

Update on Regulatory Services

Purpose of report

For Information.

Summary

This report provides an update on developments affecting regulatory services that will be of interest to the Safer and Stronger Communities Programme Board.

Recommendation

That the Board note the activities outlined.

Action

Officers to progress as appropriate.

Contact officer:

David Lock

Position:

Policy Adviser (Regulation)

Phone no:

020 7665 3864

E-mail:

david.lock@local.gov.uk

Update on Regulatory Services

Background

1. The following update sets out some current issues of relevance to local authority Regulatory Services and their contribution to safer and stronger communities. These items are for noting only, but the secretariat would be happy to answer any questions.

Key Issues

BIS Review of the Consumer Landscape Consultation

2. The Department of Business Innovation and Skills (BIS) has published a consultation paper which proposes significant changes in the way in which some consumer protection services are delivered across Great Britain. It recommends that most consumer protection functions currently delivered nationally by the Office of Fair Trading (OFT) would in future be delivered by council trading standards services. Funding would be provided for the extra work and associated coordination arrangements required.
3. The only area of OFT work not to pass to councils would be the consumer advice currently provided under the banner 'Consumer Direct'. Under the proposals this advice function would be transferred to the Citizens' Advice from April 2012.
4. BIS state that the aims of the consultation are to:
 - 4.1. Reduce the complexity of the consumer landscape
 - 4.2. Strengthen the effectiveness of consumer enforcement
 - 4.3. Provide more cost-efficient delivery, closer to the consumer front line
5. The consultation on these proposals was launched on 21 June 2011 at the Trading Standards Institute (TSI) conference.
6. The need for a more coordinated joined up and more coherent approach in consumer protection has been highlighted in a recently published National Audit Office (NAO) report looking at value for money in the enforcement of consumer law. The NAO concluded that £4.8 billion (73 per cent) of consumer detriment from unfair and rogue practices arises as a result of threats that span more than one local authority area. The BIS consultation proposals recognise and attempt to address the need for effective coordination between councils in delivering consumer protection functions which extend beyond council boundaries.

Item 6

7. A draft LG Group response to the consultation will be brought to the Board's September meeting for consideration by members, ahead of the close of the consultation at the end of September. LG Regulation has already circulated thoughts on the consultation paper to councils to promote discussion, and reports that there has been broad support for the Government's preferred approach to transfer the OFT's national consumer enforcement role to Council Trading Standards Services. There is however also a recognition that effective arrangements would be needed to help councils coordinate and assign priorities to the new workload.

Food Standards Agency Review of Enforcement

8. The Food Standards Agency (FSA) is planning a wide ranging review of the regime for inspecting food and food premises. It will look at whether this function, which is currently carried out by councils could be delivered in a different way. The FSA will receive an update on progress with planning the review at its July meeting, but is keen to ensure there is LG Group involvement in the Consultative Group being established as part of the review so that local authority views are taken into consideration.

Fee for intervention (FFI) consultation on Health and Safety

9. Members' views were sought in February on the government's proposal that the Health and Safety Executive (HSE) extend its scope for cost recovery, and that councils adopt a similar approach. The proposals suggest that where businesses are found to be in material breach of health and safety law, they bear the costs incurred by the HSE or councils in putting things right rather than the taxpayer – an approach that has become known as a fee for intervention (FFI) regime. Members were supportive of this new approach and this has been communicated to the Chair of the HSE when she spoke with the Board's chair.
10. The HSE will be formally consulting on the changes between July and October. Ahead of that discussions took place on the 4 July between representatives of councils from across England, Scotland and Wales and senior HSE staff about the proposals. The discussions covered some of the practical concerns councils have with the changes.

Consultation on Better Regulation and the LBRO

11. On 24 June the Better Regulation Executive issued two separate consultations with important implications for the regulatory landscape.
12. One of the consultations deals with the arrangements for Local Better Regulation Office (LBRO) to become a constituent part of BIS. This consultation also covers

Item 6

the following matters concerning the development of the Primary Authority scheme:

- 12.1. strengthening the role of inspection plans to deliver earned recognition for business,
 - 12.2. broadening the eligibility criteria to enable more organisations to participate in the scheme, and
 - 12.3. extending the scheme to include specific areas of regulation which are currently out of scope.
13. The other consultation has been launched as a Discussion Paper entitled 'Transforming Regulatory Enforcement' which explores the way enforcement is carried out, and puts forward some initial thinking on areas for reform that might help reduce burdens on business. The paper focuses on the themes of greater accountability, recognising and promoting good practice (including earned recognition) and also greater transparency.
14. Both consultations close on 15 September 2011 and ahead of that date, officers will consider whether the Group needs to respond to the consultations and if appropriate bring draft responses to the Board's September meeting for discussion by Members. It is understood from BIS that the feedback received on the transforming regulatory enforcement consultation will help to inform the production of a White Paper in the autumn.

Red Tape Challenge

15. The government launched the Red Tape Challenge in April as part of its initiatives to reduce red tape affecting businesses. There is a Red Tape Challenge website, which provides an opportunity for the public and businesses who regularly deal with regulation and regulators, to have their say about how legislation could be improved, scrapped or applied in a different way. Regulations relating to food and licensing have recently featured on the website.
16. As a result one proposal received by the government is that all alcohol licences be renewed and reissued on a single date to help make the licensing regime more convenient for businesses. Whilst this would bring some advantages, particularly to proprietors with multiple premises to license, councils have expressed concerns about the cost and staffing implications of moving to a single date in the year for renewing licences and the impact that it might have on tackling alcohol related disorder.