
Meeting of Executive Member for Neighbourhood Services and Advisory Panel

5th June 2008

Report of the Director of Neighbourhood Services

Retail Enforcement Pilot Scheme

Summary

1. On 6th April 2008 the Regulator's Compliance Code (RCC) came into effect. This code plays a key role in the government's better regulation agenda.
2. The purpose of this report is to explain how the council's environmental health, trading standards and licensing services teams are implementing a Retail Enforcement Scheme to achieve compliance with the RCC.

Background

3. In 2005, Sir Philip Hampton published his report on reducing the administrative burdens on business by promoting more efficient approaches to regulatory inspections and enforcement.
4. In response to this report, the Department for Business Enterprise and Regulatory Reform (BERR) published the RCC. The purpose of the RCC, which is a statutory code of practice, is to ensure regulators use a risk-based, proportionate and targeted approach to regulatory inspection and enforcement.
5. The RCC introduces seven obligations that regulators must have regard to when delivering their inspection and enforcement functions, which are to:
 - Consider the impact of regulation on the economic progress of a business
 - Use risk assessments to direct their regulatory efforts
 - Provide businesses with advice and guidance
 - Undertake appropriate inspections and other visits
 - Reduce the burden of information collection on businesses
 - Take appropriate and proportionate compliance and enforcement action
 - Be accountable for the efficiency and effectiveness of their services

6. When considering inspections and other visits by regulators, the RCC addresses the situation where a business is due to receive more than one regulatory inspection. In this instance, the RCC requires that regulators work together to minimise the burden on the business.
7. A simple way for regulators to comply with this requirement is to undertake joint or co-ordinated inspections. The regulators included under this requirement are:
 - trading standards
 - health and safety
 - food safety / food standards
 - alcohol licensing
 - fire safety
8. One solution being considered by the government to deliver this requirement is the Retail Enforcement Pilot (REP) scheme.
9. Phase I of REP commenced in November 2004. Following initial trials in two local authority areas the 'official' (i.e. government grant aided) REP programme has been expanded as Phase II to approximately 50 areas. Phase II of the REP started earlier this year.
10. The principles of REP are to:
 - Reduce the number of inspections a compliant business receives
 - Make local authority regulatory services more efficient through joint local working
 - Give consumers and employees better protection by focusing resources on high-risk or non-compliant businesses.
11. City of York Council environmental health, trading standards and licensing services applied to be included in the 'official' Phase II of REP. Unfortunately due to high levels of interest from other local authorities and financial constraints at BERR, the City of York Council were not successful in receiving grant funding.
12. However, REP provides a framework to carrying out inspections so that the council can meet the requirements of RCC. Therefore, officers involved in the management of environmental health, trading standards and licensing services are trialling a simplified version of the government funded REP model. At this stage the trial has been restricted to regulators within City of York Council (i.e. the external partner - North Yorkshire Fire and Rescue (NYFRS) are not involved at this stage).

13. A REP based inspection programme has been devised which includes premises which are due to be inspected by more than one regulator (from the list of services in paragraph 7) during 2008/09.
14. Each premises has been assigned a lead regulator (apart from NYFRS). In most cases this is the regulator with the highest risk at a given premises.
15. Under REP, the lead regulator will carry out a detailed inspection within their area of expertise as they would normally do. After completion of the inspection, the officer will complete a REP inventory to capture evidence and data for the other regulatory services. This inventory based approach avoids the need for multiple overlapping inspections from different regulators. The additional time for the inspecting officer to complete the REP inventory is in the region of 20-30 minutes.
16. The results of the REP inventory are next passed to the appropriate regulatory service for them to consider. If it appears that the business is operating within the law then no further action will be taken. However, if it appears that there are problems at the business, the regulator concerned will take appropriate follow up action (e.g. inspect the premises).
17. Should the lead regulator discover something during their inspection that raises serious concerns and requires enforcement intervention, they will report this to the attention of the relevant regulator immediately (e.g. by mobile phone).
18. It is worth noting that the REP inventory is only appropriate for elements of a business that are medium and low risk. For that reason a business that is high risk in more than one regulatory area will continue to be inspected by each of the relevant regulators. Only medium or low risk businesses will be subject to the REP process.
19. In addition to complying with RCC, adopting this approach to regulating business is expected to reduce the total number of inspections carried out by officers. These reductions are: health and safety enforcement – 24, licensing enforcement – 138, food standards – 273, food safety - 35.
20. This will allow officers to focus more time and effort on the problematic businesses where more significant and relevant outcomes can be achieved (including formal enforcement action against persistently non compliant businesses). It will also enable a broader base of intelligence to be gathered during inspections, thus allowing earlier identification of trends/problems.

Consultation

21. Businesses that are subject to a REP scheme inspection will be subject to a satisfaction survey.

Options

22. There are no options associated with this report.

Analysis

23. No analysis is required.

Corporate Priorities

24. This new approach to regulating businesses has the potential to impact upon a number of the council's corporate priorities:
- Improve the economic prosperity of the people of York with a focus on minimising income differentials.
 - Improve the health and lifestyles of the people who live in York, in particular amongst groups whose levels of health are the poorest.

Implications

Financial

25. There are no financial implications associated with this report.

Other implications

26. There are no significant HR, equalities, legal, crime and disorder, IT, property or other implications other than those set out in the body of this report.

Risk Management

27. In compliance with the Council's Risk Management Strategy, there are no risks associated with the recommendations of this report.

Recommendations

28. That the Advisory Panel advise the Executive Member to note the contents of this report.

Reason: So that members are aware of action being taken to meet the council's obligations under the Regulator's Compliance Code.

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Specialist Implications Officers: None

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Regulator's Compliance Code (published by the Department for Business, Enterprise and Regulatory Reform)

Annexes

None