

DERBYSHIRE COUNTY COUNCIL

Cabinet Member – Health and Communities

18 July 2013

Report of the Strategic Director Cultural and Community Services

SUPPORT FOR LOCAL BUSINESSES - REDUCING REGULATORY BURDENS

1. Purpose of the report:

To seek the Cabinet Member – Health and Communities' approval to spend £10,000 from the Trading Standards Divisional budget to work in partnership with a Derbyshire District Council, Derbyshire and Nottinghamshire Chamber of Commerce, D2N2 Local Economic Partnership and Derbyshire Public Health to provide additional advice to Derbyshire businesses as part of a Better Business for All initiative.

2. Information and analysis

- 2.1. The vast majority of legislation that the Trading Standards Service enforces on behalf of the authority impacts on businesses in order to protect consumers from unfair or unsafe products and trading practices. Enforcement of the legislation also protects the vast majority of legitimate businesses operating in the county from unfair competition from the minority of non-compliant businesses. However, there is a perception amongst certain businesses that regulations and how they are enforced can be a burden to business and thus inhibit growth.
- 2.2. A recent survey by the Derbyshire and Nottinghamshire Chamber of Commerce (DNCC) suggests that their members believe that meeting regulatory requirements costs an average £46,000 per year and 29% of businesses surveyed believe that 'regulations place them at a competitive disadvantage. (See appendix 1 – The Impact of Burdensome Regulation on Business, DNCC Report, March 2013). The main issues that businesses in Derbyshire and Nottinghamshire have are with employment law and health and safety and gratifyingly, none of the businesses identified trading standards legislation as a burden. Indeed, from the last survey of businesses that have been subject to a trading standards visit and/or received advice, 99% of those that responded were either satisfied or very satisfied with the service they received.
- 2.3. Nevertheless, the DNCC survey indicates that when dealing with local regulatory services, businesses believe that the following would be beneficial:
 - A single point of local regulation contact (56%)

- Regulators' business awareness training (27%)
- Tailored advice to match business life cycle (19%)
- Coordinated inspections by regulators (14%)
- Without prejudice discussions (35%)
- More enforcement of rogue traders (35%)

2.4. The lead government department for much of the legislation enforced by the trading standards division is the Department for Business Innovation and Skills (BIS) and for the past five years, Derbyshire has worked closely with the Better Regulatory Delivery Office (BRDO) which is part of BIS. Regulators within the Leicester and Leicestershire Local Economic Partnership (LEP) have sought to address the actual and perceived regulatory burdens on business through a BRDO supported partnership called Better Business for All (BBfA - see appendix 2 for further details). The intention of the BBfA initiative is to bring together businesses, business representatives and local regulators within the LEP to facilitate a better communication and understanding of regulatory and business requirements. Derbyshire Trading Standards is currently supporting a D2N2 LEP BBfA initiative to seek to improve dialogue with local businesses throughout the D2N2 region.

2.5. One area that has been identified by D2N2 businesses as a burden is health and safety requirements. There is also a correlation between seeking compliance with health and safety legislation – which are the responsibility of district environmental health and the Health and Safety Executive – and the ambitions of Public Health colleagues to improve workplace health of employees working in Derbyshire. A joint bid to BRDO for 'innovation funding' to provide additional health and safety advice within two pilot districts within the D2N2 region was, unfortunately, not successful. However, there is local commitment to seek to improve advice to businesses on the requirements of health and safety requirements and to seek synergies with improving workplace health. There is a belief that rather than seek advice from the local authority, businesses will engage the services of private sector consultants and/or be led to believe by the insurance sector that they need to spend far more on compliance costs than would be required by the local authority.

2.6. By providing additional grant-funded local authority health and safety advice it was intended to promote the availability of this service through D2N2 to local businesses in the two pilot areas. In this way, it should be possible to assess the take-up rate of local businesses for advice on how to comply with health and safety requirements. A low take-up rate would suggest that health and safety compliance is not as burdensome as some businesses perceive.

