
The Hampton Review - “Reducing Administrative Burdens: effective inspection and enforcement”.

Decisions

1. The Board is asked to endorse the messages contained in this report to form the basis of the LGA/LACORS (Local Authorities Coordinators of Regulatory Services) response to the Hampton Review interim report. The key messages are:
 - a. The Hampton review should also look at burdens on regulators as well as on business - the government must be joined up in its approach to these services and their priorities;
 - b. Local authority regulation is far wider than environmental health and trading standards and includes development control, building control etc; these regulatory functions belong in local authorities and we would strongly resist any attempt to remove them;
 - c. We would resist the creation of simplistic league tables of regulators;
 - d. We support the provision of advice to businesses subject to an acceptance that an increase in advice could mean less regulatory activity of other types;
 - e. We support common reporting frameworks to minimise duplication for business - as long as this did not create new burdens for councils;
 - f. Councils are already fully accountable for their decisions in relation to formal legal proceedings and we do not see the need for any further administrative burdens in this regard;
 - g. We would support central contact points and reporting mechanisms for all regulators as long as it replaced, rather than added to, current administrative burdens for local authorities;
 - h. While there are common core skills that regulatory officers share, we believe that the “super-inspector” role is not a realistic proposition due to the quantity, variety and complexity of legislation; and
 - i. We support the strengthening of penalties and new approaches, such as fixed penalties and reputational sanctions, but would caution against the removal of criminal penalties.

Actions Required

2. Officers to prepare a full response to the consultation paper and submit to the Treasury by 4th February 2005.

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Hampton Review “Reducing Administrative Burdens: effective inspection and enforcement”.

Summary

- 1. The Board will hear from Philip Hampton who is leading the Treasury review. A copy of the presentation slides will be circulated at the meeting. The Board is also asked to agree the key messages from local government to be contained within the LGA/LACORS response to the interim report of the Hampton Review.**

Background

- 2. In the Budget 2004, the Chancellor commissioned Philip Hampton to consider the scope for reducing administrative burdens on business by promoting more efficient approaches to regulatory inspection and enforcement without reducing regulatory outcomes. LACORS and LGA officials have been involved in meetings and discussion with the Treasury team carrying out the review and an interim report was published for consultation at the beginning of December 2004 with a closing date of 4 February 2005. The final report is expected in Spring 2005.**
- 3. This work is one of the workstreams under the Board’s Key Objective 2 – “raising the profile and developing a coherent approach to regulatory services”. This builds on the work undertaken by the Public Protection Executive, LACORS and the Regulatory Services Partnership. A full report will come to the next Board meeting for member’s views on ongoing discussions with ODPM about the establishment of a Ministerial sub group of the Central Local Partnership to consider including as one of the central local shared priorities “the delivery of high quality regulatory services that underpin the health and well-being of local communities” and the recruitment and retention problems in Environmental Health and Trading Standards.**

The Hampton Review’s Proposed Strategy

- 4. In summary, the report makes proposals to:**
 - Continue the recent trend of consolidating regulatory functions into national regulators. In this phase this applies to a number of central government inspectorates which it recommends merging. No specific proposals are made in relation to local authorities and the Hampton team plan to look at this in more detail in the next phase of their work;**
 - Rebalance advice and inspection because this can improve regulatory outcomes, especially for small businesses;**
 - Better tailored advice for businesses;**
 - Improve joint working, information sharing and cross training between regulators;**
 - Simplify the forms that businesses have to fill in – using common identifiers and common reporting frameworks;**
 - Reduce the number of forms that businesses have to fill in;**
 - Ensure general use of robust risk assessment schemes to programme inspections so that no inspection takes place without a reason; and**

