



PROPOSALS FOR DEVELOPING A COMMON APPROACH TO RISK ASSESSMENT

Contents

	Page
Section 1: Introduction	3
• This paper	
• Context	
• Defining risk assessment	
Section 2: The case for a common approach	5
• Drivers	
• Rationale and options	
• Benefits	
Section 3: Proposals for a common approach	7
• Scope	
• Process	
• The common approach	
Section 4: Next steps and action	15
Annex 1: Glossary	16

Section 1: Introduction

This paper

1. The purpose of this paper is to outline BRDO's proposals for developing a common approach to risk assessment. It is important to be clear that these proposals relate to the full range of regulatory interventions (i.e. not solely inspections) that local authorities undertake with respect to particular businesses and through which some form of assessment of risk is made.
2. It sets out the background context, the purpose and case for a common approach. The proposed common approach itself, along with a glossary of proposed common terms and definitions, are included as annexes to the paper.

Context

3. The system of UK regulation is highly complex involving 433 local authorities, numerous national bodies and complicated policy chains. BRDO has produced a "Mapping the Landscape" report to help understand it. To enable localism to work effectively in this context, and to create the conditions to enable efficient and coherent regulation at local level, the system needs a joined up approach at national level.
4. The implications of the current economic situation, and the consequent challenges faced by all players in the regulatory system – national regulators, LA regulatory services and business – has highlighted the need for a national facing approach. As public sector budgets shrink and the importance of enterprise promotion grows, BRDO is working to effect a change in regulatory culture at all levels, and to make the system work better for all involved.
5. Working with the Regulatory Excellence Forum (REF) of national regulators, central policy departments, professional bodies and Local Government Regulation, BRDO is agreeing common approaches, guiding principles and approaches at a national level to encourage and assist the national authorities in working more coherently. This involves seeking to replace multiple frameworks with single sets of conditions necessary for efficient and effective regulation – reducing burdens, freeing professionals to deliver, and enabling an effective localist approach.

Defining Risk Assessment

6. Through the REF, BRDO established a project with the aim of developing a common approach to risk assessment that can be applied across the various LA regulatory services functions.
7. The term "risk assessment" can of course mean many different things according to the different contexts within which it is used. In the regulatory sense, we talk about the assessment of:
 - strategic risk: i.e consideration of the statutory purpose of the regulatory organisation, the key regulatory risks that the primary legislation and regulatory authority is designed to control, and definition of objectives to address those risks;
 - priorities between national and local risk: i.e setting of priorities to control national threats or risks, such as those described in the national enforcement priorities, and of priorities relevant to particular issues of significance to local areas and local people;

- operational risk: i.e the design of risk-based interventions taking into account the concerns and priorities of citizens, the business environment – its mode of operation and incentives, and wider market conditions;
 - risk assessment of individual businesses – the subject of this document; and
 - sanctioning according to risk: i.e use of risk-based sanctioning decisions as part of a proportionate response to non-compliance.
8. The term “risk-based targeting” is used to refer to:
 - the selection of the most appropriate intervention to drive better regulatory outcomes, which may be education, provision of information, inspection, etc.,
 - the allocation of resource against the various interventions;
 - the criteria against which businesses are targeted for those interventions.
 9. Risk assessment in the context of this paper refers to the various schemes used across LA regulatory services, designed to assess the level of risk associated with a particular business, activity, or premises, which feed into (and in some cases determine) the nature of the subsequent regulatory response and its priority.
 10. The extent to which the risk scores or ratings determine the regulatory response, eg the frequency of inspection or nature of any support or enforcement action, varies between regulatory regimes. Risk assessments (or risk “ratings”) of businesses should ideally be based not only on what is found at the time of an inspection or other intervention, but should also take account of other relevant, available intelligence to inform the judgement about regulatory response. In such circumstances the resulting assessment may be the determining factor in how that business is regulated. Risk assessment is therefore key to better regulation and plays a crucial part in all of its principles: accountability, transparency, proportionality, targeting and consistency.
 11. Risk assessment schemes have been developed at various points in time by different organisations (national regulators and government departments in the main) and have been devised to satisfy the needs and priorities of the particular regulatory functions within which they sit, which means there is considerable variation in how the schemes operate. But there is also commonality, which can be built on.
 12. This paper sets out proposals for a single, common approach. The case for this is set out in Section 2, and the proposed approach itself is set out in Section 3.

