

Examiner's report

CTSI Professional Competency Framework

Stage 1: Unit 1 Regulatory Environment and Enforcement Written Examiner's Report September 2022

General

There will be no statistics on student results with this report, suffice to say one student attempted the examination and was successful. Hearty congratulations to that person!

Section A

Q1

Measurement is essential for trade, giving confidence that the purchased goods or services meet specification. Over £622 billion of goods and services are traded annually in the UK which rely on some measured or stated quantity.

Authenticity and provenance of goods for statutory, quality and trade purposes rely on excellent chemical analysis based on sound measurement foundations. Measurement increases productivity while reducing waste and cost in manufacturing through improved control of production processes and more effective verification of components and final products.

Measurement helps to ensure that government decisions on policy and funding are well informed by relevant and reliable evidence. In our hospitals, measurement enables dependable medical testing, effective treatment through improving the accuracy and reliability of diagnostic tests, and ensuring exact dosing during therapy.

A survey a few years ago by trading standards showed terrible inaccuracy in certain measuring equipment meaning that people could receive incorrect number of medicines or dangerously excessive radiation during treatment. Accurate measurement is critical for manufacturing allowing many different parts sourced from complex, global supply chains to fit together. Only good measurement can deliver the accurate physical data for climate models and validated diagnostic results in large medical data sets without which substantial value is lost in their predictive power for policy makers and scientists.

Protection of the UK's citizens through implementing environmental and health and safety regulations depend on new measurement capabilities when regulations are developed. Regulations also cannot be implemented without measurement to check compliance. Confidence in forensic science and for dispute resolution in court is built on good measurement to give a reliable basis on which to draw conclusions.

Q2

a) The Consumer Codes Approval Scheme (CCAS) aims to improve customer service standards by: the approval and promotion of codes of practice through code sponsors, approved by the Chartered Trading Standards Institute (CTSI).

It aims to promote consumer interests by setting out the principles of effective customer service and protection. It goes above and beyond consumer law obligations and sets a higher standard – giving consumers a clear indication, through the right to display the CTSI Approved Code logo – that code members can be trusted. CCAS aims to reduce consumer detriment and codes will only be approved if they can clearly demonstrate that they are contributing to this objective.

b) Codes approval is a rigorous and intensive process for code sponsors an 'expression of interest' by will enable CTSI to undertake due diligence checks on the applicant organisation, in order for the organisation to be eligible to submit a code and be approved.

The Association must prove to the satisfaction of Consumer Codes Approval Board that they are a fit and proper organisation and must be able to prove this throughout all stages of the approval process.

This is a broad test, which can encompass many issues, but principally, the organisation needs to be genuine, respected, honest and open in their dealings with CTSI and others, comply fully with all relevant legislation and supported by their members and stakeholders. This test applies to the Association, its employees, agents and associates. If they are invited to submit their code of practice for approval, it is a two-stage process.

At the first stage, they will be given 'Stage One Approval' if they present a code of practice that is capable of meeting all of the relevant core criteria. Following approval of the Stage 1 process, prospective codes must achieve the Stage 2 approval within a 2-year period.

c) Traders in this scheme can display the CTSI approved code logo. When customers see the logo, it means that the trader has agreed to provide good standards of service, including clear information before a contract is signed and a clear complaints procedure and that code members can be trusted. It goes above and beyond consumer law obligations and sets a higher standard, giving consumers a clear indication, through the right to display the CTSI Approved Code logo, that Code members can be trusted. CCAS aims to reduce consumer detriment and codes will only be approved if they can clearly demonstrate that they are contributing to this objective.

Q3

I expect the students to be able to give the necessity and reasoning behind risk assessment what it is and how it is used. For example, high risk premises will be visited more frequently. This will allow officers to attempt to advise, or using other enforcement methods, attempt to bring the business back in to compliance. They must also incorporate aspects such as earned recognition: when visits to a high-risk premises are regularly correct then earned recognition would reduce the risk from high to medium, for example. This then would allow resources to be used in areas that showed a higher probability of non-compliance.

Q4

The production and trafficking of counterfeit goods poses a significant health and safety threat to consumers. It also impacts the economic growth of legitimate businesses and consumers through lost revenue, downtime, and replacement costs. Companies with famous brands spend a great deal of money on research and development of their products. This includes making them compliant with the law. We know that counterfeiting now encompasses all products, not just clothing and perfumes. Medicines, car parts, aircraft components, tobacco and alcohol are among the items that find themselves on the general market.

The obvious ill effects of these products are well known and can often lead to death, severe accidents or health conditions. Enforcement provides a level playing field, all counterfeiters are covered. If the large brand names only protected their own named items then other brands may well be counterfeited with impunity. In practice brand owners often work hand in glove with local and national enforcement agencies, also agencies such as the ACG and BPI work with enforcement to boost protection in a number of areas.

