



Primary Authority Arrangements

The UNISON Scotland submission to the Scottish Government Consultation

August 2013

Introduction

UNISON is Scotland's largest public sector trade union representing over 160,000 people delivering services across Scotland. UNISON members deliver a wide range of service protecting the public: environmental health, food hygiene, meat hygiene and planning. We also represent a range of health workers who deal with the consequences. UNISON is concerned that the regulatory reform agenda is based on a belief business is overregulated despite all the evidence to the contrary. The complaints of a small but vociferous group of business people should not be allowed weaken the essential protections needed to ensure that Scotland is a safe place to live and work. We therefore welcome the opportunity to submit evidence to this consultation.

Response

General comments

UNISON remains concerned that this proposal as with the rest of the Regulatory Reform Bill is aiming for less regulation rather than improved regulation. The basic premise is that "Better regulation is crucial to delivering sustainable economic growth and providing a favourable business environment in which companies can grow and flourish." There is little evidence to support this view as even the original consultation admitted: "At this stage we have been unable to quantify costs and benefits in any proper way." Everyone supports clear unambiguous legislation, particularly our members who have to implement it. However, complaints of red tape are rarely about the detail of specific legislation, instead they are about regulation in general. This is because some employers' organisations promote the myth of a 'red tape' crisis to try to dissuade governments from defining minimum standards for workers; consumer rights and safety; and protection for the environment. The UK version of this approach is specifically being used as an excuse to weaken employment rights and undermine health and safety.

Regulations don't just protect the public from unscrupulous and dangerous practices they protect other businesses as well. Companies who don't follow the rules can offer a cheaper and/or faster service this makes it difficult for those who do the right thing to compete. Fly tippers can charge a lot less than those who pay to have their waste disposed of or recycled. This drives down profit margins and increases costs for taxpayers who have to pay to have streets cleaned.

The OECD has developed measures of the administrative burdens on business and whether regulation is more or less strict. The UK ranks lower than virtually any other OECD economy on all the indicators. UK government research also suggests that the methodology used for employer organisations surveys is flawed; in they are most likely to be answered by a group of small business employers who are over-pessimistic about regulation. For most businesses it simply isn't an issue. The consultation quotes support for change from the Federation of Small Businesses (FSB) but even their report show less than a third of those who responded see regulation as a problem for their business. The examples given in the consultation, like the misunderstanding about refreshments shows poor understanding of regulations by individual, not poor regulations. A national standard is not the best route to tackle performance management.

Primary Authority Partnerships

Primary Authority Partnerships were set up as part of the UK Governments aim of cutting the “burden” on business and fall under the remit of Better Regulation Delivery Office (BRDO). UNISON believes that the role of regulation, and those ensuring it is adhered to, is to protect the public; any changes made to the regulatory framework here must ensure that this remains the same. The Better Regulation Delivery Office “legally nominates” the partnerships which then means they have to be recognised by all regulators. The partnership is then placed on a central register. If a problem occurs the primary authority coordinates enforcement to “ensure that business is treated consistently and proportionately.”

UNISON sees no reason to set up a separate system in Scotland as the current system already allows businesses to do so. It is not clear from the consultation how the Scottish Government plans to deal with the current role of the BRDO if a new Scottish system is introduced: will there be a similar separate office in Scotland? We are also not clear where this will leave the transferable food safety certificate plans in the Regulatory Reform Bill as it appears that the primary authority model would cover this.

In our recent survey of members in trading standards in England and Wales some concerns were expressed about how the partnerships were operating:

- a) In some authorities the service was very reliant in funding terms on the money coming in from the agreement – leading to worries about what would happen to the service if the company decided to withdraw the agreement – and concerns about possible conflicts of interest arising from that
- b) Primary authority agreements require the service to deliver value for money for the company – but that activities undertaken might be things the company would do anyway taking time and resources away from prevention and enforcement work elsewhere
- c) On the plus side they do enable streamlining of enforcement activity – on the downside as the cuts bite information and intelligence sharing is suffering. They can also cut across local accountability mechanisms

If the Scottish government moves ahead with this proposal then it must ensure that companies cannot shop around for lowest standards. There must be a good reason for choosing a particularly authority. In the example of the food hygiene standards given it is not unreasonable that a rural authority would expect mobile food vans to be able to clean everything in the van while urban authorities would accept that you could return to base each night and perform the “big clean” then. Environmental Health and Trading Standards Officers must be able to protect the public.

Members in Scotland who have experience of primary authorities were generally positive about the experience but there are some concerns about the impact of a large company on a small department. For example Greenock only has two trading standards officers so if ASDA wanted to register there it would have resource implications. There will need to be a method of maintaining some balance in the spread of this work across Scotland and ensuring that authorities can still set standards for their own areas. Some authorities could be

overwhelmed while others end up unable support their departments due to funding loss if the organisations centralise all their registrations in a few authorities.

One of the advantages is that departments are able to build good working relationships with companies in order to support good working practices through positive intervention rather than punishments. There is though a risk that if an officer works constantly with a company, they can become more like a member of staff of the host company rather than the authority. This needs to be guarded against as their role is to protect the public not support the company.

Conclusion

UNISON members deliver a wide range of regulatory services including environmental health, food hygiene, meat hygiene and planning. UNISON is concerned that the regulatory reform agenda is based on a belief business is overregulated despite all the evidence to the contrary. The complaints of a small but vociferous group of business people should not be allowed weaken the essential protections needed to ensure that Scotland is a safe place to live and work. We therefore welcome the opportunity to submit evidence to this consultation.

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