



## **About The Chartered Trading Standards Institute**

The Chartered Trading Standards Institute (CTSI) is the professional membership association for trading standards in the UK. Founded in 1881, we represent the interests of trading standards officers and their colleagues working in the UK.

At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices.

We provide information, guidance and evidence based policy advice to support local and national stakeholders including central and devolved governments.

Following a Government reorganisation of the consumer landscape, CTSI are responsible for business advice and education in the area of trading standards and consumer protection legislation. To this end, we have developed the [Business Companion website](#) to deliver clear guidance to businesses on how to meet their legal and regulatory obligations.

CTSI are also responsible for the [Consumer Codes Approval Scheme](#) which facilitates high principles of assisted self regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the

## Introduction

We welcome the opportunity to comment on this consultation. We have not answered all questions but have focussed on those areas of most direct interest to our organisation.

***Question 1: What areas of law (particularly retained EU law) would benefit from reform to adopt a less codified, more common law-focused approach?***

***Question 2: Please provide an explanation for any answers given.***

***Question 3: Are there any areas of law where the Government should be cautious about adopting this approach?***

***Question 4: Please provide an explanation for any answers given.***

In response to Questions 1-4, CTSI acknowledges the need to help business, and the UK economy as a whole to build back better with business support a key element. We do not believe though that a common law/case law approach will necessarily reduce burdens on business. Whilst this approach may be advantageous for larger businesses, it may result in increased costs and burdens to micro-businesses and SMEs in particular, who have less available resources for ongoing advice, support and legal interpretation and representation. A clear legal position with advice available

pandemic have caused extenuating circumstances for UK consumers and business and unfamiliar and uncertain territory in the trade of even the most basic of consumer goods and services. It would be our view that adding m6(d)-3( u)

been necessary in a general piece of consumer legislation, it is difficult to envisage how a purely principles-based approach would work in the more technical disciplines outlined above.

***Question 5: Should a proportionality principle be mandated at the heart of all UK regulation?***

***Question 6: Should a proportionality principle be designed to 1) ensure that regulations are***

above. Trading standards services across the UK already operate flexibly, collaboratively and proportionally. A great degree of agility has been evidenced during the COVID-19 pandemic when trading standards, in collaboration with environmental health and other local authority colleagues, stepped outside of normal functions, responding to the needs of local authorities, business, consumers and the public at large, swiftly adapting to help deal with the multifaceted challenges caused by COVID-19.

As set out in CTSI's COVID-19 infographic<sup>1</sup>, trading standards teams worked to help those most vulnerable in society; promote awareness of COVID-related scams; tackle consumer complaints relating to travel and wedding cancellations and found ways to deal with price gouging in relation to the sale of high demand products on online market places. In just one example, a trading standards imports team in the East of England examined almost 15,00,000 PPE items, with a significant proportion deemed unsafe or non-compliant and prevented from reaching users.

We have seen this agile response by trading standards time and time again, such as in the fuel crisis in the 1970s, the BSE crisis in the 1990s, the Foot and Mouth outbreak in 2001, and latterly the Grenfell Tower tragedy bringing unsafe electrical and construction products into focus. It would be CTSI's view that the importance to Government on maintaining a strong and robust, risk-based consumer protection system should take precedence over a move towards a common law approach to regulation.

***Question 12: Which of these options, if any, do you think would increase the number and impact of regulatory sandboxes? a. legislating to give regulators the same powers, subject to safeguarding duties b. regulators given a legal duty c. presumption of sandboxing for businesses***

***Question 13: Are there alternative options the Government should be considering to increase the number and impact of regulatory sandboxes?***

***Question 14: If greater flexibility is delegated to regulators, do you agree that they should be more directly accountable to Government and Parliament?***

***Question 15: If you agree, what is the best way to achieve this accountability? If you disagree, please explain why?***

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1

**Question 16: Should regulators be invited to survey those they regulate  
approach?**