Q5

Trading Standards Associations bring together all of the local authority TSS within a particular region of the UK, aiming to maximise the impact individual services have by establishing and maintaining good working relationships with a wide range of regional business partners, supporting businesses in the

region and by promoting economic growth. They share information and awareness campaigns with local authority members to protect consumers and safeguard legitimate enterprise.

The benefits of working together and co-ordination across the region includes raising the profile of Trading Standards and saving money. The members advise on and enforce laws that govern the way we buy, sell, rent and hire goods and services. They carry out inspections and monitor or investigate complaints. They work with businesses to help achieve compliance but ultimately, we can prosecute those who break the law.

In 2020-21 the work took a shift towards enforcement of emergency legislation made under the Public Health (Control of Disease) Act 1984 made in response to the serious and imminent threat to public health being posed by COVID-19. Trading standards played a leading role in the enforcement of local business restrictions and closures during the lockdown periods, as well as continuing with consumer protection work relating to scams, travel and event cancellations and unsafe PPE and sub-standard sanitisers being placed on the market. Often funds are made available by Government agencies and Ministerial Departments for pan UK sampling programmes. These are passed down to Regional Associations to coordinate and hence a national profile of the product or service can be attained.

Within the Regional Associations there are regular meetings of Local authority representatives, or specialists, on the various legislative aspects of TSS. Not only does this allow a sharing of views and experiences but can alert members to regional threats to consumers and businesses, or problems within these specialist areas. Regional Associations support regular meetings of all CTSI members locally, giving the chance for members to meet and exchange ideas, hear the views and information of invited guest speakers and receive regular CPD often for free, or at a greatly reduced price. Most regional associations also have representatives from the College of Fellows whom update the membership on their activities. These can relate to what charitable resources are available for members and families that become sick, injured or fall on hard times. Also, what educational and project areas that the College supports and members can obtain funding to help facilitate such projects or higher education.

Q6

a) Local government is responsible for a range of vital services for people and businesses. Among them are functions such as social care, schools, housing and planning and waste collection, but also licensing, trading standards, environmental health business support, registrar services and pest control; traffic; planning; economic and community development; environment, recreation and amenity services, such as libraries and leisure; fire services and maintaining the register of electors. These services are at the heart of maintaining the infrastructure and development of local services and supporting the economy and welfare of the local populace.

b) In 2019/20, local authorities in England received 23% of their funding from government grants, 50% from council tax, and 27% from retained business rates – revenue from business rates that they do not send to the Treasury. They can also charge for specific services from business and consumers. Fees and charges can be put on a large number of local council services. Some fee levels are fixed by the government – such as planning and licensing fees – whilst councils have control over others, such as parking charges and leisure centre charges, removal of specific items of rubbish, etc. They can loan out and borrow money for large projects.

Scottish students:

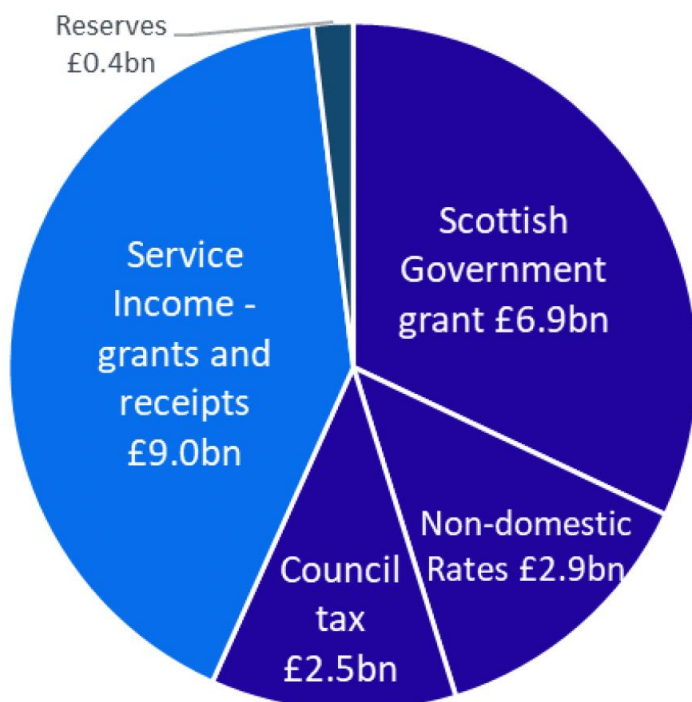
Where do councils get their funding from?