Section 2: The Case for a Common Approach to Risk Assessment

Drivers for a common approach

13. The previous Section introduces some of the drivers for the work of the Regulatory Excellence Forum in terms of simplifying the complex regulatory system and creating the conditions in which a local model of service delivery can work better.
14. Creating the conditions for local regulation to work more efficiently and effectively includes replacing multiple systems with single frameworks, removing complexity and duplication, and improving accountability to business by making systems more transparent. These arguments apply in the case of regulatory risk assessment.
15. This matters to business. They rightly expect objective, consistent criteria to be applied by regulators as part of a transparent and accountable approach to forming an assessment of their performance or likelihood of their future compliance, and it matters to them because it will directly impact on how they are regulated.

Considering the rationale and options for a common approach

16. The REF set up a working group to explore the methodologies of risk assessment used by the various regulatory disciplines across local authorities, and the feasibility and benefits of creating and agreeing a common approach. This required consideration of some fundamental questions, such as the value of regulatory comparability, and whether non-compliance in one area indicates a greater risk of non-compliance in others.
17. The group found that conceptually, the elements of risk assessment schemes across the various regulatory disciplines which relate to “confidence in management” are fairly similar, and could be migrated to a consistent framework.
18. In exploring the potential benefits of a common approach, the group concluded that a more consistent, coherent and simplified approach to risk assessment across LA regulatory services could have benefits for both business and regulators, and could potentially yield efficiency savings.

The Potential Benefits of a Common Approach

19. The proposed common approach to risk assessment would support improved regulatory outcomes in a number of ways.
20. There could be much needed efficiency savings within LA regulatory services through the introduction of a common approach, for example in terms of removing duplication, shared training, and provision of support for more efficient models of delivery such as cross-regulatory and shared working within or across LAs.
21. It is an approach which aims to reduce regulatory burdens without reducing protection. It supports improved risk-based targeting and intelligence-based intervention planning, thereby providing a more transparent and less burdensome approach to regulating business. Specifically, the proposed common approach to risk assessment supports the better regulation principles in the following ways:

- **Transparency:** It is important for businesses to receive meaningful feedback from regulators on their compliance performance and how to improve it. A simplified and more transparent system would help businesses to understand the criteria against which they were being assessed, and how reducing levels of risk can result in different types of and / or less frequent interventions. In other words, a business should be able to understand the systems they are subject to, and particularly, what criteria is used to assess their performance, what the trigger points are for changes in assessment ratings, how easy is it to move between ratings, and what that means for the frequency and nature of the regulatory response. While businesses remain subject to multiple assessment systems it will be difficult for them to understand how they are being assessed and the implications of that assessment, and burdensome to try.
 - **Accountability:** Achieving better local regulation through improved accountability means making regulation more transparent and business facing. Regulators should be accountable to those they regulate; a transparent approach to risk assessment, which is based on robust and consistent criteria to underpin proportionate, intelligence-based judgements, supports and enables improved accountability.
 - **Consistency:** A business might legitimately ask why one regulator has a different “confidence in management” assessment for that particular business than another, and why one regulator should use different criteria than another. While there may be legitimate answers to both of these questions, reflecting the regulatory purpose of the different regimes, it can be confusing for businesses subject to various different approaches and in this respect reduces transparency and accountability.
 - **Targeting:** Risk assessments based on good intelligence (for example that is shared with other regulators) support effective risk-based targeting, which in turn reduces duplication of regulatory activity and nugatory regulatory activity, thus reducing burdens on compliant businesses. At micro level this is based on intelligence about the compliance status of a business, judgement about the likelihood of its future compliance, and what (if any) intervention is required. That judgement must be intelligence based. A common risk assessment approach enables better / systematic sharing of information and intelligence, which improves the robustness of the evidence available to support a regulator’s judgement on whether to make an intervention with a particular business and the nature of any intervention.
 - **Proportionality:** Similarly, robust, intelligence-based risk assessment supports proportionate regulatory responses.
22. Data sharing between regulators in order to eradicate, as far as possible, any overlaps in data provision from business, was an important recommendation from the Hampton report and has been written into the Regulators’ Compliance Code.
23. Within local authorities there is no structured means of capturing and sharing information in a systematic way. Yet, there is a strong argument that sharing of information could provide greater substance to risk assessments, either supporting judgements or providing the opportunity to question the judgements of others. Businesses which find it difficult to (or choose not to) comply in a number of regulatory spheres, may require regulators to work together to provide a co-ordinated approach to solving problems of non-compliance through support and advice (or sanctions).
24. Note that information sharing is not the focus of this paper, but the proposals recognise that a common framework for risk assessment shared across LA regulatory services would be a first step towards achieving a means of information sharing, which is proposed as the second phase of this work.