2.7. An important aspect of the bid was to seek to understand what would be of most assistance to local businesses in terms of workplace health. There are a number of government schemes to improve workplace health, the most recent of which is the launch of a 'toolkit' for local authorities to localise the Public Health Responsibility Deal. See web-link below:

- 2.8. As part of the revised trading standards service plan for this year, trading standards staff are planning to promote aspects of the toolkit to local catering businesses such as the 'tips on chips' (see page 30 of the toolkit). There is also a correlation between low income and part-time employment and debt. The division currently works closely with the Illegal Money Lending Team to raise awareness of the threat from loansharks which could also form an aspect of workplace health.
- 2.9. Although the innovation bid to BRDO was not successful – there were over 70 bids for six grants of up to £20,000 – there is still a willingness and commitment amongst local authority regulators within the D2N2 region to work with Public Health and other enforcement colleagues to form better links with local businesses in order to reduce real or perceived regulatory burdens and thus facilitate economic growth. It is therefore requested that the Cabinet Member approves the use of £10,000 to work with a Derbyshire district council to offer additional workplace advice in conjunction with D2N2 and the Derbyshire and Nottinghamshire Chamber of Commerce for a trial period to be concluded by March 2014. This additional service would be provided in collaboration with public health colleagues to maximise the potential to improve workplace health as well as more efficient compliance with health and safety requirements.
- 2.10. At the end of the trial period the success criteria will be measured by:
- Business take-up of the service
 - Any reduction in health and safety compliance costs for local businesses
 - Any change in the perception that health and safety is a burden on local businesses
 - Identification of the workplace issues of most concern to local businesses

3. Financial Considerations

£10,000 can be found within existing divisional budgets for this financial year. The money would be used to provide an additional business advisory service in partnership with a district council environmental health service, Derbyshire and Nottinghamshire Chamber of Commerce, D2N2 LEP and Derbyshire Public Health colleagues.

4. Other considerations:

In preparing this report the relevance of the following factors has been considered; legal, prevention of crime and disorder, equality of opportunity; and environmental, health, human resources, property and transport considerations.

5. Background papers

None

6. Key Decision:

No

7. Call-in:

Is it required that call-in be waived for any decision on this report?

No

8. Strategic Director's recommendation:

That the Cabinet Member – Health and Communities agrees to the expenditure of £10,000 from the Trading Standards Divisional budget to work in partnership with a Derbyshire District Council, Derbyshire and Nottinghamshire Chamber of Commerce, D2N2 Local Economic Partnership and Derbyshire Public Health to provide, for a trial period, additional advice to Derbyshire businesses as part of a Better Business for All initiative.

Martin Molloy
Strategic Director
Cultural and Community Services

Derbyshire and Nottinghamshire Chamber of Commerce Survey – The impact of Burdensome Regulation on Business

1. RESEARCH AND BUSINESS ENGAGEMENT

DNCC has long campaigned for the removal of bureaucratic barriers that inhibit business growth, and welcomes Government initiatives to address these problems. Currently it is looking for the Growth and Infrastructure Bill to set out a series of practical reforms to reduce confusing and overlapping regulation that delays and discourages business investment, new infrastructure and job creation.

DNCC has surveyed its Members in a bid to determine the extent to which Government is fulfilling its recent “one in, two out” promise. Most Chamber Members cited the country’s over prescriptive Health and Safety regime, employee dismissals process, and statutory maternity/paternity leave for new parents as their key areas of concern.

The cost of compliance with regulation is a key issue, with firms spending on average £46,000 each year ensuring their business complies with the rules and regulations governing their sector, ranging from sole traders paying as little as £50, to one local business, which reported that it had an annual compliance spend of £150,000. Around 15% of Derbyshire and Nottinghamshire companies inform DNCC that staff spend between 10-20 hours every week on compliance administration.

On the basis of this research, DNCC has made efforts to bring together local businesses with regulators so that they can hold frank discussions on the logistical impact of excessive levels of regulation in the modern workplace.

This has been conducted in conjunction with The Local Better Regulation Organisation (LBRO). DNCC has also recently brokered an interface with HMRC on similar issues. This meeting identified difficulties in online filing procedures for corporation tax, over-zealous penalties for non-submission of P35 forms and inconsistencies in the telephone helpline service. A prominent Chamber Member also reported being forced to pay import duty on goods it had manufactured here in the UK that were being returned for repair, servicing or maintenance.

