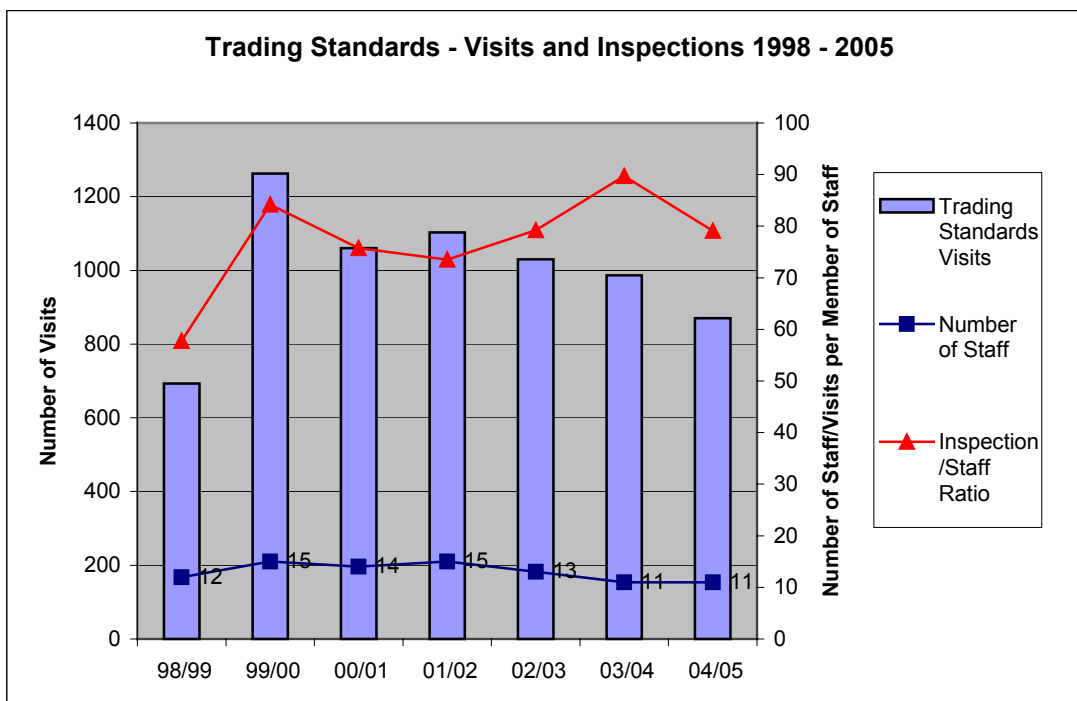
- Quality Objective requires documentation (good objectives exist but need codification).
- More work is required on risk assessments related to the work environment.
- Good examples of continual improvement which should be documented.
- Target response time for planning consultations (July 2004) no evidence that this has been resolved.
- No evidence that Service Level Agreements relating to Professional Services support has been resolved since July 2004.

The Service has now been moved from a six monthly audit to an annual audit because of the auditors' confidence in the Service Quality Management System.

### Service Trends (1998 onwards)

#### Trading Standards

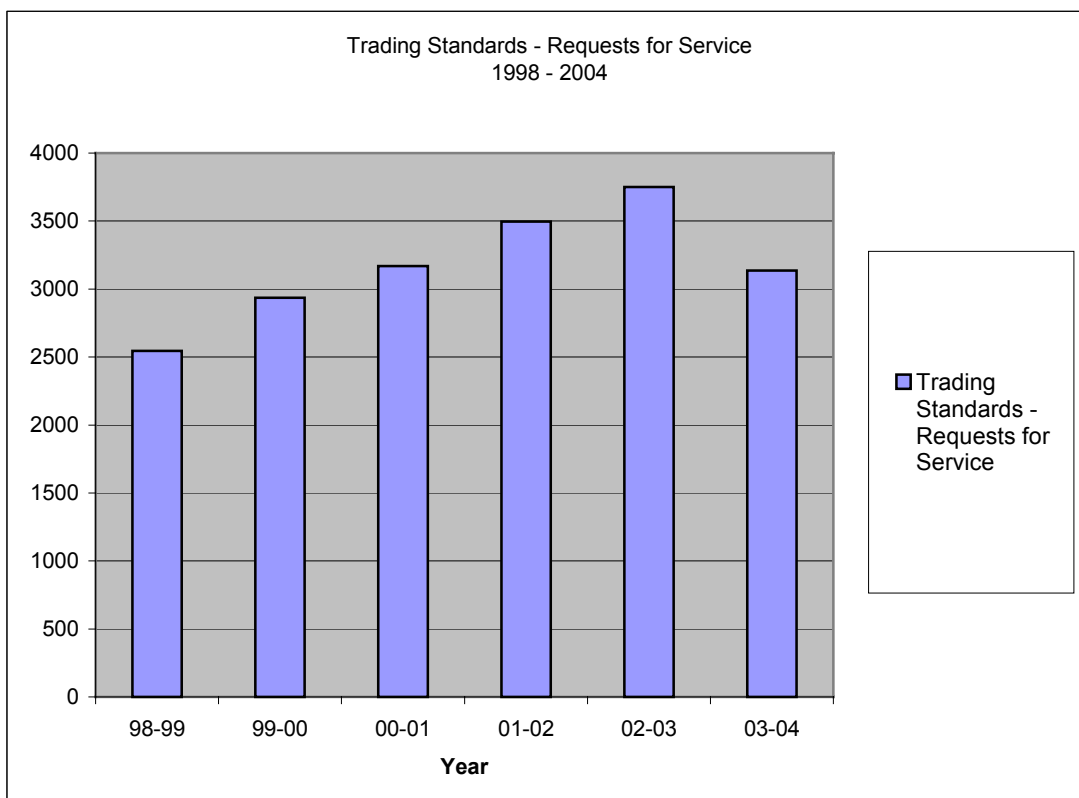
The Chart below shows the overall number of Trading Standards Visits from 1998 to an estimated number of visits for 2004/05. As can be seen the staffing levels for the team have varied considerably during the last seven years and the highest level of inspection work has consistently coincided with the highest levels of staffing, although 2003/04 produced the highest levels of visits per officer. The trend for inspections has, since 1999/00 been downward, however this trend is in direct relation to the number of staff within the Trading Standards Team.



The Trading Standards service has, because of staffing shortages, cut down the Consumer Advice Line from 5 full days per week to 5 half days per week. This reduction in service has considerably reduced the number of enquiries being made to the service however it is understood that there has been a

corresponding increase in consumer advice complaints received by the CAB. These figures and assertions need to be viewed with some degree of care because there is evidence from across the West Midlands that there has been a marked reduction across the region in Consumer Advice complaints.

This reduction in complaints has assisted in managing the Teams workload, which may be seen as positive, but has of course had other impacts for the service and our clients. The increase in Consumer Advice work by the CAB has assisted the Council but has resulted in increased pressure on the CAB. In addition, because of the CAB's strict policy on confidentiality the intelligence generated by handling Consumer Advice line calls is lost to the Division meaning that targeting our inspections and proactive work may be lost. In addition because CAB look to Civil remedies Consumers are unable to take advantage of our ability to use the Criminal Law, which means that traders may be more reluctant to comply with their legal duties when confronted by CAB than they would be if Trading Standards were dealing with the matter.



The Chart above graphically demonstrates the steady increase in Consumer Advice enquiries across the first 5 years of the authority and that the reduction in service by the Consumer Advice Line in 2003/04 can be seen to have had a dramatic impact on the number of requests for service received by the Team.

