



Scottish Regulators' Strategic Code of Practice

The UNISON Scotland submission to the Scottish Government Consultation

April 2014

Introduction

UNISON is Scotland's largest public sector trade union representing over 155,000 people delivering services across Scotland. UNISON members deliver a wide range of service protecting the public: SEPA, environmental health, food and meat hygiene and planning. UNISON Scotland is able to collate and analyse members' experience to provide evidence to inform the policy process. We therefore welcome the opportunity to respond to the consultation on the Scottish Regulators' Code of Practice.

Response

General comments

UNISON believes that the key role of regulation is to protect citizens. Scotland has a poor history of food hygiene with the highest rates of E-coli in the world. A twelve year old girl was killed by a collapsing wall in her school recently. Days are lost at work through accident or ill-health caused by poor food hygiene, substandard housing and accidents at work. All of these are a greater burden on our economy than adhering to regulations. The majority of businesses surveyed by the Federation of Small Business did not see regulation as a major problem for their businesses.

The role of regulation in improving economic and business growth is in providing standards that all have to adhere to. This protects businesses from unscrupulous or illegal actions from other businesses and from pressure to squeeze their margins when others are doing so by endangering the public. The primary role of protecting the public should not be overridden by a duty to promote economic and business growth.

UNISON welcomes a code of practice as a means of setting standards while enabling regulators to respond to local needs.

Question 1 – Does the code clearly set out its purpose and policy intent?

No

Please explain your view

Comments

UNISON remains concerned that this code of practice focuses too much on sustainable economic growth. The Government's key strategic objective: "Healthier: *Helping communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life*" is much more in tune with the role of regulators and should be the objective of the code of practice.

There is still no clear statement as to what "sustainable economic growth" is for members to use to inform their judgements. While we welcome the statement that "the latter does not mean that the interests of an individual or business should over-ride the economic, social and environmental well being of communities" the constant prioritisation of economic factor throughout the code (even in that sentence itself) means that economic factors appear to the highest priority. There is not a strong enough commitment that the safety of the public and the environment must come first. Not putting safety first has both high costs in terms

of lives lost and damaged but also financially in the long term as once things go wrong it costs a lot more to fix them than getting it right in the first place.

Question 2 – Does the code clearly explain how regulators can support compliance and contribute to achieving sustainable economic growth?

No

Please explain your answer

Comments

The code does not state clearly that regulators role is protecting the public and the environment. They are not enablers nor are the blockers. Their role as protectors and their objective to support a healthier Scotland should be clearly stated at the beginning of the code of practice.

While we welcome point 9 which indicates that the code of practice refers to general policies and principles and that it does not “apply directly to the work of that inspector or investigator in carrying out any of these activities in individual cases” members feel that there is a lack of clarity round how they should contribute to sustainable economic growth and how this will actually operate in practice. There should be a clear statement that economic development cannot have a priority over safety.

While good regulators do seek to understand those they regulate this is to enable people to comply with the rules and to avoid endangering our communities. The code states that they should take “business and economic factors appropriately into account in carrying out their regulatory duties” There needs to be much more clarity about what “appropriate” means in this context and how regulators are to weigh this against safety requirements.

Question 3 – Does the Code clearly set out the requirements to enable regulators to work in way that is transparent, accountable, proportionate, consistent and targeted only at cases where action is needed?

No

Please explain your view

Comments

There is still too little clarity about how the code will impact on the day to day work of regulators.

Question 4 – Should the Code more explicitly recognise the contribution that sustainable economic growth brings to local communities through the employment, investment and spend associated with specific business developments (see paragraph 3)?

No

Please explain your answer.

Comments

The code already focuses too heavily on sustainable economic development. While a clearer definition of that phrase would be welcome we would prefer to see a clearer statement about the risks of poor regulation and enforcement of those regulations to the health and wellbeing of the people environment and businesses in Scotland.

Question 5 – Are there any essential requirements which should be included in the Code and are currently absent?

Yes

If yes, please explain your answer.

The code should be clearer on the value of regulation and the crucial role that regulation plays in keeping us all safe. There should be a clearer duty on businesses to work with regulators and to follow the appropriate regulations for the areas they operate within.

Question 6 – Do you have additional case study examples of good practice which you would like to be included?

Yes No

If yes, please provide your case study below:

Comments

Question 7 – Do you think there would be difficulties in implementing and complying with the Code?

Yes

Please explain your answer

Comments

We have serious concerns that the code does not make it clear enough that in the course of their everyday duties regulators must focus on their role in protecting the public and the environment. The duty to promote sustainable economic development is not clearly defined nor is how to make decisions when this comes into conflict with regulatory roles.

The code places duties on regulators to communicate and build relationships with those they regulate. This takes times and so it will be crucial that there are the appropriate resources available. Collating and publishing the information laid out in the code will also require time and resources. This will be difficult in a period of funding cuts.

Question 8 – Do you agree with the proposed review process and timescales (as set out in Annex A)?

No

Please explain your view

Comments

Members feel that a much longer period of time will be needed for the review process.

Question 9 – Should the Code contain more specific monitoring and reporting requirements for regulators?

No

Please explain your view

Comments

It seems odd that a bill designed to cut down on what is perceived to be excessive monitoring and red tape for businesses leads to the development of more monitoring, form filling and added costs for the public sector. There is already too much time spent on the administration of regulation rather than out working with businesses to protect the public, another layer is unnecessary. Currently there are a range of non statutory monitoring systems in place a new system will be required with a new set of software as well and the training to use it. This will incur further costs. .

Question 10 – Do you have any other comments on the draft Code?

Comments

Conclusion

UNISON Scotland represents a UNISON members deliver a wide range of regulatory services including environmental health, food hygiene, meat hygiene and planning. We also represent a range of health workers who deal with the consequences when something goes wrong. UNISON is concerned that the code of conduct as it stands will 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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