2. EMPLOYMENT LAW

The relentless flow of complex employment law is stifling UK competitiveness and compromises future job creation.

For example, business is not against the principle of flexible working, but feels that further regulation is too prescriptive and may also result in companies reducing their existing flexible working arrangements to protect themselves from litigation and perceptions of unfairness or inconsistencies in their responses to requests.

Chamber Members inform DNCC that regulation for shared parental responsibility must strike a balance between doing the right thing for staff and managing the extra workload caused by employees on leave, without creating extra costs that many firms cannot afford.

There is an emerging consensus amongst Chamber Members that employment law is now weighted too far in favour of the employee. Many edicts come from EU legislation, which is informed by - and aimed at - labour markets very different to our own. The

result is that the UK and the EU are becoming increasingly uncompetitive due to the rising cost of labour.

Businesses are disappointed by a European Court of Justice ruling to allow EU workers to claim back holiday entitlement if they fall ill whilst on paid annual leave. As a result of this ruling, DNCC has urged local firms to review their HR policies.

Government's ongoing review of employment law must result in changes to rid businesses of onerous regulations that prevent them from investing, expanding, creating jobs and driving the future growth that our economy needs.

2. HEALTH & SAFETY

Almost one quarter of DNCC's Members identified health and safety "yellow tape" as a burden in a 2012 survey. While health and safety in the workplace is important, the volume and ambiguity of this regulation means that it is often misapplied, with small- and medium-sized firms particularly affected. As a result, DNCC called for change through the following recommendations:-

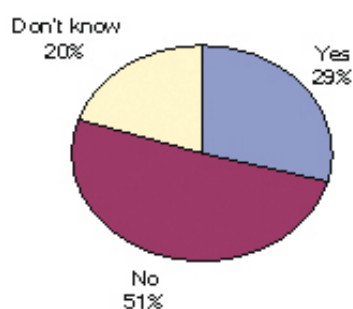
- Regulation should be tailored to the risk-level of the workplace: low-risk businesses are often treated in the same manner as high-risk firms.
- Streamline and simplify legislation to reduce costs and confusion: the sheer number of laws causes uncertainty and means health and safety is in danger of being a 'tick-box' exercise.
- Review the UK implementation of EU Directives: UK legislation has taken already stringent EU directives further to include the self-employed, and there are examples of duplication between UK and EU rules that bring unnecessary costs.

Government's Red Tape Challenge lists 131 separate health and safety regulations. The sheer volume of rules causes confusion for employers, particularly amongst smaller firms without the resource to tackle this.

3. CURRENT CONDITIONS

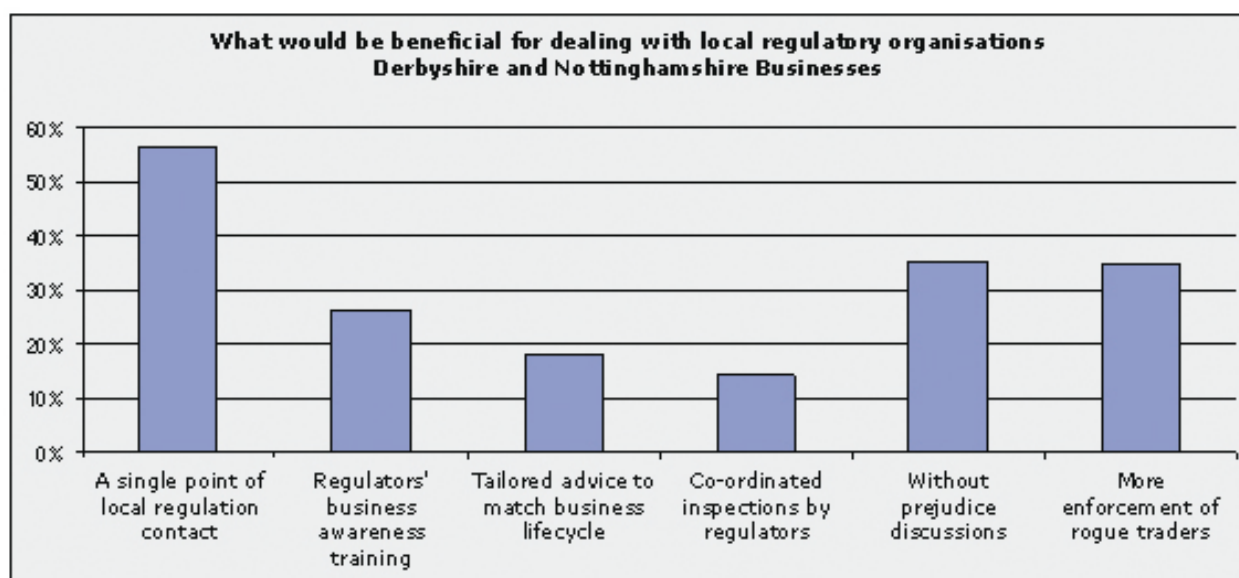
DNCC acknowledges that the Government has made some progress in terms of reducing the volume of regulatory burdens that strangle so many businesses and stop them from investing, recruiting and growing. Despite this effort, 29% of Derbyshire and Nottinghamshire businesses still believe that regulation places them at a competitive disadvantage.

