

helpandadvice

Spring 2012 | No.77 **The Institute of Consumer Affairs Newsletter**

The National Consumer Federation (NCF) Congress Workshop 2012 –

Are the Regulators Failing Consumers?



The NCF workshop took place at the Office of Fair Trading on 27 March. It was supported by the OFT and Consumer Focus. The NCF is looking to launch a consumer charter for regulators before Westminster breaks for summer.

The guest speaker was Steve Brooker, one of the authors of the Consumer Focus report 'Rating Regulators', which was published in February 2009. He went through the research they had conducted into the performance of six regulators. The researchers chose to examine the regulators that 'operate in markets where consumers receive everyday essential goods and services' they were:

- **Financial Services Authority**
- **Food Standards Agency**
- **Ofcom**
- **Ofgem**
- **Ofwat**
- **Postcomm**

The regulators were assessed against a series of indicators, which together form the essential building blocks of a consumer focused regulator. They based their findings on an analysis

Our group looked at what we felt consumers needed from a regulator and came up with the following list:

- Clarity of purpose on consumer issues
- Reporting back requirement to the public
- Welcoming complaints and their positive aspects
- Horizon scanning for problems that can be expected to emerge
- Clear signposting of how consumers should handle complaints
- Responsibility to fund local consumer watch
- Openness with responses and outcomes that are comparable with other regulators
- Communication with consumers as the consumer wishes – not using just the website
- Consumer led, with genuine participation of consumers in the board, good evidence based understanding of their consumers and customers.

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of evidence collected in 2008 from a range of sources and techniques, including:

- **staff interviews**
- **stakeholder opinion**
- **an omnibus survey of 1000 consumers**
- **desk research – sources included: external reviews by parliamentary committees and scrutiny bodies; the regulator’s website and key corporate documents; reports by consumer organisations and others; and press cuttings.**
- **statutes – an analysis of each regulator’s establishing legislation.**
- **Full reports on each regulator are available**

Full reports on each regulator are available on the Consumer Focus website but a summary of the key strengths and areas for improvement for each regulator can be found on page 26 of the report you can download here:

http://www.consumerfocus.org.uk/assets/1/files/2009/06/10708_CF_Exec_Sum_web1.pdf

The issues up for discussion came from the NCF brief that with ‘some

exceptions, the Regulators have failed to make markets work well and give consumers the protection they need and deserve. Some Regulators have concentrated on the wrong issues; others have developed good principles but have failed to implement them to the benefit of consumers. They all have different remits.’

The 56 delegates came from various regulators, consumer groups, charities, NCF members and consumer journalists. After Steve Brooker’s speech the brain storming began with groups compiling ideas for a ‘Consumer Charter for Regulators’.

As you would expect, there were a lot of similar conclusions. The NCF now have the task of drafting a charter and hope to publish the final version before the summer recess.



The charter will be a list reflecting their high expectations. However, as an organisation which represents the average consumer, rather than professional consumer representatives, why not?

To follow their progress, go to their website www.ncf.info

Linda Cartwright

From the Chair



Alan Miles
Chair of the Institute of Consumer Affairs
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Since my last ‘message’ there has been a number of changes to the consumer landscape, the most significant of which for us, is the adoption of Consumer Direct by Citizens’ Advice. From all the accounts that I hear the transfer has been seamless as far as consumers are concerned and pretty painless for consumer advisers. What I haven’t yet heard is how the process of referrals to enforcement authorities is going. Are the referrals happening, are they just as seamless and are enforcement authorities getting the intelligence they crave? I’d love to hear your views.

You will see (on page 3) that, from next April, Citizens’ Advice will take over the functions of consumer advocacy and education from Consumer Focus and the Office of Fair Trading. Citizens’ Advice becoming “...the publicly funded voice of consumers, championing their needs and empowering them to make the right consumer decisions for themselves.”

It surprises me that Trading Standards are not mentioned. After all, the local authorities in which trading standards work are publicly funded organisations who champion consumer rights and assist consumers. They have, and I’m sure will continue to have, an education and information role although their primary role is now,

more firmly than ever, within the regulatory field. As intimated in my first paragraph it is vital that Citizens’ Advice and Trading Standards work together, for a failure to do so will not provide the protection that consumers so frequently require.