- **Make incentives for compliance better and strengthen penalty regimes.**
5. **It is suggested that the following key messages be conveyed within the LGA/LACORS detailed response:**
- **We welcome the recognition that there are many positive elements in the approach of UK regulators and that the UK performs well in many international comparisons;**
 - **The review should also concentrate on administrative burdens on regulators as well as on businesses. Local authority regulatory services are subject to scrutiny and direction from up to ten Government Departments and agencies – we reiterate the challenge that to make joined up working a reality at local level, the government needs to be joined up in its approach to these services and its priorities;**
 - **The structural changes at this stage focus on merging a range of smaller central government regulators and as such we have no particular comments to make. The next phase of the review intends to focus more on local authority structures. We are of the view that regulatory services such as trading standards and environmental health belong in local authorities and we would strongly resist any urge to remove them to create another regulator;**
 - **Previous government reports from the Food Standards Agency, the Health and Safety Executive and the DTI Draft Consumer Strategy looked at the potential for centralised regulation but concluded that the benefits from inspectors' local knowledge and accessibility are good reasons why local authorities should retain enforcement responsibilities. This position reflects both LGA principles and the ODPM 10 year strategy which recognizes the importance of local services;**
 - **We would resist the creation of simplistic league tables of regulators;**
 - **It must be recognised that local authority regulation is far wider than environmental health and trading standards and includes development control, building control, highways and parking enforcement, environmental enforcement (e.g. litter, graffiti, abandoned vehicles) and so on. Any decisions around individual local authority functions needs to take into account the wider range of functions and how they feed into each other and to other agencies at a local level;**
 - **We believe all inspection regimes by local and national regulators should be subject to similar risk assessment schemes. This is already established practice in local authorities but it must be remembered that routine inspection forms only a very small part of a local authority's interaction with businesses;**
 - **We support in principle that performance in other regulatory areas should be taken into account when assessing a businesses risk profile, but there are currently significant legal and technical barriers to prevent this;**
 - **Local authorities support the provision of advice to businesses to help them comply with the law and many do so already. However proper evaluation needs to be undertaken to assess what types of advice services really work;**
 - **If government wants local authorities to spend more of their time in providing advice to businesses then there needs to be an acceptance that there will be less activity in other areas;**
 - **Common reporting frameworks to minimise duplication of the data and forms that businesses have to submit are a laudable aim. Local authorities would be happy to support such a system as long as it had the**

functionality to replace existing databases and was not an additional administrative or financial burden. This approach would presumably require every single business to have some form of unique registration number which would need a central registration system and a significant investment in the technology to run it;

- We support strengthening of penalties and welcome new approaches such as fixed penalties and civil remedies (such as Enterprise Act Orders). However, we strongly caution against the loss of criminal penalties. Some of the people that local authority regulators deal with are criminals in the true sense of the word (e.g. those involved in car clocking, counterfeiting, doorstep selling, illegal slaughter and sale of unfit meat) and it would be very hard to call them to account without criminal sanctions and the enforcement options that go with them (e.g. arrest, search and seizure, bail). Civil cases are often more expensive to mount and local authorities carry a far higher risk of being made to pay defendants' costs;
- Whilst welcoming in principle the extension of penalties to ensure company directors are made personally liable we recognise that this may be difficult to achieve in practice;
- We would welcome the extension of sanctions that can affect the reputation of a business as we believe this can be an effective deterrent, and the basing of penalties on the size of the business could be worthy of consideration. This applies already in relation to Competition Act cases;
- Local authorities are already fully accountable for all their decisions in relation to formal proceedings either via appeal courts, civil claims by defendants, corporate complaints procedures within local authorities and ultimately to the local government ombudsman. We do not see the benefit or need for any further administrative burdens on local authorities in this regard;
- The suggestions to create central contact points and reporting mechanisms for all regulators would be acceptable as long as it replaced, rather than added to, current administrative burdens for local authorities; and
- Whilst we accept that there are some common core sets of skills that local authority regulatory officers share it is very difficult to translate this into the suggestions for a "super-inspector" role. For example, to carry out full inspections a trading standards officer (TSO) has to know approximately 40 pieces of primary legislation plus all the associated secondary legislation. Environmental Health Officers (EHO) must have an understanding of a full range of food, health and safety and pollution/nuisance legislation as well as having very detailed scientific understanding of acoustics and the risks associated with food hygiene. The only area where a single inspector could achieve anything is in the lowest risk premises where we hope not expect to be devoting many resources. We are aware that some local authorities have tried joint inspections with TSOs and EHOs or TSOs and Police and have been criticised by business for being heavy handed.

6. Further operational and technical detail will be added following feedback from advisers.

Implications for Wales

7. The issues raised apply to Wales as well as England but the means of effecting any final recommendations will of course require a different approach in the devolved administration.

Financial/Resource Implications

8. None identified at this time.

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