

# HMRC

## Anti-Money Laundering Annual Report to Her Majesty's Treasury 2010-2011

### AML Supervisory Role and responsibilities

HMRC is a non-ministerial Government department whose purpose is to make sure the money is available to fund the UK's public services and to help families and individuals with targeted financial support

HMRC's duty to supervise businesses for Anti-Money Laundering purposes is set out in the Money Laundering Regulations 2007<sup>1</sup> (MLR) and its powers are derived from that legislation as well as from the Counter Terrorism Act 2008 and Transfer of Funds (Information on the Payer) Regulations 2007. These powers include:

- requiring relevant businesses to register and maintaining that register
- requiring information from, and attendance of relevant and connected persons, by notice
- levying penalties for failure to meet any requirement of the regulations
- seeking criminal prosecution for serious failures.

The MLR supervision exists within one of HMRC's business directorates, Excise, Customs, Stamps and Money, supported by intelligence officers within HMRC's Risk and Intelligence Service. Although part of HMRC, the MLR supervision is delivered by a discrete team separate from HMRC's core functions.

This report covers activity by HMRC for the period 31 March 2010 to 31 March 2011.

### Supervisory Population

The Money Laundering Regulations 2007 (as amended) make us (HMRC) the supervisory authority for:

- Money Service Businesses (MSBs) not supervised by the FSA
- Accountancy Service Providers (ASPs) where they are not already supervised by a professional body listed in Schedule 3 of the Regulations
- Trust or Company Service Providers (TCSPs) not supervised by the FSA or a professional body listed in Schedule 3 of the Regulations

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<sup>1</sup> HMRC has previously been a supervisor for AML purposes under the Money Laundering Regulations 2001 and Money Laundering Regulations 2003.

- High Value Dealers (HVDs)
- Bill Payment Service Providers (BPSPs)
- Telecommunication, Digital and IT Payment Service Providers (TDIPSPs)<sup>2</sup>.

These businesses are required to register with us prior to commencing trading in any relevant business sector<sup>3</sup>. This involves completion of a MLR100 registration form and payment of a fee of £110 per premises. Those registering to undertake TCSP or MSB activity must ensure that all relevant officers in their business<sup>4</sup> also undertake and pass the Fit and Proper Person test for which a fee of £50 per applicant is applied to cover the cost of the test.

Correct to 31/03/2011, the number of business that we supervise is shown in the table below.

Business Sector	Number of Businesses	Number of Premises registered
MSB	3,633	44,222
ASP	12,941	13,176
TCSP	2,340	2,898
HVD	1,193	1,977
BPSP	1	1
TDIPSP	0	0

Note: businesses may undertake more than one supervised activity for example there are overlaps between ASPs and TCSPs

The businesses who register with us vary from small bookkeepers, who provide their services to one or two people, through to multi-national currency exchange or money transfer firms with large turnovers. Although the vast majority of our businesses run their business from only one premises (95.13% of all businesses), 36 businesses have 58.96% of all the premises on our register. Businesses are dispersed across the whole of the UK. We do not have full information to report on the turnover and number of employees within businesses, in part due to restrictions in the Regulations on requiring annual returns. We are looking to improve what we know about our businesses in the next year, partly through better sharing of information already held elsewhere in HMRC.

<sup>2</sup> MSBs have been supervised by HMRC since June 2002, HVDs since 2004. The Money Laundering Regulations added ASPs and TCSPs to its supervisory duty whilst BPSPs and TDIPSPs were added by amendments to the Money Laundering Regulations made by the Payment Services Directive (SI 2009/209)

<sup>3</sup> HMRC required all existing MSBs and HVDs to have reregistered with us by 31<sup>st</sup> March 2008 and all existing ASPs and TCSPs to have been registered with us by 31<sup>st</sup> December 2008.

<sup>4</sup> This means:

- the person applying to register the business, any person who effectively runs the business either on their own or in partnership
- a person who can, or will be able to, direct the business - this includes directors and shadow directors, whether they're based in the UK or overseas
- a 'beneficial owner' of the business (a beneficial owner is if a person owns or control more than 25 per cent of it)
- a 'nominated officer' for the business - the nominated officer for a business is the money laundering reporting officer

## Resources

Our supervision is run on a full cost recovery basis. The fees businesses pay us cover the expense of running the operation including registering new businesses, running an effective risk system so we target our resources effectively, contacting and visiting businesses, maintaining the register and producing guidance and information for customers. We charge businesses a fee for registering that was reduced from £120 per premises to £110 per premises in December 2010, and will remain at £110 per premises for the next year. We keep our fee level under constant review trying to provide best value for our customers.