### Environmental Health (Commercial)

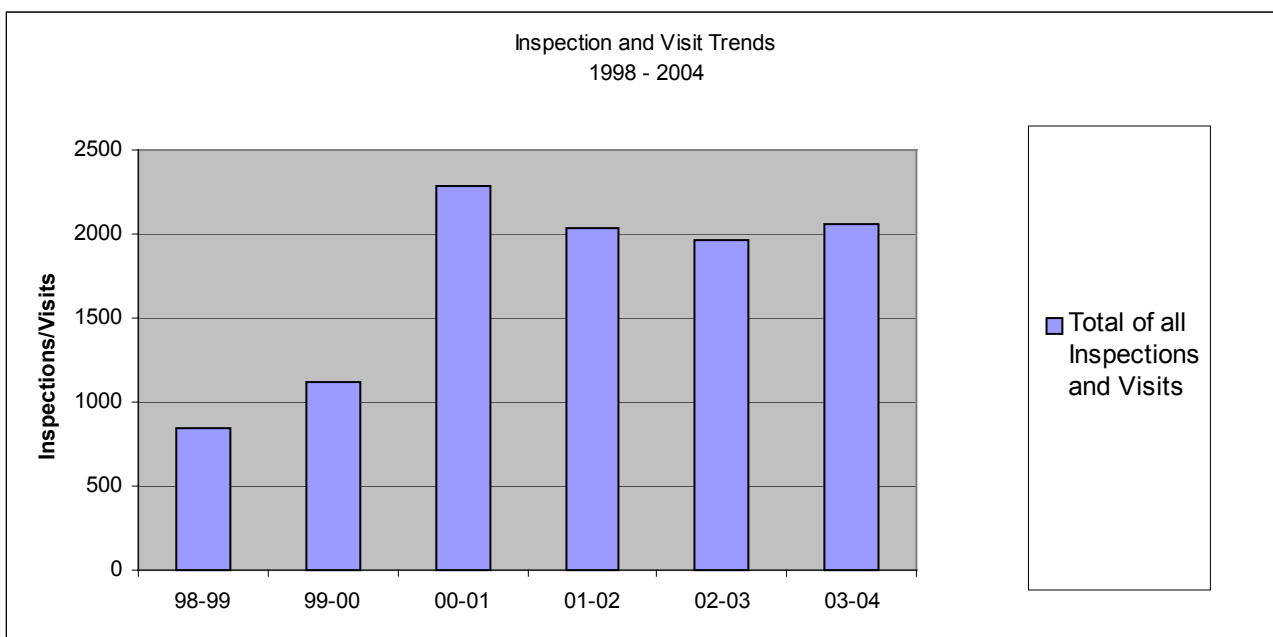
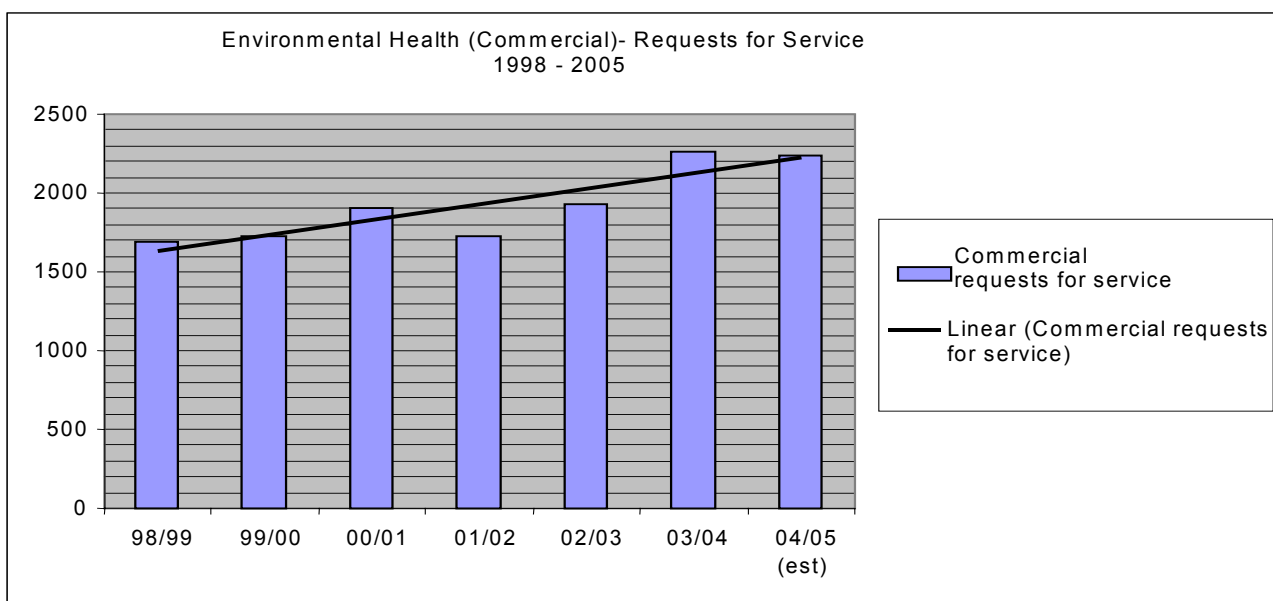
The chart below demonstrates the increase in requests for service relating to the Environmental Health Commercial Team Service. The chart shows a steady rise across the period of some 30% in enquiries. This amounts to just above 5% per annum. The increase in this area is remarkably consistent with only 2003/04 showing a substantial increase over the trend – this is wholly accounted for by a substantial increase in enquiries relating to the Hereford Legionnaire's Disease Outbreak.

The handling of enquiries has been given the highest priority and from 1<sup>st</sup> December 2003 there has been a dedicated duty officer system in place to help ensure that sufficient resources are available when

required. From 1<sup>st</sup> April 2004 additional monitoring of enquiries took place with more regular reviews of the progress of enquiries utilising a 'WIP bin' or "work in progress" listing for officers at the beginning of each week, reviewed at each team meeting.

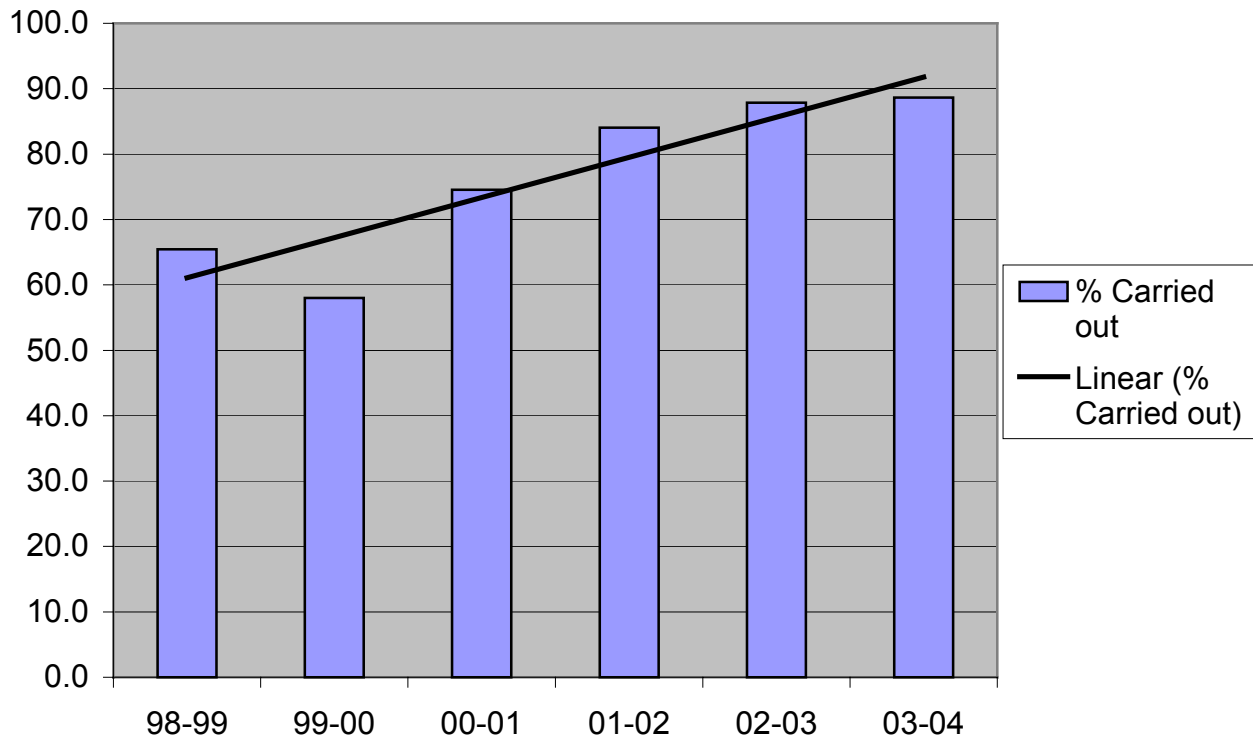
Enhancements to the management reporting facilities within the electronic systems used will have provided accurate reporting for all categories of enquiries rather than a single figure as in previous years. The movement of certain types of enquiries from B to A or in some cases C, D or E will ensure that the most urgent enquiries will receive the necessary prominence.