In 2019-20 councils spent about £22 billion, that's £4,000 per person in Scotland. They raised this mainly from four sources of income.

Service Income is income that councils receive directly linked to services they provide. It is treated separately and can only be used for the stated purpose, so this income is not considered in this publication. That leaves £12 billion of general funding.

The largest share of general funding was Scottish Government grant, which in 2019-20 was £6.9 billion, or 56 per cent of general funding. Non-domestic Rates, paid mainly by businesses, raised £2.9 billion, or 23 per cent of general funding. Council Tax raised £2.5 billion, or 20 per cent of councils' general funding.

Total council spend 2019-20 - £22 billion



Welsh students:

Local Government Revenue and Capital Settlement from the Welsh Government for 2022/23 this is proposed to be £5.1 bn in Revenue Support Grant (RSG) and non-domestic rates (NDR), collectively called Aggregate External Finance. An increase of £437 million or 9.4% from 2021/23.

In 2021/2022 the AEG was split as follows:

Isle of Anglesey	104,825
Gwynedd	194,793
Conwy	166,906
Denbighshire	158,632
Flintshire	206,778
Wrexham	188,856
Powys	191,897
Ceredigion	109,658
Pembrokeshire	179,387
Carmarthenshire	284,820
Swansea	352,642
Neath Port Talbot	236,680
Bridgend	212,192
The Vale of Glamorgan	168,316
Rhondda Cynon Taf	404,375
Merthyr Tydfil	101,476
Caerphilly	292,367
Blaenau Gwent	120,361
Torfaen	146,340
Monmouthshire	101,483
Newport	240,796
Cardiff	487,913
Total	4,651,494

The main element of funding allocated through the settlement is hypothecated, meaning local authorities have discretion in how they spend it.

In addition to the core revenue funding, local authorities receive Welsh Government grants that are tied to specific areas. Welsh Government is expected to provide over £1bn in revenue grants 2022-23, including some specific funding to support local authorities to continue to change services to respond to the nature and climate emergency.

Other sources of funding

Council tax, which has become a larger proportion of local authority expenditure in recent years. Wales Fiscal Analysis estimate that council tax funded 20.4% of revenue expenditure in 2019-20, up from 13.8% in 2009-10.

Section B

Q7

I would expect a definition of Voluntary and enforcement methods. Enforcement is complying with a mandatory standard that requires compliance because of a government statute or regulation, or contractual requirement. Failure to comply with a governmental mandatory standard usually carries a sanction, such as civil or criminal penalties. Voluntary measures are standards/codes of practice established generally by private-sector bodies, available for use by any person or organization, private or government.

Voluntary codes potentially deliver increased consumer protection and reduced regulatory burdens for business. To achieve this, they must be well designed, effectively implemented and properly enforced. Voluntary codes of best practice can help to establish the basis on which markets function, ensuring trust between participants. This in turn creates an environment so that a fair, effective and transparent market can flourish and in which, by adhering to such codes, high standards of behaviour can be assured. Many associations provide training and education and have dispute resolution schemes

They are less complicated and cumbersome than introducing new legislation; lower costs to introduce and trade enforces not the state, they reduce the burdens on traders who are trading fairly. They are much quicker and responsive to change than new law.

They can have a wide range of outcomes. Written by industry experts who understand their specific sector. The problem is not all traders will join the Association or adopt voluntary measures and within these areas there are limited sanctions for non-compliance. Whilst they can impose sanctions, such as monetary penalties, any refusal to pay will probably mean expulsion from the Association. Enforcement means that all aspects of that industry must follow the law and hence it creates a level playing field. There are real sanctions for non-compliance which can result in prosecution and thus reputational damage and fines. The law also provides for a number of sanctions which can vary from advice and assistance through warnings to removal of licences, temporarily or permanently.

Q8

Students should be aware of the many ways in which they interact with business entities. I expect them to be able to expand on the areas that they can help. If they are part of a specific team then they can use their knowledge of that team to focus their answer, as described in the question.

General advice can mean an explanation of legislation, directing the business-to-business companion for advice on a raft of legislation. Some authorities will give advice for example on how to improve pricing policy, advertising, weights and measures, animal health etc. They can provide training courses on specific areas such as underage sales. Authorities can provide PA and there are a great number of advantages to having such an arrangement which I expect students to expand upon.

