

Update on regulatory services issues

Purpose of report

For information.

Summary

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

Recommendation

That the Board notes the activities outlined.

Action

Officers to progress as appropriate.

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Update on Regulatory Services issues

Better regulation

The future of local regulation

1. Councillor Paul Bettison and Councillor Nilgun Canver, as LGA Regulatory and Licensing Champions, will be holding a workshop early in the new year to engage members about what local regulation should look like in the future. The workshop follows on from discussions by the Stronger and Safer Communities Board in November 2012.
2. Attendees at the event will have the opportunity to discuss how increased local flexibility could provide the freedom for councils to reduce red tape for responsible businesses and focus limited enforcement resources on protecting the most vulnerable in our communities from exploitation, crime and ill health. The outcomes of the workshop will inform LGA strategic engagement on regulation in the coming months. Councillor Bettison and Councillor Canver will be able to provide an update on the outcomes of the workshop at the Board meeting.

Regulatory peer challenge begins in earnest

3. Environmental health, trading standards and licensing services are intrinsically linked to local economic growth, public health and community safety. Our newly revised 'future focused' and flexible approach to peer challenge considers how regulatory services can deliver the best outcomes for their communities in across all of these areas in very difficult financial times, including options for other delivery models such as shared services.
4. The first LGA regulatory peer challenge is due to take place at the end of January 2013. There are currently a very limited number of peer challenges available at no cost to councils.

Review of the regulators compliance code

5. Since 2007 councils have been required to follow the principles of the Regulators Compliance Code, which provides a framework for regulation based on a foundation of business-friendly regulation, accountability and transparency. It promotes a consistent, targeted and risk based approach to enforcement that minimises the burdens on compliant, well run businesses. These principles have long been at the heart of local regulation.
6. The Department of Business, Innovation and Skills (BIS) has undertaken a review of the Code to improve the transparency of regulators and accountability to businesses. The LGA is working closely with BIS to ensure any changes do not present new burdens for councils or undermine the existing strengths of local accountability.

Outcome of the FSA review of feed enforcement

7. At the March 2012 Food Standards Agency (FSA) Board meeting it was agreed that the FSA would complete a review of the delivery of official animal feed controls to ensure that enforcement work of councils met the standards set down by Europe. Unfortunately significant concerns had already been raised by Europe about local authority feed enforcement and therefore it was clear that the current role for councils was under threat.
8. The LGA has worked closely with the FSA to stress that feed enforcement is an integral part of the support councils provide for local farming businesses and further effort is needed from the FSA to work with councils on feed work, including understanding local priorities and considering the variety of new delivery models that are emerging in the current economic climate.
9. In November 2012, the FSA Board agreed to a number of recommendations aimed at improving relations with councils to deliver both local priorities and expectations from Europe rather than wholesale removal of local responsibilities.

Health and Safety Executive (HSE) launches consultation on a national code for local authority enforcement

10. In November 2011 the Government published an independent review of health and safety legislation led by Professor Löfstedt. The review considered opportunities for reducing the burden of health and safety legislation on UK businesses while maintaining the progress made in improving health and safety outcomes.
11. The report included a recommendation for the enforcement role of councils to be placed under increased direction of the Health and Safety Executive (HSE), however, the Government response recognised the importance of council services remaining flexible and accountable to the needs of local industry and communities.
12. The HSE has now issued a consultation aimed at implementing this Loftstedt recommendation. It includes a draft National Code for local authorities to provide greater consistency and a tighter focus in the enforcement of health and safety across Britain. It will also ensure that local authority health and safety inspections are targeted at workplaces with the most serious risks or where there is evidence of poor performance.
13. The LGA would welcome views from all members to inform our response, which is due on 1 March 2013. The consultation can be found at <http://www.hse.gov.uk/consult/condocs/cd247.htm>

Localism Act

14. The Localism Act contains the requirement that, before EU fines can be passed to local authorities if necessary, Ministers must seek, and take heed of, the advice of an Independent Advisory Panel on EU fines adjudication.

15. The LGA has agreed to establish a standing 'pool' of experts from within the sector to draw upon in the event that an Independent Advisory Panel is required. The pool will encompass: elected members, chief executives of local authorities, and officer experts. At the Lead Members meeting on 4 December it was agreed that the Chair of the Stronger and Safer Communities Board would act as the expert in for regulatory issues, with support from Licensing and Regulatory Champions if required.

Licensing

Impact of Westminster case on licensing fees

16. Councillor Khan and Councillor Canver wrote to Jeremy Browne MP at the request of Board members to seek clarification about whether the principle of 'cost recovery' for licence fees will be impacted by a recent Westminster City Council case which ruled that not all enforcement costs could be recovered through a licence fee as a result of the European Services Directive. The Home Office has advised that the Department for Business, Innovation and Skills (BIS) will be responding to our query in the near future, while Westminster City Council is due to appeal the High Court judgement later in January 2013.

Deregulation of regulated entertainment

17. DCMS are due to announce their response to the consultation on deregulating regulated entertainment, which closed at the end of 2011. It is anticipated that this announcement will be made before the Board meeting and Councillor Canver will be able to provide brief verbal update on the implications for councils.

Events

Late night levy event and Licensing Conference

18. Councils were given new powers to levy a tax from business operating in the night-time economy to help pay for the associated policing costs. A number of councils have indicated that they are considering consulting on introducing one. As this is a new process, and following an announcement that the alcohol industry has established a fighting fund to bring legal challenges against the first levies introduced, we are holding a workshop on 22 January to bring together those councils who are actively considering a levy. The event will include sessions on media handling, developing an evidence base and political considerations. It will be chaired by Councillor Canver.
19. The annual licensing conference will take place on 5 February and will include feedback from the levy workshop. The focus this year will be on the role of the Police and Crime Commissioner in licensing, and how to implement the anticipated health objective. The conference will also look at topical issues such as establishing local fees, licensing charity collections, and metal theft.

LGA support for Regulatory Year Ahead

20. The Regulatory Year Ahead has become an established event for senior local government managers to learn from each other, meet business representatives and consider the forthcoming strategic priorities. Councillor Canver and Councillor Bettison will be speaking at the event. This year the LGA is pleased to offer members of the LGA a 10% discount.