



LBRO SUMMARY REPORT: BUSINESS EXPERIENCES OF THE RETAIL ENFORCEMENT PILOT

Foreword

As a central aspect of making the vision of the Hampton Review a reality, the Retail Enforcement Pilot (REP) was established to encourage new risk based approaches to reduce unnecessary burdens on retailers, whilst maintaining protection for consumers and employees. The pilot brought together business, central government policy owners and local authority officers to work collectively on identifying and testing new ways of working and improve understanding about how local regulators can better work together to achieve better regulatory outcomes and ensure effective use of limited resources.

Some 31 local authorities were involved in the second phase of the pilot testing risk based joint working models for 12 months. Since June 2008, LBRO has worked closely with each cluster group and other authorities developing similar joint working and intelligence sharing approaches to compile valuable lessons learned¹. However, this would be an incomplete picture without careful consideration of the REP style approach to inspection and enforcement in a business environment.

LBRO is committed to promoting positive relationships between local regulators and business. The case studies of this research highlight the importance of this relationship to business, especially small and medium sized enterprises, and the value businesses place on the professionalism and expertise of regulators. However, there remain issues of concern regarding the total regulatory burden experienced by business, including compliance requirements for new legislation.

We welcome the findings of this report and look forward to working with business, government and the local regulatory community to take forward the recommendations made to deliver better local regulation for all.

Acknowledgements

LBRO wish to thank the representatives from business and business associations who freely gave up their time to participate in this study and to colleagues at the Centre for Regional Economic Development, University of Cumbria who led the research.

Introduction

In January 2009, LBRO commissioned the Centre for Regional Economic Development, University of Cumbria (CRED) to review the impact on business of the Retail Enforcement Pilot² and similar approaches to enforcement adopted by local authority regulatory services. The research study adopted a case study approach, focusing on the experiences of six businesses varying in size, sector and geographical location.

¹ These lessons are the subject of a separate research study compiled by Middlesex University, due for publication in November 2009. More information can be found at www.lbro.org.uk.

² Report can be viewed on the LBRO website at : <http://www.lbro.org.uk/lbro-projects-retail-enforcement-pilot.html>

The conclusions from the case studies were tested with two focus groups of business associations, including representatives from the British Retail Consortium, Federation of Small Businesses, Association of Convenience Stores, Confederation of British Industry, British Chamber of Commerce, Forum of Private Business and the British Hardware Federation.

Key themes

In examining business observations, experiences and perceptions, the report identified a series of common themes regarding local authority regulatory services and the delivery of local regulation:

Relationships between regulators and businesses

Businesses felt that while they often have a good working relationship with local regulators and see it as a positive partnership, there is scope to further develop this relationship to support prosperity.

- During the training of enforcement officers, more focus should be given to business understanding and commercial awareness. Businesses reported a noticeable difference between dealing with an officer who seemed to understand business and the impact their actions will have, as opposed to officers lacking business awareness.
- One case study discussed the advantages of introducing 'star rating' for all premises to acknowledge regulatory good practice, whilst at the same time, recognising the difficulty of maintaining consistency across sectors and regions.
- Businesses interviewed asked if local regulatory officers could provide further guidance and support in identifying sources of funding or grants which may be available to help them maintain or achieve compliance.
- Compliant businesses would prefer pre-arranged rather than unannounced visits, allowing premise owners to schedule time to accommodate a regulatory visit without affecting the efficient running of the business. It was suggested that smaller businesses would appreciate notification of the visit so that the owner/manager could arrange for necessary staff cover during the visit.

The benefits of inspections

Businesses surveyed understood significant benefits of an integrated or REP style approach to regulation but stressed that there were a number of implications to be considered.

- Businesses generally did not see inspections by enforcement officers as a burden but used the opportunity to seek guidance and advice from professional officers.
- Branches of national retailers valued inspections by local authority regulatory services as an extra pair of eyes and a validation of their compliance with their head office procedures, whilst SMEs saw the inspection as an opportunity to receive validation of their efforts in achieving compliance.
- Businesses saw the real 'cost' of regulation, in terms of time and resource, as the administration of complying with existing and new legislation and suggested that this was the area which should be addressed.

Lack of consistency

A lack of consistency between local regulators remains a significant concern for business and the following observations were made by businesses and the focus groups.