By the time you read my next ‘message’ the Olympics and Paralympics will have been and gone. Many of you will remember the seminar we held in December 2010 with over 600 days to go before the opening ceremony. At the seminar we highlighted some of the problems and difficulties that we may have to deal with: counterfeiting of clothing and souvenirs, ticket touting, advertising, food misdescription, poor accommodation and ambush marketing. Little did we know at that time that one of the biggest problems that may arise was the fact that British fans would find it so hard to obtain tickets. Large numbers of tickets have been earmarked for officials, sponsors, hospitality packages and the elite, so true fans, who have been dreaming of supporting British athletes for so long, are finding it impossible to do so, albeit that some of the more resourceful fans have found ticket availability on foreign websites. It would seem that ticket sales have been a fiasco, so much so that one has to wonder whether the organisers have inadvertently played right into the hands of the touts. Guess who’ll be left to pick up the pieces?

Latest news from Citizens Advice

Citizens Advice – becoming the voice of consumers

Following a successful transition from Consumer Direct, the Citizens Advice consumer service has been fully live since 2 April, providing phone and web-based consumer advice.

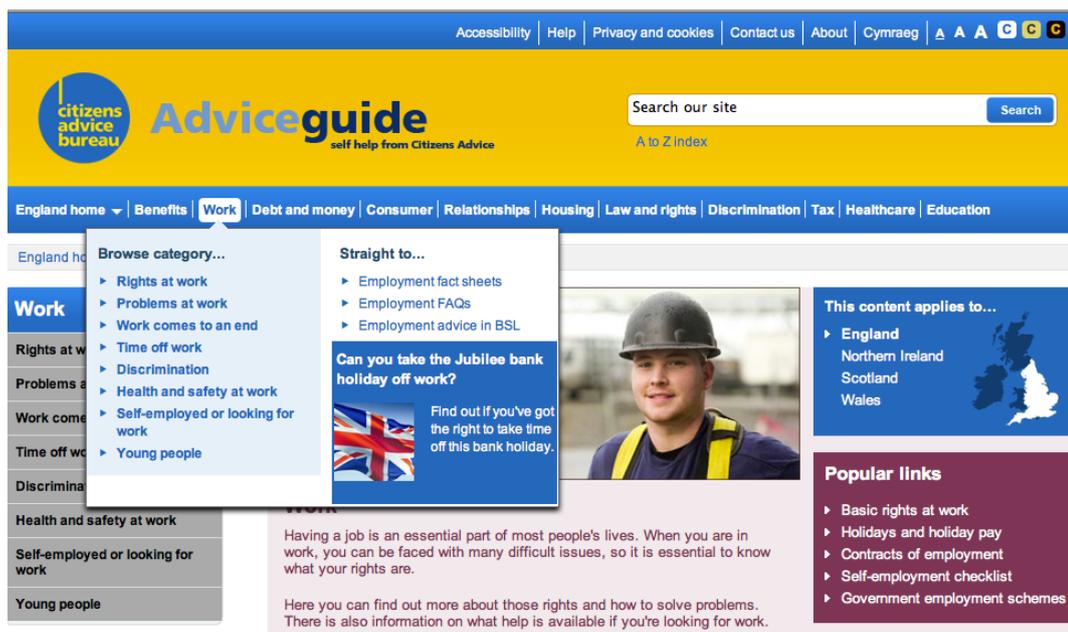
Consumers are able to reach the service on the same numbers as Consumer Direct (08454 04 05 06 for the English-language line and 08454 04 05 05 for the Welsh-language line), while online consumer advice and information is now available on our self-help website Adviceguide at www.adviceguide.org.uk.

Citizens Advice is working with bureaux, Trading Standards and other colleagues to ensure the transition continues to be smooth for both our clients and partners. We hope all our colleagues have read the Partner Readiness Pack and subsequent updates available at www.citizensadvice.org.uk/consumerfaqs, which contains all the information you should need.

In April, the Government also announced that the Citizens Advice service* will take on the functions of consumer advocacy and education from Consumer Focus and the Office of Fair Trading (OFT). From April 2013, the Citizens Advice service will therefore have responsibility for the national coordination of



Although the full details on the transfer of these new responsibilities are still being finalised, they mean we will continue to build on our already strong relationships with other organisations in the consumer landscape. We will also be working closely with Consumer Focus, the OFT and the Government to ensure a smooth transition for the benefit of consumers.



In the future, the Citizens Advice service will become the publicly funded voice of consumers, championing their needs and empowering them to make the right consumer decisions for themselves.

consumer education. At the same time we will take on 'general advocacy' policy work on consumer issues from Consumer Focus, representing consumers' interests in unregulated sectors. In 2014 a 'regulated industries unit' (RIU) will also transfer into the Citizens Advice service from Consumer Focus.

you have any questions in the meantime, please email the team via change@citizensadvice.org.uk.