No external comparison has been made with respect to the number of enquiries or the speed of response. It is not therefore possible to establish whether or not the Service is providing a value for money service as compared against other similar organisations.



In addition the teams proactive work (i.e. inspections and visits under Food Safety and Health and Safety legislation) also shows an upward trend. The improvement in this service area is further demonstrated, not only by the increasing workload but by the Teams ability to improve the Council's performance when measuring actual inspections against programmed inspections for Food Safety.

## Programmed Food Hygiene Inspections



### Planned Inspections – Food Safety

The number of planned inspections on the programme was broadly similar to the years 2001-02 and 2002-03. The number of inspections not undertaken has again fallen as a total. More importantly, the number of A, B and C (high Risk Premises) inspections not undertaken has fallen to 16. A decision was taken at the beginning of the year (April) to utilise alternative inspection methods for D, E and F (Lower Risk) rated premises. Questionnaires were sent to the vast majority with 136 of 310 being 'inspected' at desktop with most of the others being visited. 23 were not inspected. For the first time in 3 years contractors were not used.

### Planned Inspections – Occupational Health and Safety

Last year was only the second year that a programme was drawn up and undertaken. The number of inspections carried out during the first half of the year was disappointing and a contractor was brought in the new year. The initial target number of inspections was achieved. Programmed inspections have not traditionally commanded the level of prioritisation that reactive work and food safety inspections have. The coming year's programme will be monitored on a monthly basis to ensure that inspections are undertaken at an even frequency.

One factor that led to the situation was the inability to recruit a Safety Enforcement Officer as the post is only a temporary post i.e. its funding does not form of the salary allocation.

The achievement of this last year's programme was a considerable improvement on the year 2002-03 albeit achieved with the use of contracted labour. As with food safety and reactive work, staff shortages and work on outdoor events placed pressures upon the Service.

An aid memoir relating to the 5 priority inspection topic areas was introduced and the scoring collated on a database. Analysis of the scores will, in future, assist in the determination of improvements at premises inspected and augments the LAC67/1 scoring system.

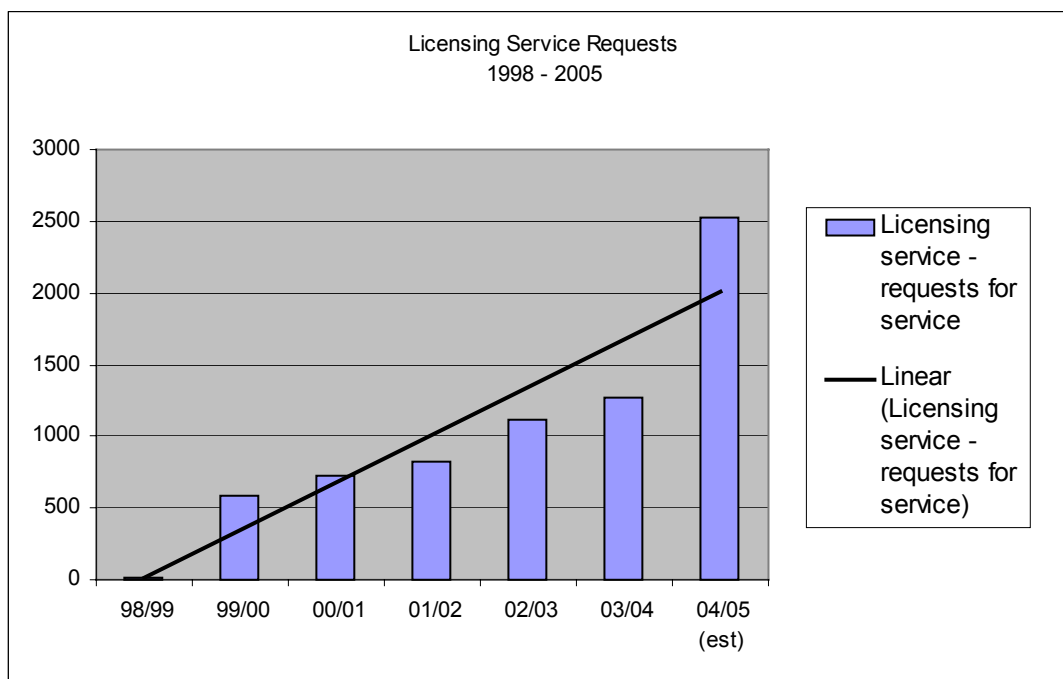
It is worth noting that, like food safety, other indicators are looked at including non-programmed inspections and visits carried out in connection with complaints and accidents.

### Main issues highlighted in Environmental Health (Commercial)

- All three areas of work showed continued improvement but at a cost in terms of heightened pressure being placed upon visiting officers and administrative staff alike.
- Achievement of ISO 9001 accreditation was a source of satisfaction however, the real challenge begins this year in ensuring the accreditation is maintained and that more procedures are developed and implemented.
- Occupational health and safety enforcement still remains a reactive service despite successes in achieving a modest programme of inspections.

### Licensing Services

Of all the data the service holds on its reactive work these data is not considered to be wholly reliable. Particularly as for the first three years of the authority, the data collection was somewhat hit and miss. The last three years data are considered to be much more reliable and there are clear trends showing a huge increase in service requests on the service. The leap in service requests for 2004/05 can almost exclusively be apportioned to the introduction of the Licensing Act 2003.



The effective introduction of the Licensing Act 2003 in February 2005 has meant there have been radical alterations to the structure of the service and the number of staff working in the Division. From February 2005 to November 2005 the service will be managing the transfer of licences from the Magistrates court to the Local Authority. This particular piece of work requires a high level of staff input and will dominate the work of the Team until the transfer process is complete. The Team currently has a relatively high

level of temporary staff and following the completion of the transfer process the staffing of the Team will need to be reconsidered.

The Team also has started to lead on the development a Strategy to deal with the issues relating to the extension of licensing hours and the impact on other services across the County. The Licensing Manager is the lead officer on this Strategy Development with sponsorship from the Director of Policy and Community and the Director of Environment.

## **1.4 ISSUES FACING THE SERVICES**

### ***Hampton Review***

One of the most significant issue currently facing the service is the newly published Hampton Review. The review's aim was to identify ways in which the administrative burden of regulation on businesses can be reduced, while maintaining or improving regulatory outcomes. In undertaking the review the work of 63 national regulators and 468 local authorities was considered. The Executive summary to the Hampton review is appended to this report at Appendix 1. The review felt the current regulatory system contains much that is good, and many examples of excellent, innovative practice. However, the review believes that:

- the use of risk assessment is patchy;
- regulators do not give enough emphasis to providing advice in order to secure compliance;
- there are too many, often overlapping, forms and data requirements with no scheme to reduce their number;
- regulators lack effective tools to punish persistent offenders and reward compliant behaviour by business;
- the structure of regulators, particularly at local level, is complex, prevents joining up, and discourages business-responsive behaviour; and
- there are too many interfaces between businesses and regulators.