Q9

As this is meant to be a talk to the Chamber then I expect students to make some reference to how they might put such a talk together and present it.

a) Ownership and control lie with a single individual. It is risky because the individual has sole unlimited personal liability for the business, its debts and any claims against it. They own all the assets of the business and can dispose of them as they wish, and may employ staff and trade under a business name. Regulation for the Sole Trader is minimal; there is no requirement for a formal constitution. No need to register or file accounts and returns with Companies House; Sole Traders are treated as self-employed by HMRC and must register and make an annual self-assessment tax return; Profits from the business are treated as personal income subject to income tax and national insurance contributions.

b) A partnership is a Simple way for two or more legal persons to set up and run a business together with a view to profit. It can exist, without any formal agreement. Usually partners will usually draw up a legally binding partnership setting out, for example, the amount of capital contributed by each partner, how they will share the profits (and losses) of the business. Partnership has no separate legal personality; each partner is self-employed and pays tax on their share of the profits. The partnership itself and each individual partner must make annual self-assessment returns to HMRC.

The Partnership must keep records showing business income and expenses. Legal persons other than individuals, such as Limited companies or Limited Liability Partnerships can also be in a partnership. They are treated like any other partner except that they have additional tax and reporting obligations.

c) Private Ltd Company: Companies are 'incorporated' to form an entity with a separate legal personality. This means that the organisation can do business and enter into contracts in its own name. under the Companies Act 2006, a company is required to have two constitutional documents: A Memorandum records the initial members who wish to form a company and agree to become its members AND Articles of Association –essentially a contract between the company and its members, setting the legally binding rules for the company, including the framework for decisions, ownership and control. A Limited Company is owned by its members.

They enjoy limited liability – i.e., the company's finances are separate from the personal finances of their owners. The personal assets of the owners are not at risk, limited liability means they only lose what they have already invested or committed to invest. Members own one or more shares, known as shareholders. Accountability is both to the company's shareholders and also to the public who may wish to deal with the business. Companies are registered at Companies House. Directors' responsibility to maintain the company's public records – including annual accounts and an annual return

d) Public Limited Company (plc) is permitted to offer shares for sale to the public. The plc is the most common legal form used by the vast majority of businesses– ranging from a business with a single shareholder director to large companies. A plc must have at least two directors and a qualified company secretary. It must have issued shares to the public to a value of at least £50,000. A Public Limited Company may also become a Listed Company by floating its shares on a recognised stock exchange. Public companies have stricter regulation to ensure transparency.

e) Community Interest Company (CIC), is a form of company (limited either by shares or by guarantee) created for so 'social enterprises' that want to use their profits and assets for community benefit. Easy to set up and has the flexibility and certainty of the company form, but with special features which ensure they serve a community interest. Companies applying to be registered as CICs must submit a community interest statement to provide the CIC Regulator with evidence that they will satisfy a community interest test defined in law. CIC must have an "asset lock" which restricts transfer of the company's assets (including any profits) to ensure that they are used for the benefit of the community. Subject to caps on dividends and interest payable – to strike a balance between encouraging people to invest in CICs and the principle that the assets and profits should be devoted to the benefit of the community.

Q10

This question is essentially built around the Regulators' Code and the areas that have included what Governments have described as "Better Regulation." Initially Reviews were sponsored by successive governments including the Hampton Report which espoused the principles of proportionality, accountability, targeting, transparency and consistency and following that the Macrory review which

looked at how different enforcement options might be introduced that gave a more inclusive armoury to regulators.

A key aim of the Legislative and Regulatory Reform Act 2006 was to promote good regulatory principles that reduced unnecessary burdens on business. A central policy designed to achieve this was the Regulators' Code which aimed to promote efficient and effective approaches to regulatory delivery by requiring regulators to have regard to the Code's principles. In doing so it was intended that regulators would carry out their functions in a way which reduces regulatory burdens on those they regulate and increases the benefits that regulation can bring, through increased transparency and accountability.

Regulators should carry out their activities in a way that supports those they regulate to comply and grow. They should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means.

Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity. When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best: understand and minimise negative economic impacts of their regulatory activities; minimising the costs of compliance for those they regulate; improve confidence in compliance for those they regulate, by providing greater certainty; and encourage and promote compliance. Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate, that enables them to choose proportionate and effective approaches.

Regulators should ensure that their officers understand the statutory principles of good regulation and of the "Code", and how the regulator delivers its activities in accordance with them. They should provide simple and straightforward ways to engage with those they regulate and hear their views. In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply. They should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.

As can be seen from the Principles of the Code, the recommendation from Government is that Regulators are there to attempt to ensure compliance with the law. However, persistent non-compliance or non-compliance that has serious consequences will result in enforcement. Regulators now have a wide range of tools in their armoury to attempt to gain compliance before resorting to more drastic measures where necessary.

Using The BEIS Better Regulation principles developed over the years by successive governments, the idea is rather than jump straight to prosecution regulators will use these options to secure compliance using the 5 Principles of Better Regulation: transparency, proportionality, accountability, consistency, targeting.