

Governance Of Cross Border and National Trading Standards Enforcement

Purpose of report

For decision.

Summary

This report outlines a very early proposition about the LG group taking over the governance of certain trading standards functions. Currently this work is delivered by groups of councils working together, and the Office of Fair Trading but the governance is provided by a range of detailed central government managed contracts that are overseen by the department for Business innovation and Skills and the Office of Fair Trading. BIS officials have made a very early approach to ask whether the LG Group would consider exploring the options of taking this forward and providing political oversight and contract management for this role.

Recommendation

That the Executive agrees for LG Regulation officials to continue to explore possible options with BIS.

Action

As directed by Executive

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Background

1. This paper relates to the possible new role for the LG Group in ***overseeing national and regional trading standards enforcement***. Councils themselves recognised many years ago that effective trading standards has a ***local*** (underage sales, local scams, pricing in shops), a ***regional*** (cross border rogue traders, illegal moneylending) and a ***national*** (animal disease control) elements and all of these have to be effective.
2. Many years ago groups of councils (usually organised on English region, Welsh and Scottish lines) chose to organise themselves into groups to coordinate these types of activity. For the last 5 years BIS have provided additional funding for these teams to carry out cross-border enforcement of major cases and scams. Subsequently separate monies have been provided in grants for major cases and the setting up of 6 illegal moneylending teams. Councils have keenly embraced these agendas.
3. Nationally the OFT has always had the responsibility for taking a handful of nationally important consumer protection cases (recent examples include the internet pricing system used by Ryanair) and they also run a national e-crime unit dealing with the consumer protection side of internet crime with the support of a team of council officers that operate on behalf of all councils.
4. Councils have always supported these arrangements and the key criticism that LG Regulation has had is that there is a lot of central prescription in terms of contracts and each has a separate governance regime which is inefficient. Furthermore we have criticised in the past the lack of political oversight of these central arrangements (though most of the cross border teams do have some form of political engagement with councillors in their areas, either through cosla and wlgla or by means of separate political boards in each area).

BIS Proposals.

5. As part of the review of quangos it seems likely that OFT and the Competition Commission will merge. There is then a debate to be had about where their consumer protection functions sit. OFT are of the view that they form part of the UK's governance of markets and should stay with them. BIS are of the view that these cases could be done alongside the other cross border work carried out by these shared teams. Both of these arguments are valid.

6. BIS appear to be keen to see local government providing governance structure for all the regional and national enforcement. They would NOT devolved this funding to each council as they argue that these are regional/national decisions that have to be taken for the UK as a whole and as such completely devolved decision making doesn't work. The need for this cross-border/national element has been supported by councils. None of this affects in any way the vast majority of trading standards work which is wholly delivered, funded and managed locally by councils.
7. BIS have suggested that the LG Group could take over the governance and provision of the funding rather than have it governed by central government. They have advised us that both BIS Ministers and Francis Maude see this is one area where they can divest "control" to local government as a whole to test whether we can deliver against this type of agenda. If the LG Group felt unable to pursue this, it is possible that it may be given to another Government QUANGO (e.g. the LBRO if it still exists at that time) or to a professional body such as the Trading Standards Institute.
8. If all the various pots of funds and governance structures were joined up it is likely to be a funding pot in the region of £12 – £15 million. ***Informal confidential soundings from leading councils in this area suggest that they would be very supportive*** of LG Group doing this. As would the Trading Standards Institute and the Association of Chief Trading Standards Officers show that they would support the LG Group taking on this role.
9. We anticipate there would be a 2 or 3 year contract with BIS for delivery against certain objectives. This would give us the opportunity to rationalise all of the separate central government governance mechanisms, making them both closer to councils and more efficient. The proposals will be subject to public consultation later in the spring but BIS will want to have pre-consultation discussions on this issue prior to that.
10. Whatever decisions, the Government make about the future role of the OFT and the handful of national cases it takes, does not effect the overall premise that the other workstreams (scambusters, illegal moneylending and fighting fund) could be co-joined and overseen by the LG group.

PROS

10.1 This would fit with LG Groups priorities for "streamlining regulation"

10.2 It would lever income into the group.

10.3 It would put local government in charge of a governance mechanism that is currently central govt.

10.4 By reducing central admin costs it should ensure more money is delivered to the front line services.

10.5 It has sector support

CONS

- 10.6 This would be a different role for the Group in relation to regulatory services. Though arguably it is not very different from some of the projects that LGID deliver on behalf of government currently (e.g. some of the Healthier Communities Team work)
- 10.7 It could still be seen as “centrally” delivered as it will not devolve un-ring fenced budgets down to a local level.

Financial implications

- 11. Any proposals would need to be robustly assessed for any financial and legal risks both the group and to councils as a whole BUT this there is quite a lead in time for this to be done. Any transfer would not take place until April 2012 and any transfer of the national cases currently done by the OFT may not take place till April 2013.
- 12. The project and policy management of this would have to be fully funded by the transfer of monies from BIS.