- Businesses felt that some local regulators were more demanding and expected more from larger businesses as opposed to SMEs.
- Area managers of national companies highlighted examples of differing attitudes and approaches across authorities and regulators.
- Businesses expressed the need for clear and consistent advice from regulators and clarity regarding legal requirements as opposed to best practice standards.

The cost of regulation

Businesses highlighted that the total burden associated with regulatory compliance consists of a number of contributory factors of which inspection is only one. Businesses do not consider a regulatory visit in itself as the biggest burden they face, and that the following associated tasks are all significant:

- Reading regulatory documentation and where necessary, conducting secondary research.
- Maintaining regulatory paper work and associated systems.
- Updating business procedures.
- Training of staff and suppliers and communication with consumers.
- Cost of external training to gain certification – this can have a disproportionate effect on SMEs.
- Post-impact assessment – assessing the impact on the business of gaining compliance to the new regulation, including impacts on business risk.
- Legal costs to challenge enforcement decisions – SMEs perceived that large enterprises had sufficient resources to continually dispute enforcement decisions, however, the focus group highlighted that in most instances, large enterprises comply with requests rather than mount an expensive legal challenge.

Response to key themes

The Retail Enforcement Pilot was established in response to issues in the Hampton Review and evidence from business of inconsistent practices across a range of local authority regulatory services, including environmental health, trading standards, fire, building control and planning. By adopting more integrated approaches to inspection, duplication can be reduced, communication improved and greater coordination of central regulators and local delivery mechanisms achieved. The efficient use of regulatory resource is ever more important in challenging times.

The observations made by businesses and representative groups during the course of this study highlight the importance of local authorities adopting risk based joint working approaches not only to drive business compliance but to support business to prosper through the provision of accessible and reliable advice.

The importance of the relationship between local regulators and business is evident through the case studies explored, including the value businesses place on the professionalism and expertise of regulators. Better regulation requires effective relationships between the state, business, and citizens.

At a local level, local regulatory services and businesses need to build appropriate trust and understanding, creating a relationship that delivers tangible benefits for companies (e.g. “Scores on the Doors”). Business experiences show that regulatory intervention is moving towards a partnership approach rather than a solely command and control model to achieve compliance.

Good regulation requires an appropriate range of interactions between a regulator and a business which are based on risk and promotes both prosperity and protection. Within this range there is a role for both un-announced inspections, which provide a snapshot of business activity as it happens, and pre-arranged visits which enable businesses to arrange their resources and personnel to give focus on regulatory outcomes. In addition, the relationship should be developed to recognise the role of the consumer or beneficiary in delivering better outcomes.

Regulatory services are the visible face of local authorities in business communities. Over half of the interactions between local businesses and local authorities are through regulatory services officers³. This provides an opportunity for regulatory officers to use their broad professional expertise to provide practical advice to improve business compliance. As the Anderson review concluded, this role is particularly valuable to SMEs who find seeking information on regulations a considerable burden.

Positive and productive relationships are evident in the primary authority partnerships in formation. The basis for primary authority is to enable authorities to develop a comprehensive understanding of a business and its compliance record, but also the market in which it operates, its customer base and its approach to business development. Understanding these drivers of a business enables the primary authority to provide tailored support and authoritative and consistent advice that both the business and other authorities can rely on.

Regulators’ understanding of the business environment was also identified as a concern in the recent LBRO Ipsos Mori survey of business perceptions of regulation. Working with businesses and trade associations, LBRO has developed Trading Places, the largest business exchange activity of its kind. Trading Places provides short structured placements for local authority regulators in different business environments, providing valuable insight and understanding that can be used to improve regulatory relationships and compliance. Trading Places is endorsed by Confederation for British Industry, British Retail Consortium and British Chambers of Commerce and has been commended by the Regulatory Reform Committee.

While clear progress is evident in the developing relationship between local regulators and business, there remain significant concerns regarding the burden of the costly administration required to comply with new and existing regulation. As part of our role to provide advice to government, LBRO is actively supporting the work of the Better Regulation Executive to identify and implement innovative ways to reduce the administrative burden on business and deliver targeted savings of approximately 25% by 2010.

For further information on LBRO’s work, please see www.lbro.org.uk. Further information on the work of the Better Regulation Executive can be found at www.bis.gov.uk.

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³ The survey on “Business Relations with Local Authorities Regulatory Services” conducted in February 2009 and commissioned by LBRO reported that 56% of SME businesses that have had a face-to-face contact with their local authority in the last 12 months have had contact with a local authority regulatory services officer.