In considering how to tackle the problems found in the UK's regulatory system, the Hampton Review set out a number of principles for regulatory enforcement, which appear below. The Review believes the regulatory system should move towards these goals.

- Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most;
- Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take;
- All regulations should be written so that they are easily understood, easily implemented, and easily enforced, and all interested parties should be consulted when they are being drafted;
- No inspection should take place without a reason;
- Businesses should not have to give unnecessary information, nor give the same piece of information twice;
- The few businesses that persistently break regulations should be identified quickly, and face proportionate and meaningful sanctions;
- Regulators should provide authoritative, accessible advice easily and cheaply;
- 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;
- Regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work; and

- Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

The Hampton Review poses some difficult questions for the service. There is a strong emphasis in the report on the use of risk assessment to concentrate resources on the areas that most need them. The report also highlights the structure of regulatory services – particular reference is made to the number of regulatory bodies that exist and the poor interface between these bodies. The services need to establish an action plan to accommodate the recommendations of the Hampton review.

The Hampton Review throws into sharp focus the difficulties for local authorities in balancing the needs of the regulatory agencies and the needs of our customers/users (i.e. residents, businesses and visitors in Herefordshire). Considerable progress has been made by the service in risk assessing businesses in Herefordshire, this is particularly so for Food Law Enforcement, much work has been done to Risk Assess for Health and Safety and for Trading Standards and the Service Action Plans make commitments to carry out further work in this area. However, to date, these Risk Assessments are used to determine inspection levels within that individual “silo”. Currently inspection work is further prioritised by which agency controls that area of work. This has meant that Food Law Enforcement work has consistently taken priority over all other inspection work because the risks to the authority of not complying with Food Standards Agency (FSA) Codes of Practice on inspection levels are higher than the risks associated with failing to comply with Health and Safety Executive (HSE) guidance on inspection levels. Whilst this process protects the authority against intervention from the FSA it does not necessarily meet the Corporate objectives of the authority or, necessarily, the needs of the community of Herefordshire.

This dilemma can be tackled through a number of ways, resourcing the service to ensure it can undertake all its duties is of course one mechanism, however the costs would be prohibitively high. Alternatively the Council could establish its own priorities and undertake inspection programmes to meet the priority needs of the community of Herefordshire, this of course invites the risk of intervention from the regulatory agencies.

One of the major recommendations of the Hampton Review is to create 7 major regulatory agencies to oversee the various components of the National Regulatory establishment. The Hampton review believes that consolidation should take place around key regulatory themes. The review expects integrated agencies to be more effective and efficient in delivering regulation and interacting with business. The principal themes around which regulators should be grouped are:

- Consumer protection and trading standards;
- Health and safety;
- Food standards;
- Environmental protection;
- Rural and countryside issues;
- Agricultural inspection; and
- Animal health.

Such an approach has clear benefits for businesses but it may well require the reshaping of services to meet the requirements of the regulators as well as the corporate needs of local authorities.

One difficulty posed by the Hampton review is the conflict between National regulatory requirements and the importance of shaping regulatory services to meet local needs and priorities. The Council’s current corporate priorities on Alcohol Related Disorder exemplify this problem. The new Licensing Act has introduced a completely new regulatory regime for liquor licensing. The Department of Culture, Media and Sport has introduced a new regime that has led to a huge increase in the regulatory burden on businesses. There does appear to be an indication from the DCMS that the law should be applied by local authorities with a light touch. A light touch approach may make the achievement of the Council’s



corporate objectives difficult and the Council could have to take an approach that differs from national guidelines, thereby introducing levels of inconsistency with other local authorities.

The difficulties of consistent enforcement can be worsened by the differing priorities applied by National Agencies. This problem is probably best exemplified by the difficulties the service has in prioritizing between Health and Safety Enforcement and Food Safety Enforcement. Both the Health and Safety Executive (HSE) and the Food Standards Agency (FSA) monitor the work undertaken by local authorities. The Health and Safety Executive has frequently expressed concern that local authorities consistently prioritise Food Safety inspections above Health and Safety inspections. Food Safety inspections are closely monitored by the FSA and are reported to the European Union. Authorities who fail to meet targets run the risk of intervention by the FSA (and possibly the EU), this intervention could result in service provision being removed from the local authority. Whilst powers for intervention also rest with the HSE, the HSE, unlike the FSA, do not currently have audit teams who would instigate such work. On the basis that the greatest threat to the removal of services from local authorities comes from the FSA, local authorities tend to make Food Safety work a higher priority than Health and Safety. This prioritization is not based on the risks that businesses pose to the community as a whole but on the risk to the local authority of poor performance. This situation is not restricted to Herefordshire but reflects the national position and results in the general under resourcing of Health and Safety work.

Whilst risk assessment is an extremely useful tool in ensuring the proper and efficient targeting of resources, it will in itself require resources to undertake a full risk assessment of the three teams functions and to maintain this process. Where risk assessment is used properly it can increase the efficiency and effectiveness of the teams functions. The Environmental Health Commercial Team undertake risk assessments for Food Safety inspections which in turn sets inspection frequency. By using follow up inspections the team has succeeded in reducing the perceived risk in many of the Food premises in the County and in turn reducing the number of inspections that need to be undertaken, in turn this has improved the team's performance when examining its ability to complete the Food safety Inspection Programme.

### ***Service Improvement Programme***

The Division, as a whole, has made a commitment in its Service Plan to deliver a contact centre to deal with as many enquiries as possible without referring them through to the "back office". The basis behind this process is to provide the customer with quicker resolution to their request for services, to relieve back office staff from dealing with mundane and routine enquiries allowing these more specialist staff greater time and scope to deal with more complex issues and to potentially increase the amount of proactive work undertaken and enable a reduction in the costs of implementing the Licensing Act 2003. In addition a guiding principle of the Programme will be to improve the service to the clients by using the call centre to monitor progress of requests for service and to update clients on the progress of their enquiry. This area has been consistently highlighted through customer satisfaction surveys as an area that needs strengthening.

The service re-engineering is extremely important to create greater capacity to allow the Council's Corporate Objectives to be prioritised alongside National Regulatory Agencies' priorities.

### ***Recruitment***

Staffing levels in trading standards offices are in decline. Fewer staff are being employed than in previous years, and the average age is high. Thirty-one per cent of officers are aged over 50 and a further 27 per cent are aged 40 to 50. Herefordshire is fortunate in having a relative young officers in the Trading Standards Service compared to national figures with 64% of the team being below 40, 22% between 40 and 50, and 14% over 50.

Authorities and the professional bodies have expressed concern over persistent low levels of recruitment and retention. Trading Standards currently has one long-standing vacancy for a Trading Standards Officer, which has proved impossible to fill on the current salary and terms and conditions. Whilst Market supplements are being sought for this post, there are concerns that it will still be difficult to

recruit. The Division has invested in training Trading Standards Officers however when the student qualified the Division was not allowed to make an appointment and the officer moved on to a better paid job, even though a vacancy was expected to be created out of the restructure. This situation demonstrated that considerably more forward thinking and more flexibility in staffing structures is needed if the authority is to keep staff it has trained.

A similar profile exists in environmental health. The Environmental Health workforce survey 2002 showed 52.4 per cent of local authorities reporting one or more unfilled posts. The main reasons authorities gave for retention and recruitment problems were general lack of suitably qualified applicants (74 per cent) followed by problems around pay (53 per cent). The Environmental Health teams have had more success in recruiting Environmental Health officers and currently have no vacancies. This position should not be viewed complacently as the authority only pays an average salary and tends to have poorer terms and conditions than other authorities. Out of the last three appointments two were internal; one officer qualified as an EHO and filled a vacancy created in the Licensing Team, one moved from Strategic Housing and the final one moved to Herefordshire for personal reasons. The service currently has four Technical Officers training as EHOs and has two student EHOs training with the authority on an unpaid basis (although one has received a match funded bursary through the Employers Organisation).

