

Non-economic Regulators: Duty to Have Regard to Growth

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Councils are playing key roles in enabling growth in the economy, promoting consumer and business confidence and supporting the private sector. With their local partners, councils have been attracting finance for and investing in infrastructure and housing, regulating rogue traders and targeting economic development activity at supporting local companies to grow and create jobs – in short, councils are getting on with promoting growth.

The Local Government Association is a strong proponent of the positive role that effective regulation can play in stimulating growth; by supporting start-up businesses to avoid common mistakes; by helping businesses to expand and grow their market safely; and ultimately by advising on how to label products for exports at European and international level.

Good regulation can support the growth of responsible businesses, while delivering robust and effective protective measures for residents and communities. Our experience is that responsible businesses both welcome and value this role for regulation, which plays an important part in fostering consumer confidence and for eliminating those businesses whose underhand activities pose a threat to the reputation of the industry, and to the safety of their customers.

We therefore strongly support the principle that both national and local regulation can effectively support sustainable growth, while maintaining the safeguards and protections that make the United Kingdom one of the safest places in which to live and do business.

Although we appreciate the intention of the proposal to place a new growth duty on regulators, we are not convinced that this is the way to achieve this. Legal duties are blunt instruments that, without a simultaneous change in culture and behaviour, have limited practical effect.

A more sophisticated approach is to take a locality and business-based approach to engagement and enforcement. Opening up organisations to make them more transparent and accountable, in the way that councils are accountable to democratically-elected representatives, can lead to a significant transformation in the way an organisation operates. These changes can be done without the need for a duty.

Councils are 'Open for Business'

Councils have a long tradition of promoting growth and of working in partnership with business and other stakeholders, including through the newly-created Local Enterprise Partnerships (LEPs). It is right, therefore, that the consultation recognises that councils are already committed to this approach, and have long been taking strides towards delivering growth.

This work is underpinned by legislation such as the Legislative and Regulatory Reform Act and Localism Act, but is driven by the commitment of local councillors and officers to their residents and their businesses.

Some councils, such as Suffolk, now classify regulatory services as 'Business Services' on their website. This reflects a fundamental shift in the language and communication of their work, demonstrating the value of effective regulation to businesses. The single point of contact for businesses is increasingly the fundamental way in which businesses expect to, and are able to, engage with councils.

Others councils, such as Bath and North East Somerset, have gone further and developed entirely new business models for their regulatory services. These refocus the work of the team to support businesses at the appropriate stages of their life-cycle; from start-up through to expansion.

There is much that national regulators can learn from council teams as they move away from inspection targets, blanket approaches, and an interventionist culture.

A new model for regulation

The ability of local partners to drive growth and create new jobs has been recognised in recent Government policy through City Deals, LEPs and its response to the Heseltine Review. In 2012, the Travers review remarked that local government is one of the few parts of the public sector that promotes economic growth.

For instance, the original eight City Deals are expected to create 175,000 jobs and 37,000 new apprenticeships over the next 20 years.

We need to build on these successes and follow the clear direction of travel set by the Heseltine Review. By building on the Local Growth Deals offered to all local partnerships by 2015, the LGA wants to ensure that councils have all the necessary freedom and flexibility to free businesses from red tape, whilst still ensuring we have the right tools to tackle high risk business activity that poses the greatest threat to residents and the local business environment.

We want to reposition regulation and licensing at heart of the local growth agenda, establishing a flexible system, built on a solid understanding of what local businesses want and need rather than a framework of central control and restriction.

By taking an area based approach to more flexible licensing, consolidating different regulatory systems, moving away from scheduled inspections for low and medium risk businesses to target poor performers, and a new approach that encourages business to seek advice from regulatory services, we believe that we can further enhance regulation's role in driving growth as well as protecting communities and businesses.

However, such an approach requires the full buy in of central government and national regulators. While a duty to have regard to growth will provide some of the parameters to enable this to happen, it requires a real change in the way Government views and works with local councils.

Localism

We believe that local authorities', and fire and rescue authorities', activities on behalf of national regulators should continue to fall outside the scope of the duty (Paragraph 2.16). Local authorities already prioritise growth and work across boundaries to achieve it, and so a duty to require them to continue this work is both unnecessary and bureaucratic.

What is important, and what is not always happening at the moment, is that national regulators should have a genuine consideration for the economic impact of the activities before they ask local authorities to deliver them, and check that councils have the flexibility to support the unique business needs of their area.

For some national regulators, this will mean a rapid and significant shift away from ticking boxes and counting the numbers of inspections. These activities, in such an untargeted approach, are proven to impact negatively on the economic wellbeing of a business and have no place in modern regulation.

Some national regulators are already held in high regard for their localist approach, both by councils and by the businesses they regulate, and we would not like to see a new duty interfere with this approach where it is already working well. Our view is that regulators should be given the flexibility to interpret what any new duty should mean for their work, rather than have their creativity constrained by a one size fits all approach.

Outcomes

The LGA believes that growth should be an integral part of regulators thinking and ways of working. Rather than a duty, we believe that this can be achieved through a number of ways and several regulators have already put in place measures to achieve this. A strong local presence, local partnership working and responsiveness to local issues are all indicators that a regulator is in tune with those it regulates, and will therefore support them to operate effectively and ultimately grow.

We must therefore be clear about the added value that could be brought by a statutory duty if it were to be introduced. There is a danger that focusing on a statutory duty risks creating a system of bureaucracy and monitoring, without actually achieving any real or tangible benefits for business.

Fire and Rescue Authorities (FRAs)

The Fire and Rescue Service is held in the very highest esteem by members of the public, trusted and visible in times of greatest need. The recent report from Chief Fire Officers Association, *Fighting Fires or Firefighting*, highlighted the extent to which the Service contributes to a wide range of priorities including economic and social outcomes.

FRAs are named in the Legislative and Regulatory Reform Act, and must have regard to the Regulators Code of Compliance, but are not mentioned in this consultation document. It is unclear whether they will be expected to have regard to any duty that is introduced.

Our view is that they should not be included within the scope of the duty. As with councils, they have clearly demonstrated their existing contribution

to growth and are governed by existing legislative safeguards. In addition, a number of their key services are also delivered with, or through, local authorities, who are excluded from the proposed duty. Including FRAs would therefore create a confusing anomaly within the duty.

About us

The Local Government Association (LGA) is a voluntary membership body and our member authorities cover every part of England and Wales. Together they represent over 50 million people and spend around £113 billion a year on local services. They include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities.

In developing this response we have consulted with our member networks through meetings, online discussion and e-mail communications.

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