Section 3: Proposals for a Common Approach to Risk Assessment

Scope

25. The risk assessment project aims to develop commonality, to the extent that it is feasible, across the different risk assessment schemes. The work carried out to date on this project indicates that a common framework for assessing likelihood of non-compliance (or conversely likelihood of compliance, the term used in this paper's proposals) is feasible, and intuitively might deliver benefits by making information more transparent to businesses and reducing burdens created by duplication of regulatory activity. BRDO is currently seeking to test this proposition.
26. It is recognised, however, that feasibility is not the same as a positive cost-benefit analysis, which will also need to be done as part of a pilot to test the practicalities and measure the costs and benefits of information sharing based on a common risk assessment framework. The proposals for a pilot to establish the costs and benefits of sharing risk assessment information across and between local authority regulatory services, based on the common risk assessment scheme, will be developed for consultation subject to feedback following the testing of the scheme.
27. The risk assessment schemes currently in scope of the project are as follows:
- The Health and Safety Executive / Local Authorities Enforcement Liaison Committee (HELA) Priority Planning system;
 - The OFT Trading Standards Risk Assessment Scheme;
 - The FSA Food Hygiene Intervention Rating Scheme
 - The FSA Food Standards Intervention Rating Scheme
 - The FSA Primary Production Hygiene Risk Assessment Scheme;
 - The FSA Animal Feed Law Inspection Rating System
 - The DEFRA Local Authority Integrated Pollution Prevention and Control (LA-IPPC) and Local Authority Pollution Prevention and Control (LAPPC) Risk Method
 - The DEFRA Animal Health and Welfare Risk Assessment Scheme

Process

28. The REF risk assessment working group commissioned research¹ to consider how a common approach to risk assessment could be achieved. The research concluded that commonality could usefully be developed in the structure of the different risk assessment schemes, the language and terminology used, and in how the 'likelihood of non-compliance' for a particular business is assessed.
29. The risk assessment working group considered the research findings and agreed with the conclusions relating to common language and a common means of assessing the likelihood of non-compliance. The group's view was that developing a common structure would be difficult, given that (and supported by the research) the hazard elements of risk assessment are not logically comparable across regulatory regimes, and also because different regulatory disciplines make their assessments in their own unique way, derived and driven from their own unique purpose of regulation.

¹ BRDO: The prospect of increased commonality in the risk assessment schemes used by LARS, 2009