**Are regulations placing your business at a competitive disadvantage
Derbyshire and Nottinghamshire Businesses**



In conjunction with the D2N2 LEP, DNCC has successfully been included as part of the next round of deployment of the Better Regulation Initiative.

A majority of those responding to DNCC's Quarterly Economic Survey (QES) would welcome a single point of contact for all local regulatory organisations. One third of businesses would value the opportunity to have 'without prejudice' discussions, and the same proportion is looking for more enforcement combating the threat of rogue traders. Firms are also looking for a more business focused approach from regulators which could be achieved through business awareness training, a tailored approach to meet business needs, and (where appropriate) a co-ordinated approach to inspections.



DNCC has informed MPs and external partners that it is keen to host civil servants and to provide evidence to assist MPs in influencing the development of new legislation.

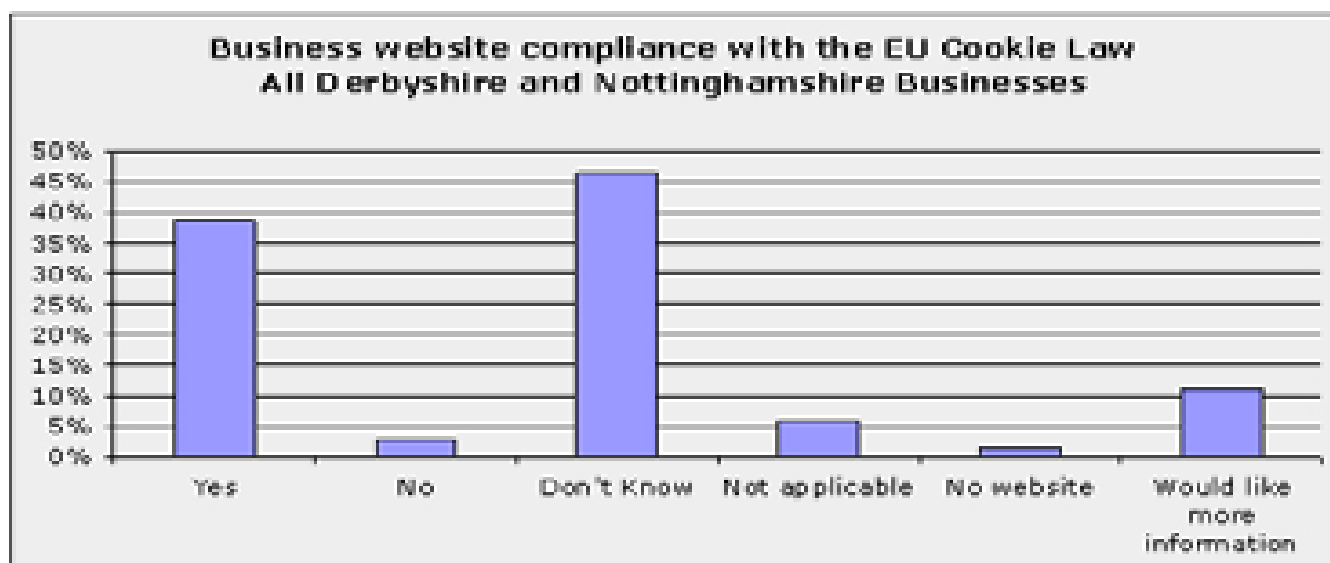
4. THE IMPACT OF EU REGULATION AND PLANNING AHEAD