HMRC's MLR supervisory team comprises of 116.99 Full Time Equivalent (FTE) staff. These staff are based across the country with main offices in London, Leicester, Salford, Bristol and Southend and their work is entirely on Anti-Money Laundering supervision. Our intelligence support is provided by officers based in Liverpool and we are able to call upon other resources across HMRC, such as Criminal Investigation, on a needs basis. The staffing breakdown is as follows:

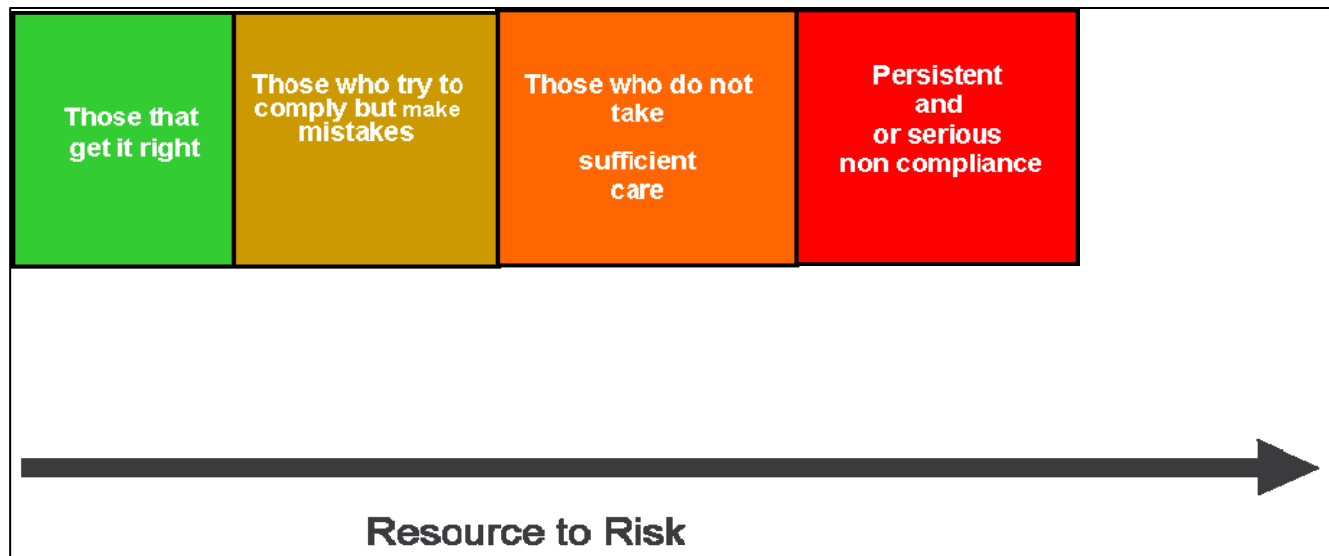
MLR Policy	7.5 FTE
MLR Enabling Team	8.6 FTE
MLR Registration Team	23.12 FTE
MLR Risk Targeting Team	8.81 FTE
MLR Intelligence	6.5 FTE
MLR Central Interventions and Education Teams	11.43 FTE
MLR Operations - Compliance	51.03 FTE

In the year 31 March 2010- 31 March 2011 we have taken on further resources to allow us to improve our geographic coverage. With such a diverse group of business sectors to supervise, having more resources on the frontline is always desirable however we are mindful of our responsibilities, detailed in the document 'Managing Public Money'. We are unable to invest across years. We avoid over-burdening businesses by unnecessary visits or by charging high fees for our supervision. Consequently, we feel our resourcing levels are appropriate.

## Supervisory Approach

We believe that most of our customers operate Anti-Money Laundering procedures effectively and we take an intelligence led risk based approach to supervision to make sure we only burden the non-compliant and make it as easy as possible for businesses to comply with the Regulations. We have regard to the Regulators Compliance Code and the Better Regulation principles in all our supervisory activities under the Money Laundering Regulations.

