



Response to the Cabinet Office and BIS Red Tape Challenge Review of local authority regulatory services: May 2016

Executive Summary

1. Local authorities need an adequate and suitably resourced environmental health service to support businesses and help them achieve legal compliance. This is a cheaper service delivery model than responding to non-compliance and provides better public health protection. Because of the extraordinarily broad reach of environmental health officers, the environmental health service is uniquely placed within the local authority environment to balance the interests of citizen and consumer with commerce and industry and benefit both the local and national economy.
2. Good regulation builds business confidence and avoids the failures that occur in an unregulated environment which cost the economy through damage to legitimate business and often damage to health, the cost of which is shunted into an already overburdened national health service.
3. Environmental health teams have the knowledge, experience, training and adaptability to take on a wide range of additional activities to deliver wider national or regional priority programmes. Local Authorities are willing to learn, adapt and evolve and regulators are particularly good at this, demonstrated by many successful partnership programmes with public health which reduce the cost of the NHS. This adaptability could be equally effective with wider national projects and programmes which require access to the general public, workforce and vulnerable groups. Where this approach has been used, it has helped support and maintain front line services.
4. There are countless examples of local authority environmental health services enabling fledgling businesses to survive and thrive and there needs to be more focus on routine support for new businesses to assist them to achieve early compliance and avoid the very real costs to the economy of non-compliance. Advice and guidance to a wide range of businesses is much less costly than retrospective enforcement action to a small number of poorly compliant businesses.
5. Alehm is a regional organisation working with local authorities and this operational model has been effective in delivering regional and cross boundary enforcement activity and national projects, where wider coordination beyond borough boundaries, is required. The government should look to support this operational model for wider, more complex activities and use it to secure greater innovation.

6. Local authorities need to have the flexibility to direct resources at the highest areas of priority to take account of emerging risks, despite locally or nationally set targets.
7. Advice and support for businesses needs to be appropriate to their specific needs, with incentives to encourage collaborative working with regulators, rather than the current approach in many authorities where resources are being restricted and directed to enforcement of the poorest businesses.
8. Most of the regulations that LAs enforce have their origins in the mid-nineteenth century. Although the legislation has been updated and expanded, the threats to health safety and welfare have evolved and continue to increase. It is currently estimated that 80,000 citizens die prematurely due to poor air quality, housing, accidents, food poisoning etc. Local authority activity to measure pollutants and work with polluters to reduce emissions helps prevent this figure being higher.
9. Good businesses support regulation and see it as creating a fairer and safer trading environment and an opportunity to obtain assistance and support. Local authorities have many examples of businesses that welcome and even seek their intervention.
10. There are new and emerging problems with ever decreasing enforcement teams which in many cases find it increasingly difficult to control the risks to public health and well-being adequately.

Examples include

- Overcrowding and beds in sheds
- Standards of air quality, particularly particulates
- Infectious disease with emerging strains causing serious ill health for example E coli.
- Illegally imported food
- Noise problems in a 24 hour economy
- Pests
- Legal highs and head shops
- Illegally imported and fake tobacco and alcohol, which is often related to wider criminal activity

Supporting Narrative

Local authority environmental health teams provide a front line regulatory service which is well-recognised, valued and trusted and is accessed by a wide cross-section of the public to improve the health and environment of local communities. The services covered are statutory functions controlling housing conditions, food safety, health and safety, pollution and noise, public health and pest control, with highly trained and experienced officers who are necessarily flexible and adaptable in their approach to service delivery. Effective enforcement, although a relatively minor element of this work, is essential to ensure that regulation is properly respected and it has been the basis for the existence of Environmental Health within the local authority environment. The main aim of regulation is to protect the public from harm.

Poor public health decreases educational attainment, increases ill health and reduces individual economic work life. All these and other impacts have a direct effect on our economy by increase demand on reactive health services, increase those individuals on benefits, reducing economic activity and have hidden social and economic costs.

The service has traditionally solved problems that did not sit comfortably within other departmental remits. As a result the service has developed comprehensive operational links across council services which enabled an integrated approach to emerging issues across the remit of local government. Environmental Health has a proud history of resolving disputes and problems, much of which are politically significant, being important to local populations and communities. Resolutions are more frequently achieved by discussion, persuasion and mediation.

The routine work of environmental health teams provides direct access to businesses, residents and workers. Officers deal directly with the most vulnerable in our society and provide an opportunity in the wider remit of public services and health, to make every contact count.

The varied activities, pragmatic decision making and flexible approach to problem solving mean the teams can adapt to changing environments, and take on new roles with ease. In particular, they are ideally positioned to deliver national and regional strategies and programmes, with minimal cost. Recent examples include public health funded projects in London Boroughs including a range of projects to tackle obesity and reduce the impact of air pollution, identifying people in need and making appropriate referrals, reporting illegal workers, cross borough and inter-agency enforcement projects around immigration, major criminal activity, safeguarding and trafficking. Local authority teams use their extensive and detailed local knowledge to target the most vulnerable and identify areas for targeted activity to best protect the public.

Services in London have seen significant cuts over recent years. For example a recent survey of food teams across London showed that over 50% of boroughs are currently unable to meet the required food inspection frequencies laid out in the FSA Code of Practice.