30. But it was also acknowledged that each regulator seeks to achieve a similar outcome in their understanding of confidence in management, and the research found that much of the criteria used to underpin the 'likelihood of non-compliance' (often expressed as 'confidence in management') element of the risk assessments were similar.
31. Further work was carried out by BRDO to explore the extent to which commonality could be achieved in assessing likelihood of non-compliance. After mapping the various criteria used across the different risk assessment schemes to assess likelihood of non-compliance, the remaining criteria almost exclusively related to some means of assessing the hazard. This resulted in the approach set out in this paper, which is based on mapping the risk assessment criteria into 2 broad categories of 'hazard' and 'likelihood of compliance', and taking a different approach to each.
32. The proposal is that the existing methodologies for assessing hazard are not replaced by a common system, but that the results of the hazard assessments are mapped onto a common rating scale (4 categories spanning low to high hazard). The likelihood of compliance element, however, is considered sufficiently similar to be integrated into a single common system.
33. A glossary of proposed terms and definitions of those terms, that can be used across the different risk assessment schemes, has also been prepared – see Annex 1.
34. The proposed approach was subject to a consultation exercise in September / October 2010 involving, amongst other organisations, those LAs represented on BRDO's LARS Reference Panel and the organisations that comprise the REF. The broad response to the consultation was positive, and the proposals have been revised as a result of the views expressed

The Common Approach

Overview:

35. The steps comprising the proposed approach can be summarised as follows:
 - i. Identify the level of hazard
 - ii. Identify the likelihood of compliance (See Tables 1 and 2)
 - iii. Apply the likelihood of compliance to the level of hazard to determine the level of risk (Table 3).
- i. Identifying the level of hazard**
36. It is proposed that there can be no common criteria for assessing hazard, because sensible comparison cannot be made between, for example, financial detriment from fraudulent activities and serious injury or illness from poor safety or food hygiene, and therefore existing methods should continue to be used to identify and assess the level of hazard that exists within a business.
37. However there is, potentially, value in sharing overall risk assessments, based on level of hazard and likelihood of compliance, and to achieve this requires a process of categorising the individual hazard assessments into common categories, as shown below.

The rating model for hazards:

38. Four levels of hazard are proposed:

- High
- Upper medium
- Lower medium
- Low

ii. Identifying the likelihood of compliance

39. The second stage of the process is identifying the likelihood of the business achieving compliance with relevant legislation and statutory codes of practice and standards, in the foreseeable future. This 'likelihood of compliance' (LOC) in essence represents the assessor's confidence that a business will manage the hazards or detriments to citizens, the environment, workers, the community or the economy appropriately – in short, it is the assessor's confidence in management, which is how LOC is expressed in most of the existing risk assessment schemes.

40. Some discussion and guidance is offered here, as a common method of assessment is being proposed.

41. It is proposed that a common approach be adopted for identifying the LOC category, so that the outcome is relevant to and can be applied across the different regulatory functions. The suggested approach involves assessing the LOC through consideration of a range of common criteria, grouped into 4 elements, as set out in Table 1 below.

42. The intention is that these elements and the associated criteria will replace those currently used within the relevant parts of the existing risk assessment schemes. However, it is also intended that the central bodies with responsibility for the various schemes would be able, if they feel it necessary, to add sub-criteria to the common criteria in order to make more explicit how those criteria would apply in the context of the particular regulatory function involved. In addition or alternatively, the central bodies may wish to provide additional guidance setting out how the criteria listed in Table 1 would apply in the context of the regulatory function in which they have an interest – particularly with respect to 'current level of compliance'.

43. All schemes should include the criteria specified in Table 1.

44. The common criteria are designed to assist officers in reaching a decision on the likelihood of future compliance, based on what is known currently, and to ensure that there is consistency and wider applicability in the risk assessment process. However, it must be emphasised that the criteria are provided to facilitate and enhance, not constrain, the exercise of discretion and sound professional local judgement.

Exercising sound professional judgement:

45. Businesses rightly expect objective, consistent criteria to be applied by regulators as part of a transparent and accountable approach to forming an assessment of business' likelihood of compliance, which will impact on how they are subsequently regulated. Objective and consistent criteria generally means using what "hard" evidence exists, such as a business' track record on compliance, its management systems, training records, documented procedures and so on. Table 1 provides a guide to likely relevant sources of information in this regard.