The Prime Minister's proposed renegotiation of the UK's 'contract' with the EU has been broadly welcomed by Chamber Members, although concern has been expressed at a recent DNCC/MP engagement event that this prolongs uncertainty from a long term planning perspective. Regulation concerning those businesses on the proposed HS2 route are similarly affected by planning constraints that many misperceive as being long term, but are impacting on trade right now.

Those present at the MP engagement meeting felt that the UK interprets EU regulation too strictly (e.g. TUPE, health and safety) and creates problems for itself. More than one third (35%) of respondents to a recent Chamber QES on Europe reported that they felt the disadvantages around the rules and regulations imposed by Brussels now outweigh the benefits of being part of the Single Market.

A recent indicator of this is a new EU directive on the use of website "cookies", which has placed a requirement on businesses to obtain users' consent if they use cookies and similar technologies on websites and in mobile web applications. It means firms have to find a way of getting every user's consent to use cookies. The implications are that those that are unable to must either stop immediately, or face a fine up to £500,000. DNCC's survey found that there is a lack of awareness about the EU

Cookie Law in Derbyshire and Nottinghamshire, with only two-fifths of businesses prepared for its implementation: -



As a result of these findings, DNCC consequently organised a series of “Demystifying The EU Cookie Law” events in conjunction with partners at five venues across the region.

DNCC has been critical of overly strict bureaucratic interpretation of EU legislature, particularly from a procurement perspective.

This has meant that excessively rigid application has been applied to applications that saw Bombardier lose-out on the Thameslink contract, thereby compromising thousands of jobs and Derby’s heritage as the base of the UK’s last-remaining train-maker. DNCC believes that a common sense approach that also took into account the application’s impact on the local economy would have been a sensible consideration given the current operating climate.

5. **CONCLUSION**

DNCC believes that the Government needs to create a more flexible and less-burdensome trading environment by repealing regulations where it is clear the costs outweigh the benefits to the economy, and by avoiding the introduction of further regulations which place unnecessary financial strain on businesses.

With the current pressing need to reduce the UK’s unsustainable deficit, the Government stands to benefit by wasting less money on the administrative costs of bureaucracy.

Nick Chischniak
Policy & Representation Manager
DNCC

27 March 2013



Better Business for All initiative



Better Business for All – An overview of the programme in D2N2

Purpose of Briefing Note

This briefing note provides an overview of the Better Business for All programme in Derby, Derbyshire, Nottingham and Nottinghamshire.

Background

The number one priority for this government is economic recovery and bringing the country out of recession. Economic recovery is entirely dependent on private sector growth. To create the conditions for growth not only do the regulations need reviewing but there also needs to be consideration of the way in which regulation is delivered.

What is Better Business for All?

The Better Business for All (BBfA) programme has been successful in the two pathfinder LEPs, Leicester and Leicestershire and Greater Birmingham and Solihul in addressing the national priority of reducing the burdens on business to aid economic recovery, and D2N2 LEP are one of the 12 Champion LEPs rolling out the BBFA programme.

Better Business for All is a local partnership between businesses and regulatory services in D2N2 to promote growth. We cannot influence or change the regulations themselves but we can influence how regulation is delivered to create the conditions to support business growth.

Through developing a new relationship between regulatory services and businesses, Better Business for All aims to reduce both real, and perceived, regulatory barriers to business growth. The key objectives of the programme are:

- Providing advice and support to businesses
- Increasing the business awareness of regulatory officers
- Effective coordination across regulatory services
- Simplifying the local regulatory system and processes
- Establishing an ongoing partnership between regulatory services and local businesses

Four strands of work have been identified to deliver against these objectives:

- Regulatory Advice & Support to Business
- Culture & Competence of Regulatory Officers

- Communication & Coordination across Regulatory Services
- Better Partnerships

These objectives and the actions that are delivered to achieve them are underpinned by the 5 principles of good regulation:

- Targeting
- Consistency
- Transparency
- Accountability
- Proportionality

The delivery of regulation is about the way in which inspections, visits, advice and enforcement are carried out as well as the attitudes, approach, competency and actions of officers.