* The Citizens Advice service includes both Citizens Advice and Citizens Advice Scotland.

Primary Authority – the First Three Years

It is now three years since Primary Authority (PA) was introduced in the UK, and since that time LBRO has been dissolved and BRDO has been created. It is therefore timely to update ICA colleagues on the progress made so far with PA, how successful it has been and what the future holds for the scheme.

Before I do that however, it might be helpful for me to explain about the dissolution of the Local Better Regulation Office, and the creation of the Better Regulation Delivery Office.

The BRDO story



By the time you receive this update, the Local Better Regulation Office will no longer exist. The Government carried out a Public Bodies Review in 2010 and decided LBRO's independent and technical expertise would be carried forward in the delivery of Primary Authority and other improvements to regulation, by a new streamlined and independent body within BIS, the Better Regulation Delivery Office (BRDO). Following Government consultation on the plans in 2011, the UK Parliamentary and Welsh Government debates on the Local Better Regulation Order were heard in early 2012. LBRO was dissolved on 31 March 2012.

BRDO was set up on 1 April 2012 to drive better delivery of regulation. Its aim is to promote a simple and clear regulatory environment in which businesses have the confidence to invest and grow, and citizens and communities are properly protected.

BRDO will achieve this by ensuring that the business voice is heard in the delivery of regulation and through the development of practical tools for regulators.

BRDO will therefore:

- Be the centre of expertise for Primary Authority delivery
- Work with others in business, regulation and government to simplify delivery of regulation
- Work closely with business to tackle regulatory delivery issues and supporting Local Enterprise Partnerships
- Demonstrate that enforcement matters by supporting and delivering better regulation ways of working

In the course of its work, BRDO will make evidence-based advice and support available to Parliament and the Welsh Government, and will provide guidance to local regulators. BRDO's activity will help transform the way businesses experience regulation on a day-to-day basis. It is an independent unit within the Department for Business, Innovation and Skills.



BRDO will draw from the expertise, experience and previous activity of the Local Better Regulation Office and will be guided by a Representative Steering Group. It will operate across the United Kingdom from its base in central Birmingham.

The government believes that reducing regulatory burdens and transforming regulatory enforcement is central to achieving economic growth. The Coalition's strategy for better regulation is to:

- Remove or simplify unnecessary regulations that impede growth
- Reduce the volume of regulation by introducing it only as a last resort
- Improve the quality of any remaining new regulation
- Move to better regulatory delivery that is targeted and risk based

The UK has taken an international lead in its approaches to regulation, with three distinct organisations focusing on regulatory reform to deliver economic growth. These organisations have been established within BIS and work alongside each other:

The Better Regulation Executive (BRE): an internal team leading on One In One Out, Impact Assessment Methodology, Red Tape Challenge, Regulatory Reviews and principles for EU legislation.

The Better Regulation Delivery Office (BRDO): an independent unit leading on Primary Authority, Regulators' Compliance Code, putting the business experience of regulation at the heart of policy making and developing practical tools for regulators.

The Regulatory Policy Committee (RPC): an advisory non-departmental public body leading on regulatory Impact Assessments including all new regulatory proposals and the 'outs' under the OIOO rule; as well as ensuring regulatory policy is based on good quality evidence.

Primary Authority update

Since the launch of PA in April 2009, 487 business and 84 local authorities (LA's) have formed statutory partnerships. At the time of writing (12th April 2012), the scheme now covers 50,000 business premises and more than 1,400,000 employees. There are currently 1,583 operational primary authority partnerships and the full list can be seen on the BRDO website: www.bis.gov.uk/brdo. The speed of take up of the scheme has been accelerating steadily – particularly through 2011 and into the early part of 2012.

Clearly the PA message is spreading rapidly and BRDO is working hard to support this surge of interest by providing, for example, training courses at basic and more advanced levels, downloadable reference material from the website and the development of a PA Handbook. Guidance is also provided for the development of inspection plans and a fairly recent initiative is the establishment of 'user groups' that will help with the sharing of good practice and innovative ideas for partnership development.

The 84 primary authorities in the UK include unitaries, district councils, county councils, fire authorities and a port health authority. The difference in size of local authority regulatory services is not a barrier to participation in the scheme. Some LA's are providing Primary Authority for just one or two businesses, whilst others have developed an operational model that enables them to provide Primary Authority to a large number of businesses.

'The feedback from the businesses and local authorities operating PA partnerships has been very positive; so far no partnerships have failed and there has been no need to activate the "determination process" to resolve a dispute..'