There have been significant changes in how Local Authorities regulate since the debate on red tape and over regulation started in the 1980s and 90s. The Regulators Compliance Code has helped to “enshrine” that change and local authority regulators have already moved towards targeted (risk assessed), intelligence led, fair, consistent and transparent enforcement. This approach is regularly reviewed by officers, updated and improved, to ensure they make best use of available resources. Environmental Health is a thoroughly modern regulator.

It is now standard practice across local authorities intending to make service cuts, to report to committees that planned restructures and reorganisations will not have an effect on levels of service delivery, to avoid political backlash from opposition parties. It is therefore unlikely that residents are fully aware of the severity of service cuts in some areas and that level of routine service may not in future meet public expectation.

There appears to be a growing consensus across government that, as resources shrink they can manage the risks with routine inspections becoming more intelligence driven, with fewer inspections of compliant businesses.

This might, on the face of it, seem an attractive means of reducing service delivery costs, while maintaining focus on the businesses that have a poor history of compliance. However, in reality, this fails to take account of the underlying culture within small business management and the reliance they place on environmental health teams to maintain a reasonable level of compliance, the high percentage of churn in small businesses and the high level of staff turnover in such businesses, all of which mean that businesses can slide into non-compliance in a short time. There is also extensive evidence that businesses do not keep local authorities informed of changes to their business operations, particularly landlords and food business owners, and there is limited intelligence available to help identify local authority priorities and spot those most at risk of becoming non-compliant.

Evidence is already emerging that demonstrates service reductions are leading to poorer levels of legal compliance and significant public health risks. In particular, two councils in London have records to show that reductions in funding to food teams, which resulted in a decrease in frequency of food safety inspections of compliant food businesses, led to a significant number of previously compliant businesses deteriorating in standards so badly, they were subject to emergency prohibition activity, improvement notices and prosecution. All formal enforcement activity requires vastly increased levels of resource and is far more costly than routine inspection work. This in turn forces local authority teams suffering reduced funding to direct their resources to the emerging non-compliant businesses and even fewer compliant businesses receive routine inspections within a reasonable time period.

Continued dismantling of these services will result in greater levels of non-compliance and teams being forced into reactive work, rather than having the ability to plan their services to best serve their local risks and priorities. This not only increases risk to public health and well-being, but also increases the cost of the service provision. It also reduces the ability of the service to take on the wider issues across their areas, as the vast majority of the service is directed to enforcement.

Services are difficult to rebuild once dismantled, and the local knowledge lost. The focus of local authority performance has been on inspection numbers and enforcement outputs, which can take precedence over emerging regional or local public health issues. However there has always been reluctance from within local environmental health teams to change these targets, as this requirement provides a form of protection from wholesale service reduction. It does however mean that local authorities direct resources towards the measured targets, (such as meeting inspection frequencies) making services less able to effectively deal with emerging risks or take on work that benefits the wider community beyond local authority boundaries.

Alehm has been well positioned to step in to assist boroughs when emerging incidents of national significance require wider investigation across local authority boundaries. Alehm has project managed or coordinated a number of investigations, taking the pressure off local service managers who have been particularly affected by reduced resources. However this assistance is dependent on external funding and still requires local borough teams to redirect resources away from core duties.

Likewise Alehm has coordinated a number of FSA projects on behalf of boroughs, to help achieve FSA priorities. The Alehm model has worked well and could be used to support this type of role in the future.

However, local authority services must be of sufficient size to deliver core activity with more flexibility to deliver what is needed regionally or locally. While there are clear signs that local authority regulatory services will continue to face reductions in resources, it is important to maintain a core structure, with sufficient experience and operational arrangements in place to support businesses to achieve compliance. This is significantly cheaper than resorting to enforcement on failure. For example each formal closure of a food business requires the equivalent resources to that required for approximately 8 routine food inspections.

Some Councils have maintained services and met expected levels of routine proactive work by using their resources to concurrently deliver national programmes and projects. This partnership working has supported and maintained a valuable enforcement service along with a more effective proactive service which is better able to protect the public. Several councils have achieved this by working with their local public health teams, and using external funding to deliver high priority programmes which will deliver savings in other areas of public service, particularly the NHS.

SMEs often rely on the support and early intervention provided by Environmental Health. Churn means up to 25% of businesses change hands in any year, with an average of 10 to 15% churn in London authorities. Early intervention means that these businesses are more likely to be compliant and maintain compliance and have a better chance of success. Early intervention is less resource intensive than dealing with non-compliance. Both local and central government are moving towards less direct contact and more signposting to generalist advice. Such advice and support is of limited value, as most business owners need specific advice on how to adapt the legal requirements to meet their specific needs. Businesses also will have minimal funds and if they have to pay for a service, they are less likely to access it, but risk the consequences of non-compliance. Several boroughs have tried to introduce consultancy services and charge SMEs for personal advice, but this is rarely successful. Ongoing reductions in services mean there are less resources to support businesses (as this is not seen as a statutory function) and more focus on enforcement.

For more detailed evidence and examples please contact Alehm.
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