Developing the Definition of Trading Standards Away from Narrow Legislative Parameters.

A case study developed in cooperation between NWML and West Sussex Trading Standards

Introduction

Local Authorities are constantly confronted by choices at every level of the organisation between conflicting calls on their resources. For a Regulatory Service like the Trading Standards Service (TsS) where the returns on a relatively small investment for the local authority are high, these choices can be fundamental and have a high impact on an individual regulator's areas of work. The development of the TSS from its origins as a Weights & Measures department to today's multi-functional Service has been dramatic. The challenge in the modern Service is to integrate "traditional" functions with newer responsibilities whilst remaining relevant to the community in which they are delivered.

A number of commentators have tried to set these functions along with other activities into neat categories with titles that either reflect the legislation or the specific areas such as Fair Trading that they address. This case study attempts to highlight how one authority has integrated the different legislative responsibilities to reflect the fact that businesses do not recognise these neat categories in their day to day dealings.

The Integrated Approach to Legislative Responsibilities.

> *A business that is willing to deliberately defraud a vulnerable elderly consumer and drive them to the ATM to withdraw their life savings to pay an over inflated bill for unnecessary work is capable of a wide range of criminal activity relevant to the TSS and other regulatory services: short measure, defective materials, vehicle construction and use offences, VAT and tax fraud, and a whole range of "unfair commercial practices" as well as theft and obtaining money by deception.*

To respond effectively the modern TSS needs to be able to bring to bear a whole range of legislative tools to secure an effective outcome. That outcome needs to ensure that all the activities cease and a suitable action is undertaken to prevent their repetition.

However, with limited resources Authorities need to prioritise the delivery of their services. West Sussex TS has adopted a model approach to the difficult question of allocation of resources and priority that attempts to move away from the restrictions that are apparent when limited legislative descriptions, geographic or sector specific criteria are used to make those decisions. ("All IP legislation is less important than all safety legislation", but when considering the impact of counterfeit brake parts compared with an incorrect labelling provision of PPE can the same be said?)

Weights and Measures legislation in West Sussex is not considered a priority but neither is any other piece of legislation. The Authority has determined a Sustainable Community Strategy with broad objectives for all their services. The TSS have translated that into a Strategic Assessment in which Weights and Measures and all the other legislation are tools in addressing the issues that affect the local community, ensuring the TSS remains relevant at the Local Authority level.

The Sustainable Community Strategy in West Sussex identifies an objective of improved health for those living and working in the authority. The TS Strategic Assessment identifies specific objectives within that theme such as the quality of food delivered by institutional catering and the effective delivery of medical services in hospitals and primary care trusts. The full range of skills and services offered by the TSS are then brought to bear on the objectives. Advice and education are provided to those making purchasing decisions covering the choice of seller, quantity and quality to demand as well as simple checks that can be made on the goods they are supplied. The investigations team may well act on specific intelligence and investigate particular firms or practices and the interventions team will work directly with traders to ensure the objectives are achieved. For weights and measures this means advice about methods of measurement, weighing or measuring goods delivered, understanding the average system of measurement and unit pricing. It might mean as it did for West Sussex a series of prosecutions relating to short measure deliveries of meat and other food products. It also includes a series of inspections to premises to check weighing and measuring equipment and to advise on its maintenance and use. All of this "traditional" weights and measures work is only a part of the delivery on this objective. The TSS also advises as part of their delivery: on food quality, food descriptions, contractual and credit advice as well as advice to ensure that the food supplied to the consumer and the way in which it is supplied meets the objectives of the community strategy.

It is this same high level objective that has enabled the trading standards department to prioritise the recent National Medical Weighing Project which aligns with the basic methodology of the authority. The project

takes a holistic approach to the problem of inaccurate weighing, putting it in the context of improved medical services and the avoidance of critical incidents. It has ensured that Trading Standards works with the users of instruments as well as the manufacturers, installers, repairers, PCT officers and the Department of Health to achieve the objective of increased awareness about the importance of accurate measurement in medical treatment as well as more accurate instruments. Whilst conducting the project the TSS can also deliver other services which complement the objectives in the Sustainable Community Strategy which might include community safety issues, healthy eating, and understanding the "CE" marking for PPE and Medical Devices as well advice on the maintenance and accuracy of other measuring equipment.

Of course none of this is possible without effective intelligence and West Sussex like any successful business is investing in its research and development activities, although it is referred to as the Intelligence Unit. As the eyes and ears of the senior management team the Intelligence Unit gathers all the information it can relating to the TS Strategic Assessment to help target resources and to constantly monitor the impact those resources are having in achieving the desired outcome.

On the Improved Health objective they drew up trend information which combines the national input from LACORS and NWML with local expertise from their senior professional staff, including local information about health care outputs, geographical information and demographics. This information is scored and added to the perceived risk to the West Sussex Community. This produces a clear professional steer that is combined with customer information which might come from a variety of sources including Consumer Direct and local and national surveys and a broader political and corporate steer that allows the calculation of a relative score upon which the senior management team can make effective resource decisions.

The Strategic Management Team meet on a monthly basis to review the trend data on each objective produced by the Intelligence Unit to ensure the effectiveness of their integrated interventions and to assess the ongoing need for resources and the existing level of prioritisation.

In the context of the Medical Weighing Project the intelligence pointed to high levels of legislative non-compliance as well as a high risk of injury to health directly in opposition to the Authority's Sustainable Community Strategy objective. Continuing efforts are being made in this area until the intelligence indicates that the trend is for greater compliance and the risks to health are reduced and likely to remain reduced.

In an intelligence-led model one of the most difficult problems to address is areas where intelligence is limited or completely absent. A recent NCC survey addressed this issue identifying the concern consumers have about quantity transactions where they are unable to evaluate the goods delivered or transactions where consumers have difficulties making effective comparisons between the similar offerings of different traders. This situation is made worse when non compliance is often not a systematic factor, but one associated with random non-compliance generated by a lack of knowledge of the legislation, a recklessness or lack of due diligence or indeed a lack of intelligent application to the task. All of this can be addressed by a single intervention episode.

To address this absence of evidence, part of the role of the Intelligence Unit is to commission a better understanding of the impact on the objective in the Strategic Assessment. This might include collecting data from other national or local sources, commissioning a survey of consumers or businesses or the undertaking of a targeted sample of inspections and reporting.

Conclusions

The conclusion that can be drawn from this example and others operating in the regulatory services environment is that no single piece of legislation is more or less important than any other. They are all tools that can be used to address the locally-determined, nationally-informed objectives of an Authority. Businesses do not think in terms of individual pieces of legislation or individual commercial activities, they think in terms of financial, ethical and operational management that deliver their overall service or product. The Consumer Protection Regulations, the Weights and Measures Act, the Food Safety Act, the Consumer Credit Act, IP legislation and other civil and criminal provisions make up a tool box that allows Regulatory Services to address much wider agendas such as safety, health, fair trading or economic development, retaining the relevancy of Trading Standards in the Local Government framework. Regulators need to recognise this holistic approach to the delivery of their legislation and assist in providing the intelligence necessary to make effective informed decisions on the deployment of limited resources within the locally determined framework.