46. However, it is more difficult to prescribe hard and objective evidence about how to assess whether these systems and procedures operate well, more so about the impact of management attitudes and behaviours, and organisational culture. To what extent (for example) should one, or two incident(s) of non-compliance break down the trust and confidence in management? In what circumstances should regulators find room in their assessment for honest mistakes? What are the cultural characteristics that will demonstrate a business' commitment to compliance and characterise it as low risk?
47. Professional judgement and local knowledge are key in using the sources of information and indicators available proportionately. Key factors in this judgement are around having an understanding of the reasons for non-compliance, and what motivates different businesses to comply or avoid compliance, what barriers they face, what kind of support would make an impact, and crucially, to be able to distinguish between a business struggling to comply and one which seeks to deceive to gain competitive advantage, or makes little effort to comply.
48. The criteria in Table A must therefore be used as a guide only, and applied with local knowledge and experience based on the culture and behaviour of the business. For example, an event of non-compliance provides an indicator in relation to evidence of track record, but the behaviour of a company in response to non-compliance might be a better proxy. The event could indicate a lack of ability to manage risk effectively, or it could trigger a period of learning and development, reducing the risk of future non-compliance. It is reasons for non-compliance which provide the most useful information in assessing LOC, and this is best understood by applying empiric knowledge and judgement to each of the criteria in Table 1, where this exists.
49. The definition of risk used in the context of this paper is specified in the glossary. However, it should be understood that 'the likelihood that the hazard will cause harm' is determined by the LOC, the assumption being that a high level of compliance will result in a low likelihood of harm, and vice versa. That said, there will occasionally be situations where instances of non-compliance may not present any obvious or imminent likelihood of harm, for example with respect to many of the welfare requirements specified in health and safety legislation or in relation to certain administrative requirements of the law. Nevertheless such failings should be taken into account as part of the risk assessment process. Conversely, there will also be situations where compliance is being achieved in circumstances that may nevertheless still involve some degree of possible harm. Again, professional judgement needs to be applied in such cases, with the extent to which a business is failing to comply with the law being considered against the increased likelihood of harm that has arisen as a result.

Table 1: Common criteria for use in helping to assess likelihood of compliance	
Element	Common criteria to be included
<i>1. Track record / history of compliance</i>	<ul style="list-style-type: none"> • Complaint history; • Willingness to act on previous advice and enforcement; • Incident history (eg. accidents, food poisonings, pollution incidents, etc) and incidences of non-compliance.
<i>2. Current level of compliance</i>	<p>This element reflects the current degree of compliance with relevant legislation and statutory codes of practice and standards. The criteria (which largely already exist in the current risk assessment schemes) should ensure that the findings of the assessment reflect both the <u>number</u> of contraventions that currently exist and their <u>seriousness</u> as determined by the risk involved and the how far they fall below the minimum standard as prescribed in law.</p>
<i>3. Management assessment: Managers' competence, technical knowledge, leadership & commitment to compliance</i>	<ul style="list-style-type: none"> • What level of technical knowledge exists within the organisation? Do the key people possess the necessary competence? Where needed, does the organisation have access to contracted external technical knowledge? • Do management and key employees have a good understanding of the hazards present and how to control them, and of the relevant legal requirements? • Are appropriate training arrangements in place? • Is there evidence that managers are demonstrating leadership and commitment to compliance? <p>Consideration of whether the hazards present require innovation or application of standard answers to known problems may also be relevant.</p>
<i>4. Management systems assessment: Presence and implementation of effective systems for managing risks</i>	<ul style="list-style-type: none"> • Is there a system for managing the relevant risks? Does it include allocation of key responsibilities to particular members of staff? • Is the system being implemented and monitored? Is it effective? • Has the organisation adopted and implemented any relevant management system standards, eg. ISO14001 (Environmental Management); ISO 22000 (Food Safety Management); BS/OHSAS 18001 (Occupational health and Safety Management); ISO 9001 (Quality Management)? • Where appropriate, is there evidence of recognised external auditing / accreditation?: i.e are there relevant systems subject to external audit, and has the audit resulted in certification by an accredited (eg. by UKAS) organisation (an example would be the Red Tractor Assurance scheme used for farms)? Have the audit findings been implemented? <p>In considering the suitability and effectiveness of the systems used for managing risks, the size of the company will often need to be taken into account. The systems that might be necessary for a large company, particularly in terms of documentation, may not be necessary for a small company. What is appropriate will depend upon the circumstances, and the assessment should be undertaken on this basis.</p>

LOC assessment at national level:

50. Further judgement is required in the balance of assessment between the management of the business at the national as compared to the premises level, and ensuring that any associated dialogue or action is targeted at the right level. Where a Primary Authority partnership exists, for example, it may be appropriate for a LOC assessment of the partner business to be carried out at national level by the primary authority, and which local authorities should then take into account when making LOC assessments in relation to premises belonging to the business within their localities.