There is a considerable range in the size and types of businesses that are in PA partnerships. Whilst there was, and perhaps still is, a perception that PA is "only for large businesses", a study in September 2011 showed that 37% of Primary Authority businesses are actually SME's. 43% of businesses in Primary Authority partnerships are retailers or wholesalers, 20% are manufacturers, 11% are in hospitality and the rest are from a range of other business sectors including financial, telecommunications and entertainment.

ICA colleagues will recall that the scheme allows businesses that trade across council boundaries to form a partnership on a statutory footing with one local council, their primary authority, in relation to local regulation. Primary Authority partnerships can cover areas of regulation relating to trading standards, environmental health and licensing regulations. Businesses benefit by having a single point of contact with the local regulatory system, and access to assured advice on compliance from their primary authority. Businesses don't need to have

premises in multiple local council areas in order to benefit from Primary Authority; businesses that operate from one premise, whose products are sold further afield, are also eligible for Primary Authority. Businesses and local authorities are now free to partner each other, irrespective of geographical boundaries, provided that other eligibility requirements are satisfied.

In general terms the scheme covers most trading standards, environmental health and licensing legislation, but with a few notable exceptions - fire safety, gambling, and alcohol licensing. Work is however on going to extend the scope of PA to include these areas and several pilots are either already under way or planned for the coming months.



The feedback from the businesses and local authorities operating PA partnerships has been very positive; so far no partnerships have failed and there has been no need to activate the "determination process" to resolve a dispute. Assisted by the availability of improved guidance and template documents, the development of inspection plans, where appropriate, is increasing and some LA's have developed templates for officers to use when providing and recording primary authority advice.

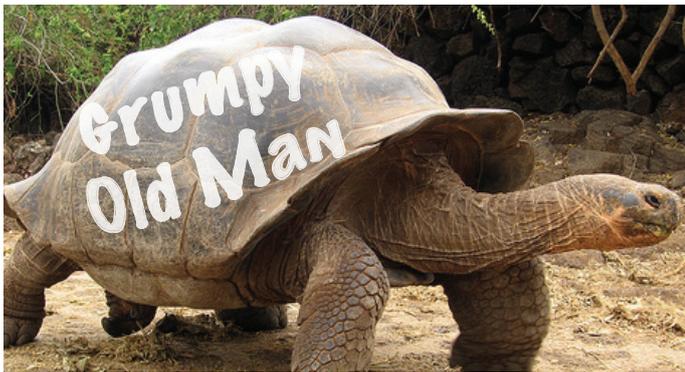
As the number of PA partnerships has increased, and the scheme has become embedded in the UK regulatory system, LA's have become aware of their roles and responsibilities as "enforcing authorities" within the scheme. There is of course no choice of opting out of the scheme altogether, because all local authorities are "enforcing authorities" within the scheme. Local authorities can however choose whether or not they wish to offer a "primary authority" service to their businesses and whether they feel they have the capacity to be able to provide one. The ability under the Regulatory Enforcement and Sanctions Act 2008 for local authority services to recover the costs of providing a primary authority service is a clear incentive. Many LA's have seen this as an opportunity to allow them to continue to provide the best possible quality of service because there are no budget implications for the Council.

Further information is available at www.bis.gov.uk/brdo



If you are interested in becoming a Primary Authority, or would like to discuss the benefits of the scheme and the help available, please give me a call on 0773 492 7177, or email me at mikehanson3@btinternet.com.

Mike Hanson



An independent view

GETTING OLD – DISGRACEFULLY

It's usually sobering to reflect upon life's inescapable conclusion, welcome or otherwise - a visit by the Grim Reaper. Fortunately none being exempt, all may scrutinise the obituary pages with apt degrees of relish, or regret. Such a pastime is not yet an offence, life being a risky business.

One peculiarity runs as a silver thread through many such tales of lives once lived. This is a reflection of values, morals and mediocrity of mankind; the one with the most toys when they die wins.

Now be that as it may, living in an age of uncertainty the growing problem for thus-defined losers, is that the sole certainty of the long sleep is predicated by another, ever-deteriorating certainty, neglected suffering, lingering demise. This unpalatable symptom of collapsing public services will be ignored politically, professionally and personally, as long as it seems 'safe' to do so. After all, one enduring precept evidently sustains the young, not yet dead; 'Live for today, for tomorrow we may die'. And tomorrow never comes, right?

Many seniors with one foot in the grave would beg to differ; tomorrow's world is here and now.

'And nobody in government expresses horror, shock, concern, tut-tut, nothing. How has it come to pass, that the views of a media mogul are evidently more 'politically interesting' than say child poverty?'