The Division as a whole needs to consider its retention and recruitment practices to maximise its potential to retain and recruit Trading Standards and Environmental Health staff, in one of the most difficult areas of staffing in local government in which to recruit.

### ***Information Technology***

The Division has two principal IT systems. Mayrise is the system used by Waste Management and has no practical application for the Commercial Enforcement Services. The Commercial Enforcement Services use the joint Environmental Health and Trading Standards system Masterware. The system was primarily a Trading Standards package but Masterware have, in partnership with Herefordshire, developed an Environmental Health and Licensing package. This partnership has slowly brought together the two service areas into joint databases. There is still quite a lot of work to undertake with regard to "cleaning up" data. The Division is reviewing its current IT systems with a view to ensuring they can meet the requirements of a Contact Centre. In addition there is a need to ensure that the system is capable of delivering "on line" forms to ensure IEG requirements are met or exceeded. Finally the service recognises that greater efficiencies can be delivered if the service is able to provide a framework that supports flexible working to ensure staff can maximise their time "in the field" rather than travelling and undertaking "paperwork".

### ***Advice Functions***

Advice functions can be broadly split into two areas: Business Advice and Consumer Advice.

#### ***Business Advice***

Trading Standards, Environmental Health (Commercial) and Licensing provide extensive levels of advice to Businesses. All three teams operate with the philosophy that it is better to help businesses to "get it right first time" by advice, rather than "get it right eventually" by enforcement. Such an approach is more efficient as enforcement is frequently a much more resource intensive process than advice. The staff from all three teams provide advice to businesses Licensing have staff dedicated to helping businesses with the new Liquor Licensing regime. Trading Standards' Principal Trading Standards Officer specialises in Business advice and works very closely with Businesses for which Herefordshire is the Home Authority. Environmental Health (Commercial) staff all provide business advice as part of their day-to-day duties.

## *Consumer Advice*

Both Licensing and Environmental Health (Commercial) provide advice to the public on complaints however this interaction tends to be characterised by complaints about non compliance with relevant legislation which involves an investigation by officers to assess whether there have been legislative breaches.

Consumer Advice in Trading Standards is a much more complex process than the other teams. Trading Standards provides a dedicated Consumer Advice Line which is staffed for the public to receive consumer advice. The Advice Line was staffed between 9.00 and 17.00 for five days a week, however due to staff shortages and increased demands the service was reduced to the hours of 9.00 to 13.00. This reduction in service has seen a reduction in the number of enquiries and whilst there is undoubtedly some correlation between the reduction in hours there is evidence that there has been a reduction in enquiries across the West Midlands over the same period. This part of the service will be subject to considerable restructuring over the next 12 months as Consumer Direct (a Consumer Advice Call Centre) is introduced across all the local authorities in the West Midlands. Consumer Direct will handle all initial enquiries and will provide the public with information on consumer rights, however this advice will not be detailed and more complex issues will be referred on to the relevant local authority. The Consumer Advice line is an invaluable source of intelligence to Trading Standards on businesses that operate in an illegal manner that assists in Risk Assessing those businesses.

## ***Joint Working***

The Best Value review process identified a number of authorities who have undertaken moved some regulation undertaken by Trading Standards to Environmental Health and vice versa. This work has predominantly been done in the area of Food Standards, which in two tier authorities has generally resulted in Food Standards work from Trading Standards being undertaken by Food Safety teams of Environmental Health staff. Some joint working between Environmental Health and Trading Standards is already undertaken with Trading Standards staff undertaking Environmental Protection Act inspections. There are potential areas of Joint Working between the Environmental Health (Commercial Team) and Trading Standards. This area of work will closely mirror the work undertaken in other authorities in relation to Food Law Enforcement work. It is important however that such an arrangement does not compromise the authorities legal duties and requirements and does not compromise the quality of service currently delivered.

There is a need to accurately cost the services provided, not only in terms of enabling benchmarking and better understand how the services can compete in the external market, but also to control costs and become more efficient.

The implementation of the Licensing Act 2003 has highlighted the lack of an out-of-hours service for the Division (particularly Environmental Health). Bids for extra resource have been made over previous years and the Division has found itself in lower priority categories and has not received resources.

The Division is under increasing pressure to deliver more and more services within fairly constrained budgets, the Divisional budget has seen very low levels of growth over the life of the Council despite the introduction of much new legislation. Where funding has been available through income (e.g. Liquor Licensing, the service has been able to grow the service. Where funding has been directly through Central government to the local authority (e.g. the Enterprise Act) funding does not reach the service.

The Service continues to have to manage customer expectations. Demand for services frequently outstrips the Division's capability to deliver. This lack of capacity is most acute in three areas, one of which is Consumer Advice.

The Environmental Health and Trading Standards Service, as a whole, is strongly committed to the Council's SIPs process and is committed to introducing a call centre approach to handling incoming telephone calls during 2005/06. The Environmental Health and Trading Standards Service handle some 20,000 requests for service each year. There is currently no dedicated individual to handle incoming calls and the technical staff share the responsibility of answering the calls. This situation

leads to interrupted working for professional and technical staff whose skills are being underutilised in answering such queries. By handling calls more efficiently it has been determined that the Division can reconfigure the back office and the front office to deliver improving service to even though service demands are increasing at 5% per annum.

### Main Issues Highlighted

Requirement to accurately the costs of the services provided.

Lack of prioritisation given to planned health and safety inspections.

### External Influences

The local economy continues to be a significant influence. There has been a growth during 2004-05 of the number of food businesses starting up and therefore wanting advice and requiring inspection above and beyond the programme. The national shortage of and demand for Food Safety Officers and EHOs causes concern should the Section lose current staff.

## 2 **STRENGTHS AND AREAS FOR IMPROVEMENT**

The SWOTs have been summarised into the main issues facing Commercial Enforcement. Many of the SWOTs are contradictory as can be seen by the summary.

Strengths	Weaknesses
<p>The staffs' experience and skills along with a stable structure and close working relationships with other Divisions and organisations e.g Police and Fire.</p> <p>Have good customer satisfaction levels</p> <p>A review of flexible working has been regarded as positive</p> <p>Age profile – relatively young</p> <p>Flexible and adaptable service</p> <p>ISO 9001 2000 Accredited</p> <p>Sampling Budget relatively well financed</p> <p>Local provision of service</p> <p>Good Consumer Advice provision</p> <p>Good Business Advice</p> <p>Good track record of being a Regulatory Enforcement body</p>	<p>No out of hour's service.</p> <p>Office accommodation is in 2 locations making communication difficult and causing inconsistencies in approach.</p> <p>Links between Environmental Health and Trading Standards are not close enough.</p> <p>No dedicated specialist 'in-house' IT Officer provision</p> <p>ICT facilities have hindered greater progress and improvement – particularly around flexible working.</p> <p>No career development grades</p> <p>No trainees</p> <p>Poor stakeholder consultation</p> <p>Mainly reactive rather than proactive</p> <p>Often operating at or below 'critical core mass' of staffing levels</p> <p>Lack of opportunity/resource to plan and review and undertake strategic development of service</p>