Our approach is set out below and includes a mixture of education and enabling, formal visits to assess and reinforce compliance. As the default regulator for some business sectors we have an additional challenge beyond supervising those who make themselves known to us by registering. Our Officers are aware that the purpose of their activity is to make sure businesses are complying with anti-money laundering and terrorist financing legislation and not for other purposes although, like other supervisors, we have a duty to report any suspicious activity we encounter to SOCA.



Box 1- HMRC's Risk Based Approach

### Policing the Perimeter

As the default supervisor for these business sectors, HMRC has to identify those who, for whatever reason, are not registered with us and not supervised by another supervisor. This 'policing the perimeter' activity is vital to maintaining the integrity of our register. These cases are generated internally as a result of our own assurance work, from exploitation of non-HMRC data sets e.g. Moneyweb, or joint working with other UK law enforcement agencies. 142 Businesses were identified and brought on to HMRC's register as part of this activity in 2010/11.

In the last year HMRC undertook pilots with Law Enforcement Agencies to share our register of MSBs and applicant data from the Fit and Proper test. This was initially with the Metropolitan Police and with Police Counter Terrorism Units. This has already paid dividends with several non-registered MSBs identified and reported to HMRC as a result of sharing this information. The project is due to release these details wider within the Police and Counter Terrorism units and we expect more outputs by the end of the first quarter of 2011/12 and will report on this next year.

### **Advice and Guidance**

#### Communications with Customers

We think it is imperative to involve our businesses, so far as possible, in the decision-making of our regime and to keep them informed of any changes to our supervision or other changes which might affect their compliance with the Regulations. Our principal channel for getting key messages out is through our internet pages at [www.hmrc.gov.uk/mlr](http://www.hmrc.gov.uk/mlr) and in future through the government's website for businesses, [www.businesslink.gov.uk](http://www.businesslink.gov.uk) which HMRC encourages businesses to check but where necessary also post relevant materials. In 2010/11 we published for businesses:

- advice to make businesses aware of sanctions action against the Iranian Shipping Line, Bank Mellat
- advice on technical queries such as acceptable forms of identity including the withdrawal of the National ID Card
- a document setting out how HMRC spends the fees it collects under the Money Laundering Regulations

### Guidance

To help these businesses we provide comprehensive guidance for them on how to meet their obligations. This guidance is provided in sector-specific format for MSBs, TCSPs and HVDs and each enjoys approval by HM Treasury as 'approved guidance'. This means that the extent to which a business can demonstrate that this guidance has been followed will be taken into account by us and a Court when deciding whether or not there has been a failure to comply with the 2007 Money Laundering or the EC Wire Transfer/Payments Regulations. All guidance is drafted in consultation with - and often directly from - suggestions of the industry.

In order to ensure consistent guidance is provided across the ASP sector, we have agreed with other supervisors that it will adopt the Consultative Committee of Accountancy Bodies (CCAB) guidance. We will explore in 2011/12 whether to produce our own sector-specific guidance for ASPs.

A written enquiries service is available for businesses to ask us questions about the Regulations; these will vary from whether their business will be supervised by us to when and how to file a Suspicious Activity Report. We have a dedicated team who responded to such questions. In 2010/11 they dealt with 738 written enquiries.

There is an online searchable register of MSBs to facilitate easy customer due diligence (CDD) checks by banks, customers and fellow MSBs. We will consider producing online registers for other sectors if there is demand from the industry.

### Outreach: Conferences, Presentations and Classroom Events

We conduct a programme of seminars and surgeries around the UK to help businesses understand their obligations under the Money Laundering Regulations. In 2010/11 we:

- attended a total of 28 targeted education events
- delivered 12 technical workshops jointly with the Serious Organised Crime Agency to around 65 MSBs and ASPs to ensure that they understand their obligations under the Regulations
- gave presentations at 17 events covering a diverse range of topics for example at a community outreach event organised by the Serious Organised Crime Agency in Bradford.

