

Scottish Government Consultation: Consultation on Primary Authority Arrangements

**Response from the Scottish Grocers' Federation
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Consultation on Primary Authority Arrangements relating to the Devolved Regulatory Responsibilities of Local Authorities in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Scottish Grocers' Federation

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Lee

Forename

John

2. Postal Address

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3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick ONE of the following boxes

Please tick as appropriate
Yes ✓

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes ✓

CONSULTATION QUESTIONS

Question 1 – In principle, do you favour the introduction of Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland?

Yes

Why? What impact would this have on current local discretion?

It is our strongly held view that Primary Authority Partnership arrangements have the potential to bring significant benefits to our members (many of whom operate across local authority areas), particularly in relation to: assured advice, co-ordinating enforcement action and developing inspection plans.

In our view a consistent approach to compliance, monitoring and enforcement is much more important to business than 'local discretion'. The Primary Authority scheme is key to achieving better regulation at local level, promoting consistency across council boundaries, encouraging a new relationship between local authority regulators and giving businesses the confidence to invest and grow.

It has the potential to drive efficient, effective and consistent regulation across the system for the benefit of all. By liaising closely with businesses to gain a detailed understanding of their operations, primary authorities will be ideally placed to support compliance by providing specific advice on which businesses will be able to rely.

Primary authorities will also act as a resource for other local authorities as they work to deliver consistent, targeted and proportionate enforcement by providing valuable intelligence on businesses' operations through advice and the development of inspection plans. The primary authority has a role to play in:

Improving the targeting of local authority resources through the provision of inspection plans:

Improving the consistency of enforcement through the provision of Primary Authority Advice to different local authorities.

Acting as a source of information on the business for local authorities that have identified compliance issues with the business; and

Responding to statutory notifications of proposed enforcement action from enforcing authorities.

Question 2 – Should relevant devolved regulatory responsibilities of local authorities in Scotland be specified in legislation as “in scope”? Why?

Yes

This will provide a clear framework for the parameters and operation of partnership arrangements.

Question 2A – Which specific devolved regulatory responsibilities of local authorities in Scotland should be specified in legislation as “in scope”?

| | |
|----------------------|--|
| Environmental Health | Food standards |
| Licensing | Landlord registration |
| Environment | Waste management |
| Planning | Building Standards |
| | Health and Safety (co-regulators with HSE) |

Why?

Specifying these areas of responsibilities as in scope will allow Primary Authority Partnerships to cover the needs of most businesses in Scotland in the most effective and comprehensive way.

Question 2B – Are there any specific devolved regulatory responsibilities of local authorities in Scotland which should **not** be specified in legislation as “in scope”? Please explain your rationale for such exclusion.

No

Comments

Question 3 – Should business eligibility to engage in a Primary Authority Partnership be restricted to “any business, charity or other organisation that is regulated by two or more local authorities in respect of a relevant function”?

No

The UK government is proposing changes to the Primary Authority scheme, through the Regulatory Reform Act to allow more businesses to join by extending the eligibility criteria.

This includes extending Primary authority to businesses who share an approach to regulatory compliance, such as members of a trade association. Generally we are supportive of this proposal and believe that Primary Authority partnerships in Scotland could be extended to allow a trade association to provide regulatory guidance to its members.

Question 4 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the current or planned UK model in terms of the focus on assured information and advice, inspection plans and enforcement action?

Yes

Please explain your view, particularly in relation to any scope to optimise consistency and compliance, including costs and administration.

Assured information, inspection plans and enforcement are the key areas of benefit to businesses of a Primary Authority Partnership. Therefore these areas should be the main elements of a Primary Authority model.

Question 5 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the UK model in terms of fees and charging regimes? If not what alternative model should be adopted?

Yes

Generally we believe that arrangements in Scotland should broadly follow the UK model in terms of fees and charging regime

Having made an assessment of the resource requirements of the partnership, the local authority and the business will need to agree how costs will be met.

The local authority is entitled to charge the business for services supplied through the partnership. In deciding whether, and to what extent, to make a charge to the business, the local authority should consider all relevant matters, including: the local authority's policy in respect of supporting local economic prosperity; the existing resources provided to this business (both by the regulatory service and by other services of the local authority); and when advice and guidance have been developed for use with more than one business, an individual business should pay no more than a reasonable proportion of the costs.

Crucially, where a local authority decides to charge for some or all of the services provided to a business, it can recover only the costs reasonably incurred in providing the service.

Question 6 – What, if any, additional considerations should be taken into account in considering whether there is broad support for Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland, and what would that involve? What measures, if any, should be considered to avoid the potential for forum shopping? Please explain your view.

We have no examples of incidents of forum shopping and as such have no comments to make on this issue.