

Strategic considerations for future engagement and actions with the Local Better Regulation Office (LBRO)

Summary

The Safer Communities Board, who have an important policy role and oversight of local authority regulatory services asked for an update from LACORS to better understand the relationship that LACORS and the wider LGA Group have with the LBRO, key strategic and operational issues we may have with them and to consider how we take these forward and importantly our future engagement with them.

Recommendation

The Board is asked to consider the report and the current and future role of LBRO and how this may impact on council regulatory services, LACORS and the wider LGA Group and the strategic options in section 3 of the report to secure the best interests of councils and their regulatory services through the work of LACORS and the wider LGA Group.

Action

LACORS' Executive Director and senior management team, continue to progress the implementation of the agreed strategic proposal/s and report back at a suitable time on progress.

Strategic considerations for future engagement and actions with the Local Better Regulation Office (LBRO)

Background

1. A confidential report on this matter has been considered and agreed by the LACORS board at its meeting on 11th September 2009. This report outlined a range of strategic options for future engagement and actions in relation to the Government's LBRO, as we move towards a general election next year and the LBRO's sunset clause contained under section 17 (2) of the Regulation Enforcement and Sanctions Act 2008. The report provided a strong steer to ensure that LACORS has a clear focus on how best to secure the interests of council's regulatory services, LACORS itself and the wider LGA Group.
2. The LBRO were set up in 2007, to implement a number of the key recommendations from the Hampton Review to deliver better regulation principles and reduce the administrative burdens to businesses from Inspection and enforcement. This was a precursor to LBRO becoming a statutory body with statutory powers under the Regulation Enforcement and Sanctions Act (RES Act). They have been given some very specific responsibilities for local regulatory services that include:
 - Supporting service improvement in local authority regulatory services
 - Directly delivering consistency, principally through the primary authority mechanism
 - Acting to improve the local authority regulatory services system
3. The Primary Authority scheme is a LBRO flagship priority that aims to deliver consistency of enforcement with the ultimate intention that it replaces LACORS' Home Authority Principle scheme (HAP) and the HSE's/Local authorities Lead Authority partnership scheme (LAPS), which are both voluntary. LBRO have set aside £2.7m over three years for a scheme which it is expected will be significantly smaller in terms of number of businesses (and therefore councils) signed up than the current LACORS scheme and considerably more expensive in total set up and running costs to administer. Many councils we have spoken to are clear they want to keep HAP and LAPS and wish LACORS to continue to develop and support both schemes.
4. LACORS on behalf of, and with the support from the LGA Group, lobbied strongly when the RES Bill was going through both Houses against some of the specific powers proposed for the LBRO. These included the requirement for consent from the Primary Authority before an enforcing authority could take a prosecution against a business for a regulatory offence and the powers of the LBRO to direct a council to become a Primary Authority, if there was not

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agreement between the council and the business seeking a Primary authority relationship. However, we did gain a major concession that allows councils to charge businesses for PAS partnership services.

5. It is clear that the LBRO, who are a government quango, has strategically positioned itself in the local government improvement sector and very much in the arena that LACORS operates within. Notwithstanding the joint statement for working together that LBRO and LACORS signed in March 2008, that attempts to clarify our respective roles and where we will work together, LBRO have directed resources very much in the improvement arena that LACORS undertakes on behalf of our sector. The LBRO are clearly focusing on the performance of council's regulatory services, rather than focusing upstream on reducing red tape, unnecessary regulations on businesses and councils, ensuring only essential national priorities are required for councils to deliver and coordinating central government departments on regulatory matters.
6. LACORS' strategic aim with the LBRO has included avoiding wherever possible overlap and duplication and complement not compete, for example on matters such as professional competence and excellence; leadership in council regulatory services, support to new unitary councils, promoting shared services, economic recession and regulatory services and swine flu advice where the LBRO have in some of these cases undertaken and duplicated work we have ourselves been actively involved in on behalf of the sector.
7. Whilst on the one hand we welcome support that adds value to councils, that provides clarity and coordination from government departments and that helps lobby government to win more resources direct to council regulatory services, the LBRO have also given rise to over prescription from guidance and advice which has not been helpful to councils in the sector.
8. It is therefore very important that LACORS and the LGA Group considers a future engagement strategy that ensures the best interests of the sector in terms of support offered to help drive improvement in service quality, effectiveness and value for money. A key role for the LGA Group is to secure the best interests of councils and hence the communities they serve and the LGA Group business plan for 2010/11 focuses our collective priorities on the Economy (supporting councils to lead the country out of recession); Reputation (building the reputation of councils as outstanding service providers, community leaders and employers of choice); Value for Money (supporting councils to greater efficiency and lobbying for the funding they need to deliver the job); Democracy (ensuring local decision-making and local government led improvement is at the centre of debate, particularly in election year); and Customer Service (fit for purpose LGA Group, delivering excellent, value for money services to councils and councillors);