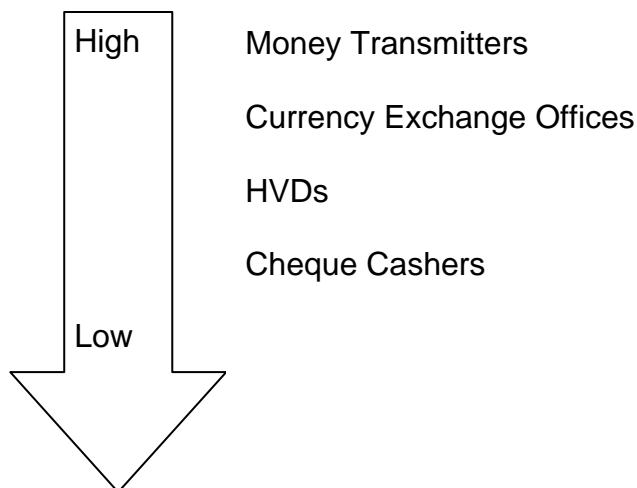
In addition we aim to contact all businesses by phone within 9 months of them joining our register to explain their anti-money laundering responsibilities and talk through their policies and procedures. This provides a chance for businesses to ask questions and for us to get an early idea of how much support a business will need. This year we made 1,296 such phone calls to such newly registered businesses.

### Customer Consultation

We consult on a quarterly basis with large business representatives and representative bodies of our MSB & HVD and TCSP customer base and are investigating avenues for improving our consultation with ASPs.

### **Risk Based Approach and Inspections**

As we are responsible for multiple business sectors we use the latest intelligence assessments to inform how best to assess the risk and therefore prioritise our assurance activity. Our knowledge is well developed of sectors we have been supervising for some time, MSBs since June 2002 and HVDs since 2004, and the risk they pose.



Our knowledge of the risks of non-compliance and potential for misuse by money launderers of the comparatively new sectors, TCSPs and ASPs, is not as well understood as for the more mature sectors. Reports by organisations such as Transparency International as well as work done by the Metropolitan

Police suggests there are risks of money laundering from amongst Company Formation Agents and Mailbox providers. One of our key priorities now is to improve our level of understanding of the risk in these sectors. Strategic risk assessments and additional risk projects focusing on TCSPs and ASPs are already being taken forward in 2011/12 working with other HMRC business areas who also interact with these entities.

We use a risk based approach to targeting businesses for visits. We seek to only undertake visits to businesses where we have information or reliable intelligence to suggest that a business is non-compliant or our risk assessment suggests there is a higher risk of non-compliance. This information is derived from variety of sources:

- previous compliance history
- intelligence held by HMRC suggestive of non-compliant behaviour
- intelligence generated from the Police, Serious Organised Crime Agency (SOCA) and other agencies about compliance with the regulations or concerns about customers using the business
- intelligence and information from external data sources e.g. Suspicious Activity Reports, internet research etc
- risk factors that suggest the business is at risk of being misused by money launderers - for example the size of the business or, in the case of Money Transmitters, the destination of money they move.
- monitoring the businesses and individuals who run them to ensure their circumstances do not change significantly.

### Compliance Visits

Of the sectors subject to our supervision, MSBs are considered the highest risk sector. Police, SOCA and we consider that MSBs are the most likely medium through which criminals move the profits from their criminality. Last year we undertook almost 2,000 visits to businesses. An exact breakdown as to business type is not available but the majority were MSBs but with coverage of all our other sectors (HVDs, ASPs and TCSPs).

Our visits involve testing the business's systems, policy and procedures. Where failings are identified, we advise the measures to be taken. The approach will be tailored according to the size of the business:

#### Small and Medium-sized Enterprises (SMEs)

SMEs make up most of our register; they tend to be single premises operations with a small turnover or medium-sized with fewer than 50 premises and can have a varied turnover. These businesses will often be struggling with compliance with the regulations or are faced with market pressures that pull against a properly risk based approach. This year we undertook 1,964 visits to such business and issued 396 Warning Letters. (Warning Letters

advise businesses of failings in their compliance with the Regulations and of our intention to levy a penalty unless the failings are addressed.) Visits can be very involved because of the demands of the legislation and can take a number of hours or days to complete depending on the complexity of the systems or level of understanding of our customers. HMRC-supervised SME businesses include a high ethnic population where English is a second language.

### Significant Businesses

Although the vast majority of businesses fall within the SME category, there are some businesses that have large turnovers or who operate from a large number of premises. Working within the spirit of HMRC's Large Business Strategy, we focus on developing and maintaining a continuing relationship with our Significant Business customers and using computer-based audits to enable us to effectively assess businesses' records and compliance and minimise the time spent at a visit. This allows us to check on the quality of anti-money laundering systems and controls in an efficient and effective manner. Last year we undertook 28 such audits.