Opportunities	Threats
<p>Look at the structure to see if there is a more holistic approach to Commercial Enforcement.</p> <p>Relocating to a single office to improve communication and working practices.</p> <p>E-technology providing a service through the Internet.</p> <p>Increase in staffing resources.</p> <p>Improved IT.</p> <p>Better and quicker information and advice to individuals and businesses</p> <p>More effective and efficient investigation of alleged breaches of the law</p> <p>Implementation of a SIPs-initiated solution will help bring about such improvements as will the digitising of hard copy data (this too is resource dependant).</p> <p>Changes in food law in 2006 bring not only threats but opportunities to reconfigure the service, the way it delivers services and the relationship and image with customers.</p> <p>Potential to engage and contribute to 'cross cutting' themes and agendas within the Service and beyond, e.g. PCT, Community Safety.</p> <p>New resources introduced by income from Liquor Licensing</p> <p>Division's commitment to SIPS</p> <p>Consumer Direct</p> <p>Ability to influence Corporate Plan</p> <p>LPSA's</p> <p>Increased use of Partnership working</p> <p>Regionalisation/Nationalisation</p> <p>Consumer Education</p> <p>PR</p> <p>Hampton Review</p>	<p>Lack of resources to cope with potentially increasing workload caused by the change in liquor Licensing regulations.</p> <p>Recruitment and retention of staff.</p> <p>Accommodation restricts work</p> <p>Fees from new legislation may not meet the cost of implementation.</p> <p>Increase in appeals to the magistrates' court.</p> <p>Opportunities to achieve aims rely upon improving the flow of requests for service through the Division and the Section ICT, flexible working and accommodation heavily influence the attainment of these aims</p> <p>Budget cuts</p> <p>Consumer Direct</p> <p>Closure of Consumer Advice provision</p> <p>Increased consumer and business demand and expectation</p> <p>Reduction/standstill in resources provided</p> <p>Demographics of National workforce</p> <p>Regionalisation/Nationalisation</p> <p>Hampton Review</p> <p>Are the new resources introduced by income from Liquor Licensing adequate?</p>

### **3 CHALLENGE**

The review was set up with Members whose remit was to challenge the authenticity of the information being gathered and the analysis of the information. It was on this basis that the Stage 1 Report was approved.

Following the local elections in 2003, Councilor Mills has acted as Board Member with the review being project managed using Prince2 methodology.

The services being reviewed have been the subject of several improvement activities over recent years. All of these activities have challenged various aspects of the services, e.g. leadership, strategy, people, resource, and processes. All of the improvement activities have resulted in action plans.

#### **4 COMPARE**

Obtaining data from other organisations is difficult where there are no Audit Commission, Best Value or other National Performance Indicators. Such PIs not only require local authorities to collect the data but also to collect it in a manner consistent with others and make that data available.

Alternatives to National PIs have emerged over the past few years namely the Hampshire Benchmarking Club and the New Unitaries Benchmarking Club (NUB). However, participation in such schemes has proven difficult and has not been well developed.

Other alternatives such as identifying single local authorities with which to compare have been considered (Carmarthenshire) but rejected on the basis that potential partners were unwilling to participate.

BVPI 166a is the sole BVPI at present. As it is a compound score covering all parts of environmental health it is not possible to make comparisons at specific service levels and therefore only overall scores can be compared.

The requirement to provide BVPI 166 data commenced in the year 2002-03 therefore the only comparison data relates to 2002-03 and 2003-04 during which Herefordshire's score rose from 48.3% to 66.3% and now stands at 86.6%. This now falls just below the top quartile for Unitary Authorities.

In 2003 a great deal of work was put into looking at NUB organisations in order to obtain comparison data for reactive as well as planned work. The quality and usefulness of reactive work data has been poor and no conclusions could be drawn from the activities.

Attention has been paid to Food Standards Agency and Health and Safety Commission data in order to make comparisons for planned inspections.

No external comparison has been made with respect to the number of enquiries or the speed of response. It is not therefore possible to establish whether or not the Service is providing a value for money service as compared against other similar organisations.

There has been some comparisons for the Division as a whole made within Herefordshire Council through the EFQM Excellence Model Assessments, Staff Opinion Survey and Herefordshire Driver assessments. The results for the Division have been positive.

Little or no reliable bench marking data is available for the Trading Standards Service. CIPFA stats are available from the website, however the figures include Animal Health & Welfare and comparisons with other authorities are difficult if not meaningless. The East Riding of Yorkshire has been contacted and no benchmarking data is available. They are hoping to restart a benchmarking club in the near future. The roll out of Self Assessment & Peer Review which is currently being undertaken by Trading Standards throughout the Country over the next three years will address this issue.

There is clear evidence from other Unitary Councils that some services have been delivered outside the normal professional boundaries of Environmental Health and Trading Standards, particularly in the area of Food Law enforcement. Whilst there are some issues that would need to be resolved around maintaining appropriate skills there are opportunities to improve FSA performance by the three teams sharing some joint enforcement work whilst maintaining the skills to deal with more complex and technical areas requiring detailed professional skills. Such an approach has already been adopted with Trading Standards taking on Vapour Recovery Inspections, at Petrol Stations, on behalf of the Environmental Protection Team ensuring the Council delivers the suggested inspection programme.

The disadvantages are relatively minimal with some potential for professional jealousies but this process already works without such problems on vapour recovery inspections.

## **Trading Standards**

### **Benchmarking Information**

Attempts have been made to benchmark the service against other local authorities in the following areas:

1. The number of requests for service received
2. the percentage of requests for service responded to within defined periods
3. the number of food premises
4. the number of food premises (by risk categorisation) requiring inspection
5. the percentage of inspections carried out
6. the number of health and safety premises
7. the number of health and safety premises (by local prioritisation) requiring inspection
8. the percentage of inspections carried out

1, 3 and 6 are intended to provide contextual comparators although the categories of request for service may differ from LA to LA. Population is also used. Resource comparators such as number of FTE staff and the costs to the service have been sought but there are difficulties in obtain these and making bona fide comparisons.

### **Financial Comparisons**

Data on the financial performance of these services on an authority-by-authority basis are extremely difficult. CIPFA do undertake work to assess the overall performance of each authority, however these are done right across the full environmental health service and therefore include areas of environmental health work such as private housing and pollution control work. Trading Standards comparisons include Animal Health and therefore comparisons between the part of the Trading Standards reviewed and the data on other authorities are virtually impossible. Using raw comparison data from the last available CIPFA data for 2002/03 (the last available data) Herefordshire's Trading Standards had lower net expenditure per thousand population than the average for other Unitary Authorities in England. The CIPFA figures show expenditure per thousand population standing at £2,859, the average being £3,236. The lowest spending authority according to the CIPFA data shows was Bristol at £1,931; the highest spending authority was Middlesbrough at £8,273. This data on Trading Standards has to be viewed with considerable caution.

A comparison on Environmental Health Data is even more unreliable. Whilst comparisons have been drawn on expenditure per thousand population basis on the 2002/03 CIPFA data it is impossible to disaggregate the data into the Licensing and Environmental Health (Commercial) therefore comparisons are extremely unreliable.

Using raw comparison data from the last available CIPFA data for 2002/03 (the last available data) Herefordshire's Environmental Health Services had higher net expenditure per thousand population than the average for other Unitary Authorities in England. The CIPFA figures show expenditure per thousand population standing at £11,093, the average being £9,836. The lowest spending authority according to the CIPFA data shows was York at £4,507; the highest spending authority was Halton at £21,900.

It is interesting to note that the recent CIPFA document analysing the performance of Trading Standards Services in the UK made no assessment of financial comparisons of local authorities.

## 5 CONSULT

The EHTS Service uses its Customer Satisfaction Survey as a key means of feedback from customers and stakeholders. The system is part of the Division's ISO9001 Quality Management System and has been undertaken in both 2002/03 and 2003/04. The survey for 2004/05 is currently being undertaken.

	2002/03	2002/03	2003/04	2003/04	2004/05	2004/05
	Enquiries	Inspection s/ Visits	Enquiries	Inspection s/ Visits	Enquiries	Inspection s/ Visits
Highly Satisfied	38.25%	43.4%	38.4%	38.9%	Awaited	35.6%
Satisfied	37.5%	50.9%	38.6%	53.5%	Awaited	58.4%
Neither Satisfied or Dissatisfied	7.25%	3.8%	9.4%	4.2%	Awaited	4.0%
Dissatisfied	7.5%	0%	6.3%	2.1%	Awaited	0.0%
Very Dissatisfied	4.75%	0.94%	5.5%	0.7%	Awaited	0.7%
<b>TOTAL SATISFIED</b>	<b>75.75%</b>	<b>94.3%</b>	<b>77%</b>	<b>92.4%</b>	Awaited	<b>94%</b>

The service shows high levels of Customer Satisfaction, which has remained consistently high over the three years that the Customer Satisfaction Survey has been undertaken.