9. The LBRO is of government, reporting into the Better Regulation Executive who sit within the Department of Business, Innovation and Skills (BIS). It therefore has a difficulty when it comes to robustly challenging central government on matters that are in the best interest of local government and it cannot claim that it represents or when seeking improvements from council regulatory services that they are sector led. However, it is acknowledged that there has been some interesting and in some cases useful research work they have commissioned, although again when looking at the £4.6m pa funding (compared to LACORS £2.08m top slice funding), they should be expected to be able to commission major research work. They have also contributed ongoing funding to bursary places to a LACORS led strategic leadership programme in modern local government and for regional coordination of trading standards services in England, Wales, and Scotland, although these are currently being reviewed.
10. LACORS board of directors concluded that it will be important to raise our own profile, to publicise LACORS/LGA Group successes more and emphasise we are an important part of the local government sector. We also need to highlight better what we provide on behalf of councils up and down the country, particularly as there are likely to be significant financial cuts across the public sector whoever is in government next year, which will have an impact on councils and the LGA Group.
11. The Board also felt public criticism of LBRO should be avoided. However, it is possible that the LBRO will be included if a further quango score card report is planned by the LGA Group and that as a quango we wish to challenge them on issues such as value for money, accountability and decision making and openness. It will be important for LACORS to engage further with government and opposition spokespersons on regulatory and related matters and with senior representatives of the business community. Crucially, LACORS as an integral part of the LGA group, needs to continue to develop our customer service excellence work that provides high quality services and support and the best possible value for money to our councils.

LBRO and an engagement strategy

12. It is clearly important to produce a balanced report and therefore recognise and identify where the LBRO have had success. Some of LBRO's success to date has been when supporting LACORS led initiatives or sponsoring local government events for example with the former, the self assessment/peer challenge programme for regulatory services; the strategic leadership in modern local government programme for regulatory services managers, and for the latter a Beacon award category on cutting red tape. LBRO was also the main sponsor for the LGA Group conference this year, giving them a very high profile and exposure. The LBRO have also had some success with their 'trading places' scheme where regulatory services staff spend a couple of days in a private sector organisation.

13. They are of course well placed at the Better Regulation Executive and hence the sponsoring Business, Innovation and Skills department (BIS), having direct access to Ministers and senior civil servants and have already (as LACORS has) met with John Penrose MP, Opposition Spokesperson for Business, Enterprise and Regulatory Reform. As a Government sponsored organisation they have close contact with other Departments with regulatory responsibilities affecting local authorities e.g. the Food Standards Agency, the Health and Safety Executive, Defra, DCMS, etc, and for local government more generally through CLG. It is also worth noting that they have engaged closely with the professional societies Trading Standards Institute (TSI) and the Chartered Institute of Environmental Health and funded them to carry out a range of work activities.

Future engagement and actions strategy in the coming months

14. The general perception from many is that both the LBRO and LACORS operate in the same territory and therefore it could be argued that there is room for only one organisation in this part of the sector.
15. Whilst we are very confident that in any survey or poll of Heads of Service, practitioners and many councillors with regulatory services and/or licensing responsibilities, given a direct choice between our respective organisations they would undoubtedly choose LACORS. However, this would not be nearly as clear with representatives of the business sector, particularly the CBI, BRC, the big supermarket retailers and probably the Federation of Small Businesses.