How a regulatory officer interacts with a business and the quality of the relationship that develops plays a part in determining whether a business decides to expand and grow. If expanding, or even in some cases continuing in business, proves to be too difficult due to the perceived regulatory barriers then regulatory services can have a negative impact on growth. However if regulatory services are seen to be encouraging expansion and are solution focused in providing advice this can genuinely support the local economy as well as continue to protect its citizens.

Regulatory Services Role in Growth

Good regulatory delivery can support growth by:

1. Reducing costs to business through
 - Assisting business to get things right first time
 - Avoiding gold plating
 - Finding appropriate solution to enable compliance and minimise risks
 - Providing advice to aid compliance
2. Improving business confidence through
 - Officers understanding business needs
 - Providing accurate, appropriate and trusted advice
 - Recognising efforts to comply
 - Earned recognition
 - Enabling investment decisions to be made
3. Realising wider economic benefits through
 - Creating new jobs as a result of expansion
 - Greater choice and availability of services
 - Creating a level playing field

Benefits of the Programme

The programme offers benefits to all partners as well as local citizens.

For businesses in the D2N2 LEP area benefits will include:

- Regulatory compliance made easier and cheaper
- Regulatory services will become more accessible to local businesses through the D2N2 LEP Business Support Scheme
- For some business leaders this will be the first time they will have the opportunity to be involved in shaping the services they receive so that they are delivered in a supportive way
- Regulatory officers will receive support and training to help them understand the pressures business face and therefore can offer solutions that are appropriate to a business's circumstances.
- The fear of contacting regulatory services for advice will reduce and an environment created whereby law abiding businesses welcome the involvement of regulatory services in supporting their business.
- Business will gain confidence in regulatory services
- Regulatory services will be delivered in a consistent way across the D2N2 LEP area
- Compliant businesses are more likely to be competitive and therefore grow and prosper.

For regulatory services benefits include:

- A new relationship with businesses removes the hostile reception that can be received as businesses have changed their perception, and will regard regulators as enablers, and will welcome their advice and support.
- With more businesses becoming compliant and removed from frequent regulatory interventions resources can be effectively targeted at the non-complaint and rogue businesses enabling more innovative approaches to be taken to bringing these businesses into compliance.
- A closer working relationship across the regulatory services enables operational tasks to be undertaken more efficiently and reduces duplication from the system.
- The improved perception that businesses have of regulatory services will reflect on the council as a whole with councils having the benefit of utilising regulatory officers as a conduit to local businesses.

For Local authorities benefits include:

- Improved relationships with the business community
- Improved working arrangements with partner regulatory organisations
- Greater efficiency through joined up working both in terms of visits and producing policies and procedures
- Regulatory services enabling 2 way dialogue with business on behalf of the authority
- National recognition of involvement in the BBfA programme
- Regulatory compliance starting to be regarded as less burdensome by local business. Compliant businesses are more competitive, resulting in a more prosperous city, county, borough or district

For citizens in D2N2 benefits include:

- More compliant and well regulated businesses leading to a vibrant high street and local economy with the creation of jobs and local investment.
- D2N2 will be a safer and more prosperous area in which to live and work

For the D2N2 Local Enterprise Partnership the benefits include:

- D2N2 will be regarded as championing the removal of regulatory barriers to growth – a good place to do business
- Businesses moving into the LEP area can be offered regulatory support to make that move as easy as possible
- More compliant businesses make for a more prosperous and competitive local economy
- Enhanced reputation of the LEP with ministers and government departments as the programme is leading nationally on this agenda and is delivering against its objectives and making a difference.

Further information

If you would like to discuss BBfA in more detail please contact Karen Edmonds, Better Regulation Delivery Office, Karen.edmonds@brdo.bis.gsi.gov.uk