

## Members' Library Service Request Form

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East Lothian Council
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Additional information:

This is a response to a Scottish Government consultation (which can be found on the web at <http://www.scotland.gov.uk/Publications/2014/02/5027> ).

Authorised By	Angela Leitch
Designation	Chief Executive
Date	06/05/14

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ANNEX D – RESPONDENT’S INFORMATION FORM AND CONSULTATION  
QUESTIONNAIRE



Consultation on Scottish Regulators’ Strategic Code of Practice

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**

East Lothian Council

**Title** Mr  Ms  Mrs  Miss  Dr  **Please tick as appropriate**

**Surname**

Leitch

**Forename**

Angela

**2. Postal Address**

John Muir House

Brewery Park

HADDINGTON

East Lothian

**Postcode** EH41 3HA

**Phone** 01620 827222

**Email**

chiefexec@eastlothian.gov.uk

**3. Permissions – I am responding as...**

**Individual**

/

**Group/Organisation**

**Please tick as**

**(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

**Please tick ONE of the following boxes**

**(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 as appropriate**

Yes  No

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**

**No**

## Consultation on Scottish Regulators' Strategic Code of Practice

### CONSULTATION QUESTIONS

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

Yes  No

Please explain your view

The Code does largely set out its purpose and policy intent, but not completely. It gives rise to a number of unanswered questions on its focus. It should be clearer that its strategic intent means it applies to the regulatory organisation i.e. in our case the Council and thereby its elected members and regulatory committees.

In particular, more exploration is needed in relation to the tension which would exist between the local authority's duty as a regulator, its political ambitions as a promoter of sustainable economic growth, and the difficulty of separating enforcement from the delivery of regulation.

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

Yes  No

Please explain your answer

The mechanism by which regulation might promote sustainable economic growth is not explained. It is not clear how much scope there is for this, given that regulatory duties are largely set out in statute and also given the financial pressures to which local authorities (and presumably other regulators) are subject, which might tend to lessen their ability to carry out some of the discretionary advice and guidance they have been accustomed to doing.

**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?

Yes  No  Partly

Please explain your view

While officers feel these principles are well established in certain parts of the regulatory community – particularly Trading Standards and Environmental Health – the Code does not elaborate as to how these requirements will be achieved, nor by what yardstick they will be judged.

**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)?

Yes  No

Please explain your answer.

The importance of sustainable economic growth to local communities is not in doubt. The regulatory activities of the local authority - particularly pragmatic advice to SME's – are intended to assist them and through this assistance contribute to their expertise and thus contribute to economic growth.

Officers indicate that they have seen no evidence that the approach of using a Strategic Regulators Code would actually help deliver sustainable economic growth. Is there any empirical evidence that would support such a hypothesis? Has the approach been tried elsewhere, and what were the results?

The Code does not advocate a deregulatory approach. It recognises the positive contribution proper regulation already makes to business sustainability.

Anecdotal evidence from officers in touch with local businesses suggests that the latter often perceive the planning system to be a significant obstacle to growth – which is not covered by this draft Code.

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

Yes  No

If yes, please explain your answer.

We are not convinced of the merits or necessity of such a Code.

In fulfilling the Council's regulatory role, officers do seek to be pragmatic, realistic and proportionate, and helpful to businesses in pursuing compliance.

**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:

The Council has twice now run a successful event, “Open for Business”, for businesses to meet Council contacts. All the Council’s relevant regulatory services are represented at these events, demonstrating how our service areas seek to work together to meet the needs of local businesses. See:  
[http://www.eastlothian.gov.uk/news/article/1578/how\\_can\\_the\\_council\\_help\\_your\\_business](http://www.eastlothian.gov.uk/news/article/1578/how_can_the_council_help_your_business)

The Council’s Trusted Trader scheme gives compliant businesses a mark of approval, which business owners have said is useful to them in bringing in new business. See:  
[http://www.eastlothian.gov.uk/info/200222/trusted\\_trader/1434/trusted\\_traders](http://www.eastlothian.gov.uk/info/200222/trusted_trader/1434/trusted_traders)

In general, regulation and enforcement marginalise non-compliant businesses, and increase public trust in those which are operating compliantly.

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

Yes  No

Please explain your answer

There will be resource implications with some of the requirements of the Code, in particular the publication and review of data and methodologies presumably to demonstrate compliance with the Code.

Will the Code introduce another means by which the regulatory functions of the local authority could be challenged?

Officers are not certain there is enough information about evaluating the effectiveness of chosen approaches to make this as straightforward as possible for the regulatory bodies.

Many aspects of the draft Code are creditable and commendable, and already well established in certain parts of the regulatory community, particularly Trading Standards and Environmental Health. The question that should be asked of any new proposed duty is: “What difference will this make?”

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

Yes  No

Please explain your view

We have no view to express on this.

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

Yes  No

Please explain your view

The Council is opposed to new, unnecessary duties for local authorities.

The resource implications of demonstrating compliance with the Code have not been elaborated, in particular the publication and review of data and methodologies presumably to demonstrate compliance with the Code. If the Code is to be introduced then it would be helpful to be clearer on this – including whether the Code will *de facto* introduce another means by which the regulatory functions of the local authority could be challenged.

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

Alcohol Licensing Boards would not appear to be covered by the Code.

It would be helpful if you could confirm that the Code applies to the regulation of activities covered by the Civic Government (Scotland) Act, also social services, education, housing, anti-social behaviour, fraud investigation.

Many liaison group arrangements between local government regulators already exist for sharing good practice and so on. Are these to be made a statutory requirement?

The Code could include a reference to regulators taking a similar cross cutting approach to regulation within their organisations. Promoting a “joined up” approach to achieving regulatory outcomes can only benefit the community and businesses (and regulators).

The Code makes a brief mention of a Primary Authority type scheme for Scotland. This is an area which needs more explanation and detail.