An outline way forward – Strategic Options

16. LACORS will focus on its commitments, objectives, work plans, programmes and projects in the current and next years business plans to ensure we deliver on these and continue to provide customer service excellence to councils working in the sector. We will also need to ensure we continue our own improvement journey and build on our customer service excellence work to meet the future needs of councils and their regulatory services.
17. LACORS must engage the sector more and revisit our 'leading by listening' work carried out in late 2007. We will look to explore through our own Board members and senior LGA Group councillors our dialogue with senior councillors and work more effectively across the regions.
18. Whilst we will need to ensure we have regard to the work of the LBRO our focus must be on adding value to councils and their regulatory services and we do not divert too many resources into 'watching and monitoring' LBRO, diverting us away from our core business.

19. LACORS will through its work with the LGA Group, continue to demonstrate our role and contribution to the Group priorities, ensuring we remain an important, valued and integral part of the Group that focuses on sector led improvement and effective lobby, influence and representation of the sector. We will aim for a more visible presence at LGA Group events including conferences and other relevant high profile events which will be further enhanced as the LGA Group 'Getting Closer' strategy and associated work streams including the communications review and branding exercise fall into place.
20. That said, there are a number of specific things LACORS can do that will strengthen our position, identify where LBRO are not delivering and ensure that we more formally record any of their 'failures'. LACORS should make this clearer to the LBRO and where necessary other key stakeholders and start to 'ratchet up' through managerial and political structures, where lack of LBRO delivery has or is likely to have a direct and negative impact on councils. These include:-
 - At regular joint programme and project meeting reviews, failure to carry out agreed activities are formally recorded and risk assessed (as they are now) and that these failures are then taken up in writing with the relevant senior manager. Where the failure or lack of acceptable progress continues, this will be raised at the regular LBRO Chief Executive and LACORS Executive Director meetings and confirmed in writing and requesting a written response from LBRO.
 - LACORS review the LBRO priorities and specific objectives and work programmes and identify and record them and again raise these at the appropriate level.
 - Having a more formal Chairman to Chairman meeting with a clear, focused agenda where some of the higher level matters can be raised, discussed and either agreed or where agreement is not reached formally put on the record.
 - Identifying activities where LBRO have not properly engaged the LGA Group in areas which are more clearly better positioned as sector led improvement propositions, either through lack of early consultation or finished publications/proposals/recommendations.
 - However, we need to take care and ensure that LACORS and the LGA Group are beyond reproach on these matters and where it is necessary and appropriate that we engage, consult and discuss relevant LACORS/LGA Group led projects and activities with LBRO. Thus avoiding any undermining and criticism of LACORS or the LGA Group by LBRO or government.

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- A clearer lobbying and influencing role, particularly through LACORS Chairman and senior members and key senior LGA Group councillors, with Government Ministers and opposition spokespersons. We must also enter into more robust and productive dialogue with senior representatives of business e.g. BRC, CBI and the Federation of Small Businesses, to put our case to them but also to listen to their concerns and criticisms and where appropriate respond effectively to them.
21. A major challenge (and this applies to both organisations) has to be around how we make sure our actions and those of the sector are based on robust evidence and intelligence gathering and that there is a greater focus on delivery outcomes that are properly analysed, considered and evaluated. Our business plan this year attempts to be more outcome focused but there is still more work to be done in this respect.
 22. The LBRO have a sunset clause for the organisation as soon as practicable after October 2011 and it will be important that we prepare in readiness for evidence we will want to give to Parliament reflecting the views and consensus of the sector on LBRO's usefulness, performance and value for money and for them to in effect justify why they should exist in future.
 23. This report outlines the challenges, risks and some practical and pragmatic proposals that LACORS can do that aims ensure LACORS on behalf of the LGA Group continues to drive improvement, add value and give value to council regulatory public protection services across the UK. However, this is not easy and we have to work within the system with both political and organisational sensitivity. Our overriding aim is to make sure council regulatory and related services are supported with high quality, efficient and effective sector led service delivery.

Financial Implications

24. This report primarily refers to England and Wales but also has an impact on the services we provide for councils in Scotland and Northern Ireland.

Implications for Wales

25. There are no direct financial implications and any specific activities that emerge from the report recommendations will be contained within our existing resources. However, LACORS business plan for 2010/11 is based on a 20% financial scenario reduction in preparation for a reduced RSG top slice bid by the LGA Group central bodies from 2011/12 to the CLG.

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