The Service uses the Council's own complaints system to monitor complaints, comments and compliments about the service. The service has seen a steady decline in complaints from nearly 20% in 2002 to nearly 10% in 2004. In addition there has been about a 16% rise in the percentage of compliments received by the service.

	2002	2003	2004
Complaints	19.8%	10.5%	9.7%
Comments	16.5%	10.5%	10.6%
Compliments	63.7%	78.9%	79.6%

The Council operated a customer complaint/compliment system. Each complaint/compliment is investigated and if changes are felt appropriate are acted upon. Complaints are reviewed as part of the ISO 9001 process and reported to the Divisional Management Team.

Non-service users have not been considered to date.

Other stakeholders such as the FSA, HSC/HSE, Department of Health and other governmental departments communicate with the Service through mechanisms such as consultative documents. The Service responds individually to such documents and also via the Chief Environmental Health Officers' Food group and Health and Safety group. These groups meet between 6 and 10 times per year and discuss, amongst other things, matters relating to service delivery.

Direct contact with the public is certainly made e.g through Consumer Advice and Education, provision of talks etc., resolving and investigating complaints from the public. In addition to consumers and staff, an additional list of stakeholders for TS is included below.

### *Herefordshire Business Partnership*

The Service has established a Local Business Partnership, in line with other partnerships running nationally between businesses and Regulatory Services. The Partnership is used as a means of consulting with local businesses, particularly over the way in which the Service enforces legislation.



## Staff

Consultation with staff occurs via the annual Council Staff Opinion Survey and via the EFQM/Herefordshire Driver process. A staff consultation group has been established to review the outcome of these surveys and to assist management in developing responses to issues that have been raised.

It was from this process that ISO 9001 was developed with the staff identifying inconsistency of procedures as an issue for the service. The service has introduced and rolled out ISO 9001 and last year's Herefordshire Driver indicated high levels of confidence in the Divisions systems and processes.

## Liquor Licensing

The licensing service records all the customer complaints and compliments. In light of the new liquor licensing legislation the service has carried out meetings with the largest occasional public entertainment licence holders to discuss the working relationship and to establish where improvements can be made to the service. In addition the service has completed a session of workshops for businesses and voluntary organizations likely to be affected by the Licensing Act 2005. These workshops served the purpose of informing businesses of the changes and for the Council to help shape its services to meet the needs of our customers.

## Taxi Licensing Forum

There are regular meetings of drivers at the Taxi Licensing Forum for Herefordshire, however there is no evidence of any changes as a result of these meetings nor any assessment of the impact of those meetings on the taxi drivers or operators or the community at large.

## 6 COMPETE

The majority of functions are statutory ones delivered on behalf of the Council. There are instances in some other local authorities where some of the functions have been/are delivered by individuals and/or organisations outside the respective local authority. In addition, there are private sector individuals and organisations that offer services such as inspection of premises, training and sampling.

The Council effectively operates within a 'monopolistic' environment not having to compete with other organisations for business. As most enquiries relate to alleged non-compliance with legislation, it follows that the Council, in its role as one of policing the legislation, does not face competition. The provision of advice on compliance, for example, need not be a role that only the Council may fulfill. Business Link and the Federation of Small Businesses are two organisations that offer advice to businesses.

The advice roles and receipt of allegations have traditionally been very closely linked and complement each other in terms of nature, authority and quality of response. There may be room for improvement in these services and lessons could be learned from other providers of advice and recipients of allegations.

## 7 OPTION APPRAISAL

The options considered were;

- ***Retain the existing services in their current format.***
- ***Stop Delivering the Service***
- ***Externalise the Service***
- ***Expand the Service***
- ***Re-engineer the current services to deliver more efficient services.***

### ***Retain the existing services in their current format.***

Increasing demand from both Consumers and Businesses requiring advice and assistance is creating an ever-increasing workload. This together with new legislation such as the Licensing Act and changing European Law is placing an unsustainable demand on the Service. A higher public profile serves to fuel this increase in demand. In addition, the increasing role that these services now play in contributing to the important 'cross cutting' agendas and themes in areas such as:-

- Community Safety: Bogus Tradesmen/Bogus Callers and Doorstep crime/Distracted Burglary. Anti-Social behaviour issues relating to controlling the sale of Age –Restricted products e.g. Alcohol, Knives, Tobacco, Solvents Fireworks and Videos / DVD's.
- The reduction of Alcohol Related Disorder
- The Heath Agenda: Healthy eating, Food Standards, Composition and Quality. Reduction in under age smoking of 11-15 year olds through enforcement action and advice.
- Consumer Education: including consumer issues, civil law contract rights doorstep selling rights for school age children, adults, excluded and vulnerable groups
- Economic Regeneration: providing assistance to businesses especially SME's. ensuring a fair and equitable trading environment and preventing and tackling 'Rogue Trading and Traders'.
- Consumer Direct: Implementation of Consumer Direct is now scheduled for late 2005. This will undoubtedly lead to an increase in referrals to the TSS requiring some form or degree of intervention by the Service. 'Back Office enquiries are likely to increase sevenfold.
- Gershon Report: requirement / need for the Service to show annual improvement / cost savings.
- Hampton Review: likely to affect the manner in which service delivery is undertaken especially with regard to Enforcement & inspection, Partnerships and Structure i.e Regionalisation and Nationalisation – are also placing an strain on the current structure.

These factors reinforce the view that to retain these services in their current format, is not a viable option.

### ***Stop Delivering the Service***

Most of the services delivered by the Division are statutory and have to be provided by the Council. Failure to do so would result in intervention by outside regulatory agencies or Central Government . This would result in external intervention to ensure its continued provision at local authority expense.

The Health, Safety & Economic well being of Consumers, Businesses, the Local Authority and local environment would be put in jeopardy. Those who are socially excluded, the vulnerable, the elderly and the young would be the ones who would suffer most from the abolition of the service.

Corporate Priorities and the implementation of the Herefordshire plan would be severely affected, curtailed and damaged as a result.

### ***Externalise the Service***

#### ***External Contractors***

There is virtually no existing market to externalise these services to, whilst contractors do exist they are purely geared up to handle routine inspections – all other areas of work tend to be regarded as too difficult to specify in contracts and therefore too difficult to quote for. No local authority in the country has successfully externalised these services.

The service has in recent years bought in inspection services for food safety, health and safety and Trading Standards. The cost of each inspection is not regarded as unreasonable in itself but the cost does not include any element of follow up or enforcement activity. Additional monies may be spent to

cover these aspects but the costs are far greater than inspection alone and become comparable with the cost of employing existing staff but with drawbacks associated with flexibility, consistency and a high input is required to monitor contractors.

Being able to utilise contracted labour as and when necessary is an important tool already used from time to time and should continue to be available especially to cover unforeseen situations.

### *Contracting out either in part, or in whole to another Local Authority*

Such an approach could lead to considerable difficulties as all the neighbouring English Authorities are two-tier and none could take on all three service areas as Environmental Health and Licensing are District Council functions and Trading Standards is a County Council function. On this basis it would not be possible to contract out the services collectively to a neighbouring authority.

The disadvantages of such an approach may lead to a loss of day to day control of the services. It may also involve a reduction in a local presence in the County of these services. With such a limited number of possible local authorities capable of undertaking the services for Herefordshire there is a huge potential to be 'held to ransom' over future contract costs.

The advantages of such an approach are that they may reflect some of the ideas contained in the Hampton review. Economies of scale are potentially possible however some the bigger savings may be in central support costs and would not, therefore necessarily be made by the service itself.