### Compliance and Enforcement actions

We make every effort to bring businesses into compliance with their obligations but where businesses fail to comply following our intervention we will levy penalties. These can be for breaches such as trading whilst not registered or failure to notify us of changes of circumstances through to failures to keep effective records or not undertaking the required customer due diligence. An exact breakdown of all penalties we levied is not available but since April 2010 178 penalties with a total monetary value of £ 63,749.73 were levied. For sectors in which there is a Fit and Proper test (TCSPs and MSBs), if a business consistently fails to comply with the regulations and our compliance processes such as penalties are not effective, we may revoke the Fit and Proper person status of those operating in the business. This power was used as recently as March.

In cases which merit it, we will seek to deal with the most serious breaches of the Regulations through criminal enforcement action. This is a vital part of our compliance strategy and the threat of criminal prosecution is a tool which can be used to leverage compliance from businesses.

In March 2011 Nadeem Karimzada proprietor of Mazar Enterprises (a Money Transmitter) was convicted of offences under the 2007 Regulations as well as Money Laundering. This was the first time that HMRC had used the criminal power but police investigations elsewhere have sought convictions for Regulatory breaches as well as Proceeds of Crime Act money laundering offences

### Complaints and Appeals

We have a clear process for dealing with instances where a business wishes to:

- appeal a decision we took, for example to issue a penalty or to cancel their registration
- complain about an aspect of our supervision, for example dissatisfaction about the conduct of an Officer.

A business has the option of requesting a review of a decision or appealing to the independent first tier Tribunal. The review process is carried out within HMRC but is undertaken by an independent Reviewing Officer who is not linked to team making the original decision. If the business is not happy with the decision of the Reviewing Officer they may still appeal to the Tribunal. The Tribunal may uphold, cancel or amend the original decision. The Tribunal service is an executive agency of the Ministry of Justice.

If a business or individual is unhappy with the way they have been dealt with there is a complaints process. Formal complaints are dealt with by the Complaints Manager based in Manchester. The Complaints Manager investigates the complaint and where possible resolves the issue to the satisfaction of the complainant. Where complaints identify failings in our systems the information is used to make the necessary improvement. If a complainant is not happy with the outcome of the investigation into their complaint they can ask the Adjudicators Office to look into their complaint. The adjudicators office is an independent body set up to look at complaints about how HMRC handles their customer's affairs

In 2010/11 there have been 20 requests for review. We have also had three cases go to Tribunal.

- Moneygram Payment Systems v HMRC- An appeal under MLR 2003 on liability to register. First Tier Tribunal decided that Moneygram must register all agents it appoints in the UK under its own register. A further appeal on this issue to the Upper Tribunal was subsequently withdrawn by the appellant.
- MBX Game Exchange v HMRC- Appeal against a penalty for trading whilst unregistered (regulation 26). Allowed in part with penalty reduced.
- Dianne Baker v HMRC- Appeal against a penalty for trading whilst unregistered (regulation 33). Allowed in part with penalty reduced.

## **Compliance with the Regulations by Businesses**

From visits we have undertaken the most common failings identified are

Regulation	Description	Percentage of overall failures
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20	failure to have effective policies and procedures	20.52%
7	failure to undertake customer due diligence when required	13.3%
8	failure to undertake effective ongoing monitoring	12.8%
21	failure to train staff effectively	12.6%
14	failure to undertake Enhanced Due Diligence and Monitoring when required	11.7%

## **Information sharing and cooperation**

### HMRC and FSA Joint Working

The Payment Services Regulations (PSR) which came in to force in November 2009 made the FSA consumer protection regulator for Payment Institutions including Money Transmitters. All Money Transmitters have had to register with the FSA by 30<sup>th</sup> April 2011. We and FSA both recognise the need to work closely together to ensure that this joint supervisory regime does not unduly burden businesses. We have in 2010

- initiated joint visits with the FSA to businesses
- shared our register of Money Transmitters with the FSA in full on a quarterly basis and provided information about new registrations and deregistration on a weekly/fortnightly basis
- shared over 100 pieces of business specific intelligence to assist the FSA in undertaking its duties under the Payment Services Regulations.