Even a middle-class 'consumer' group has taken time off testing sub-£30,000 supercars, to discover the elephant in the room. Life's end-game is as unpleasant as any political party's pretentious posturing. The group's croissant consuming, conservatively inclined liberal tendency, latte loving readers must have choked on their fondues to read of grannies sitting in excrement, starved, filthy, without water, waiting to die – alone. Something else to look forward to, eh?

Faced with a welter of faux choice, focused upon escalating living costs, beset by industrial scale advertising of irrelevance as issue, the pejoratively ascribed 'consumer' may be excused if attention upon today is preferred to that of an unwanted, undesirable, and unpleasant, impoverished day yet to be, old age. Though the price of existence contains costs, both sweet and sour, the trials and triumphs of a life will pass, its worries and wonders will fade, as our economy enters its own end of time



– the game is up. Pensions can't be afforded, inflation won't be contained, workless millions will rot in indolence, and the fading hope of graduates gaining work to save the system founders upon indebtedness.

Actions always speak louder than words; one loving child's approach? Self-help is best. Faced with an obvious display of body-bruising, an enterprising daughter has filmed her mother's abuse at the hands of one tax-funded private contractor's staff, paid with the public's money to provide a minimum-waged 'care' now expected during declining years. Needless to say the joke regulator had buried themselves beneath a veneer of opacity, 'Lower profile less hassle' is rumoured proposed as the outfit's motto, an approach perhaps under contemplation in the remains of Trading Standards too.

And nobody in government expresses horror, shock, concern, tut-tut, nothing. How has it come to pass, that the views of a media mogul are evidently more 'politically interesting' than say child poverty?

One answer comes with the national debt's Olympic circus, a politically inspired spectacle of abused office, which has much in common with the declining years of Rome. This is entertainment via mass-media for the mob, whose limited attention span will be sated, with a fortnight's frenzied focus upon contrived contests, shoehorned amid lucrative commercial sponsorships.

Brave New World, where prostituted profits and wasted taxes serve as distraction by design. Obscuring realities such as poverty and elder-abuse, both merely commonplace.

Financial advice is changing



Hello fellow ICA members. It has been a while since I have written an article for *Help and Advice*. I really wanted to let you know about our current work to help consumers manage their financial affairs and, also, ask for your help. We are in the process of making one of the biggest changes in the financial marketplace in decades – we are changing the way consumers go about getting advice on investment products, such as ISAs and pensions.

When it comes to deciding what to do with our money many of us rely on, and benefit from, expert advice. So it's important we have confidence and trust in the people that help and advise us with our investments.

To enable this we at the FSA are in the process of implementing what is known as the Retail Distribution Review (RDR). It means that from 31 December 2012, those using financial advice will get:

- **Clearer charges:** instead of being paid by commission on the products they advise on, financial advisers will have to agree charges with their client upfront.
- **Clearer services:** it will be made clear to consumers how much of the market their adviser can help with, be it all possible investment options available or specific areas.
- **More professional advice:** financial advisers will have to meet higher standards of qualification, keep knowledge up to date and sign up to an ethical code requiring them to treat consumers fairly.



'We need the help of organisations and professionals like you with direct contact with consumers to help us tell the RDR story.'

Targeting consumers

Our current challenge is how we go about explaining this to the people that matter the most – those who use, or may potentially need, financial advice.

However, here lies our hurdle. Whilst the FSA is the organisation that protects consumers when dealing with firms and using financial services and products, few 'people on the street' are likely to engage with us on this issue.

Therefore we need the help of organisations and professionals like you with direct contact with consumers to help us tell the RDR story.

Comments welcome

Our first step in this process is the production of this consumer guide. It is available to download from the FSA website (www.fsa.gov.uk) and we can provide hard copies for distribution too. A key aim for this guide is to help firms explain to their clients the changes taking place. They are encouraged to print copies for their clients or direct them to the online version. In addition, we would like consumer professionals to use the guide to introduce the changes to their respective audiences.

As part of the consumer awareness journey we are also keen to gain feedback on how to improve this guide and ideas on how to get the messages out to consumers in the most effective way. I would welcome any help ICA members can give and all feedback would be gratefully received.

In addition, as part of my wider work here in preparation for us becoming the new financial regulator, the Financial Conduct Authority, I am keen to create long term relationships across the consumer landscape. If you would like to discuss any financial services issues do get in touch. One thing being an ICA member (for close to ten years now!) has taught me is how networked we all are across the consumer movement. I hope to see more of you on the circuit in the near future.



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