Consideration should be given to a review of some the potential to share some service delivery, this is most likely to include very specialist services but could also include areas such as training.

Scope exists and significant work has already been undertaken to identify key partners and to engage in joint working e.g MidCOTS / CEnTSA Regional TS Group, the Police, CABx, the Consumer Support Network (CSN's) and Community Legal Partnerships (CLP's) and other local authorities. Potential to bid for other authorities functions have arisen, the service has bid to provide Petroleum Licensing in a neighbouring authority and has provided staffing support to another authority investigating an outbreak of Legionnaires Disease. Different types of partnership working are regularly considered as a means of service delivery.

### ***Expand the Service***

Clearly under current circumstances it is unlikely that additional resources would be found to fund an expansion of these services and whilst it would enable the service to make greater contributions to the Council's corporate objectives it is recognised that this is not a realistic option. However the Service does need to create extra capacity to deliver new services and meet increasing demands on the service.

### ***Re-engineer the current services to deliver more efficient services***

The service can, through a combination of measures improve its overall efficiency. The use of the Council's SIPs process and the introduction of a contact centre may enable the current relationship between the "Back Office" and the "Front Office" to be re-engineered. By re-engineering these services greater capacity should be created to deliver services to the public and businesses alike. Greater capacity also allows the service to target more resources on meeting the Council's Corporate Objectives as well as meeting the requirements of the various Regulatory Agencies.

Whilst this approach does provide scope for greater capacity it will not deliver enough capacity for any of the services to deliver comprehensive enforcement services across the full range of regulatory services. This would mean the Council needs to be quite specific not only about what it will do with this extra resource but also what it will not be able to do. Therefore Service Plans will need to be explicit about which work is high priority and which work is lower priority. The Service Plans will need to be explicit about the risks associated with such prioritisation and how such prioritisation fits with the Council's Corporate Objectives and the requirements of Regulatory Agencies.

To achieve these efficiencies the Services will need to undertake the following tasks:

- Create a Contact Centre to handle incoming service requests.
- Re-engineer the current “Front Office” and “Back Office” functions to maximise the principle of dealing with service requests in one transaction and by minimizing referrals to the “Back Office”.
- To maximise the service’s capacity to provide “on-line” forms and advice for businesses.
- Facilitate through the use of IT – flexible working for staff.
- To create a Divisional recruitment plan to ensure professional staff can be recruited and retained by the Division.
- A Gap Analysis be undertaken on areas where Risk Assessment has not been undertaken.
- Undertake a review of possible joint working arrangements with neighbouring authorities.
- Review the current working practices to maximise the potential for joint working between the three teams.
- Review the funding made available through the fee income from Liquor Licensing to expand the service and to help deliver an out of hours service (this would be cross Division service, including Environmental Protection).
- To ensure that there is integration of the Regional Consumer Direct Service into the Trading Standards Service and the Council’s SIPs programme
- The Council will need to review the provisions of the Bill announced in the Queens Speech to implement the recommendations of the Hampton review.

## **8 PREFERRED OPTION**

The review team, having considered all of the options recommend that:

**That Environmental Health (Commercial Enforcement), Trading Standards and Licensing are re-engineered to deliver more efficient services**

## **9 THE NEXT STEPS**

### **IMPROVEMENT PLAN**

The improvement plan should:

- Identify Outcomes
- Set key tasks
- Allocate responsibilities
- Set “stretching” targets and performance measures and indicators
- Specify a timetable
- Identify the financial and environmental impacts of the actions
- Ensure the implications of the Hampton Review as it progresses should be taken into account

This plan will be put before the Executive for approval.

The Environment Scrutiny Committee will monitor the implementation of the plan.

## **Appendix 1 – Details of minor changes and issues**

Amalgamation of Environment Health and Trading Standards IT systems and the creation of a new Licensing System has created initial problems which will be solved and should, during 2005, result in improved data entry, storage, access and reporting. Issues surrounding data quality remain as both a weakness and a threat that need resolving but only through an input of resource.

### **Assets and Equipment**

Since the end of March 2004 Environmental Health Commercial has not had officers working out of Leominster. The opportunity was taken to encourage flexible working for the 4 officers who were based there. 'Hot desking' facilities are available at Grange Court and approximately a third of the Section's files are still currently located there.

### **Commercial Enforcement**

The directorate wide restructuring in June 2004 resulted in an improvement to the structure with the establishment of 2 Principal EHOs instead of 2 Senior (Specialist) EHOs. This structural change resulted from pressures and desires to deliver and manage performance, and to provide a form that best delivers functions.

In addition, an administration post has been left vacant since January 2003 in order to accommodate any changes envisaged by the Service Improvement Programme (formerly the Access to Services project); one EHO post is now part time; the part time Technical Officer's post has been vacant since October 2004, and, a post to carry out Health and Safety inspections and investigations established although not filled. Two EHOs have resigned and been replaced in March 2004.

The creation of the Safety Enforcement Officer post was considered to be a significant step in helping to rationalise health and safety inspections and improve performance. However, funding difficulties and the temporary status of the post led to difficulties in recruiting and the funding was used (in 2003-04 and 2004-05) to bring in external staff with a mixture of success.

As preliminary work to SIP, processes were again examined but from a different perspective. This (and customer comments) resulted in further changes (e.g. duty officer system; setting up of common EHCNet contacts system).

Working toward ISO accreditation meant that processes, systems and procedures had to be written, or amended and certainly improved.

The QMS system has been introduced and, along with the 'Rocket Science' initiative, has resulted in better and more focused performance management.

The speed of response to requests for service has improved and overall means that over 90% of requests are dealt with within target.

The number and percentage of programmed food safety inspections has improved.

A programme for health and safety inspections has been established and the number and percentage of inspections carried out against that target improved (although there is still scope for further improvement).

Measurement systems have been improved and where necessary, set up. These will assist in the more accurate measurement of the use of resources and achievement not just of targets but of contribution to outcomes.

Flexible working has been developed to reduce the need for accommodation, to reduce overall work-related travelling and to provide wins for individuals and for the service and therefore customers.

Introduction of a duty officer system (greatest prioritisation being given to requests of service, notification etc);

Adoption of an alternative inspection regime for DEFs;

The carrying out of revisits was given a higher priority;

## **Trading Standards**

There has been a re-alignment of the Service to deal accommodate the increased demand for Consumer Advice and the re-designation of vacant post to post of Consumer Advisor.

Consumer education Strategy developed and implemented – targeting the young.

Increased partnership working with the following organisations:

- MIDCOTS/CEnTSA regional group
- Police
- Community Safety Partnership
- Social Care
- Community Support Network / CABx / CLSP's

The creation of a post to understudy the Petroleum & Explosives Licensing Officer to meet demand.

Engagement in cross cutting themes and agendas such as Community Safety e.g. 'Doorstep Awareness Campaign' and 'Operation Liberal'. TS now contributing to the wider agenda.

The use of new technology to enhance Service provision. All Officers have access to the Internet. Legal reference material is accessible on-line and legal updates are also provided by this method as well.

The use of Good Practice Guides and undertaking a 'Self Assessment' for Trading Standards Authorities to identify and drive through Service improvement for Trading Standards.

Ensuring that staff undergo appropriate professional & management training to ensure continuous staff development and to meet future Service needs e.g Management development , Lead Auditor training, undertaking the Diploma in Consumer Affairs (DCA) and DCA Food Module.

Merging both the Environmental Health & Trading Standards Service databases to improve both data storage and retrieval and ultimately, service provision and delivery.

## **Licensing**

The introduction of the new Licensing Act 2003 has lead to a complete restructure of the Licensing Team. The team has a large number of temporary staff and the staffing will need to be reviewed after the completion of the Transfer Period, currently expected to be in November 2005. The completion of the Transfer Period will also mark a point where the longer term funding from fee income will become clear and the scope to provide funding to expand services and to fund an out-of-hours service.