### With other Money Laundering Regulation Supervisors

We take an active part in the Anti-Money Laundering Supervisors Forum (AMLSF) and two of this forum's affinity groups - the Public Sector Affinity Group which it chairs and the Accountancy Affinity Group. We recognise that to supervise effectively it is important for all supervisors to work alongside each other to learn from each others experience, sharing information and learning from best practice.

Working with the FSA and the OFT, we have taken steps to address areas of possible supervisory overlap to identify and agree the most appropriate supervisory authority. We have also initiated sharing of assurance practices

between public sector supervisors and will be arranging for other supervisors to shadow our Officers to understand how we approach visiting businesses.

### With Law Enforcement

We are in the unique position of being both a supervisor and an enforcer under the Money Laundering Regulations. We work closely with Law Enforcement agencies such as the Police and SOCA to combat non-compliance with the Regulations and also to deal effectively with money laundering and terrorist financing through businesses supervised by us.

As mentioned above (Policing the Perimeter, page 4) we have begun to share the register of MSBs with SOCA and selected Police forces. This will help them build a better intelligence picture of the MSB sector and also assist our risk targeting by generating mutual intelligence flows.

In the last twelve months we have prepared 124 witness statements supporting possible criminal prosecutions as well as responding to 372 requests for information from law enforcement agencies some of which have already resulted in convictions for serious crime. In the last year examples of such convictions include

- Tanveer Jaffrey and Naveed Ahmad, convicted of laundering £48m through their MSB and jailed for 10 years and 4 years respectively
- Operation Eaglewood, a Metropolitan Police case that rounded up a £100m drugs smuggling network led to the conviction and a 10 year sentence passed upon Jean-Claude Frigieri the owner of a bureau de change for money laundering offences
- Kishor Doshi, an Accountant convicted of tipping off offences under the Proceeds of Crime Act and sentenced to 18 months in prison.

Intelligence monitoring of an MSB led to a joint operation on 18<sup>th</sup> May 2011- Operation Enigma- carried out between HMRC and UKBA in to a suspected £200m money laundering organisation.

### Barriers to Information Sharing

We have a duty to only disclose information to other organisations where a legal gateway exists, for example with the Police under the Anti-terrorism, Crime and Security Act or SOCA under the Serious Organised Crime and Police Act 2005. However no specific information gateway exists that allows us to share information with other supervisors for anti-money laundering purposes except with the FSA under the Payment Services Regulations 2009. Where we do lawfully disclose information we are obliged to ensure any disclosure is proportionate and compliant with Human Rights obligations.

### **Reporting**

## Performance Reporting

Our team is accountable through internal management structures to the HMRC Executive Committee for our performance against HMRC strategic objectives. In addition we work closely with the Treasury Financial Crime team to ensure we are meeting the policy objectives of the Money Laundering Regulations and the strategy set out in the Government's anti-money laundering and terrorist finance strategy, "*Financial challenge to crime and terrorism*".

## SARs Reporting

The Money Laundering Regulations Intelligence team are responsible for collating internal suspicions from our Visiting Officers by way of an internal report called an MLR145.

## **Terrorist Finance Activity**

Risk assessments suggest that the risk within our supervised sectors from terrorist finance is limited to Money Transmitters who are of concern because of their ability to move money quickly and the perception by users that this money can be moved anonymously. We work closely with the Terrorist Finance Branch in Treasury and have specific actions to deliver in the Terrorist Finance Action Group's terrorist finance strategy. In the last year we have:

- shared and received intelligence through an HMRC embedded officer within the National Terrorist Financial Intelligence Unit (NTFIU) on money transmitters
- provided real time intelligence and operational support where necessary
- reviewed specific terrorist financing risks in our businesses and individuals who operate them and reported suspicions where necessary.
- shared the register of MSBs with two Counter Terrorism Units, this will increase to national coverage shortly
- provided a Terrorist Finance Awareness training course to all our Visiting Officers and Senior Managers.

## **Customer Insight Project**

In January 2011 we appointed a research firm, Quadrangle, to undertake a customer insight project to help us better understand the businesses we are responsible for supervising. This involved an extensive amount of customer consultation and when the report is completed in the Summer of 2011 it will put us in a better position to understand our customers and then to improve how we supervise them.