51. Looking towards the future, BRDO is currently working with businesses and local authorities to explore how the local regulatory system can deliver co-regulation and earned recognition. This will involve identifying businesses' LOC, communicating that LOC across the regulatory system, and recognising LOC in the delivery of regulatory activity. BRDO will be piloting the use of Primary Authority (specifically via the preparation and communication of inspection plans) as the vehicle to deliver earned recognition.

The rating model for LOC:

52. Five categories are proposed for LOC:

- very high likelihood
- high
- medium
- low
- very low

53. Table 2 provides a guide for applying the criteria listed in Table 1 to the LOC categories.

54. For the reasons discussed in paragraphs 44 to 47, this information provides a guide to applying the objective criteria and 'hard' evidence to the five rating categories. It should be applied using professional judgement and not used rigidly.

Table 2: Categorising the likelihood of future compliance	
LOC Category	Guidance
Very high	Minimal number of justified complaints / preventable incidents (taking into account the size of the business); good track record of compliance and responds positively to address any problems identified by enforcement officers, or other sources; current level of compliance is very good with any non-compliance being of only minor significance; knowledge of hazards and how to control risks are embedded throughout the organisation; management are fully competent to manage the risks with effective training and development arrangements in place to ensure this remains the case; the business is aware of where external technical knowledge may be required and uses it (where necessary); management are demonstrating strong leadership towards and commitment to regulatory compliance; systems used for managing risks are effective, implemented, monitored, documented, reviewed, and subject to external audit / certification by an accredited organisation; the business is demonstrating that it can effectively self-regulate
High	Few justified complaints / preventable incidents; good track record of compliance and generally responds positively to address problems identified by enforcement officers or other sources; current level of compliance is good; good appreciation of hazards and the associated legal requirements; management have the necessary competence to manage the most significant risks; external technical knowledge is used (where necessary); management are demonstrating leadership towards and commitment to regulatory compliance; systems used for managing risks are satisfactory, eg. they are fully documented but may not be subject to external audit / certification by an accredited organisation
Medium	Some (though not excessive) justified complaints / preventable incidents; reasonable track record of compliance and response to addressing problems identified by enforcement officers or other sources tends to be positive; currently some non-compliance but not of significant concern; some appreciation of hazards and knowledge of legal requirements; management demonstrate reasonable level of competence in managing risks; external technical knowledge is occasionally used (where needed); some evidence of leadership towards and commitment to regulatory compliance; systems exist for managing risks but require improving in some respects, eg. may not be fully documented and are unlikely to be subject to external audit / certification

Low	Significant numbers of justified complaints / preventable incidents; patchy track record of compliance; currently some significant non-compliance; response to addressing problems identified by enforcement officers or other sources is variable and can be poor; appreciation of hazards and associated legal requirements is not adequate; management competence lacking in a number of respects; limited use of external technical knowledge; little evidence of leadership towards and commitment to regulatory compliance; systems used for managing risks are largely ineffective, eg. unlikely to be fully documented and will not be subject to external audit / accreditation
Very low	Large numbers of justified complaints / preventable incidents; very poor track record of compliance; current level of compliance very poor; response to addressing problems identified by enforcement officers or other sources is generally lacking and ineffectual; very poor appreciation of hazards and associated legal requirements; management lack the basic competences needed to manage risks; no use made of external technical knowledge; no evidence of leadership towards or commitment to regulatory compliance; systems used for managing risks either non-existent or wholly inadequate

iii. Applying the likelihood of compliance to the level of hazard to identify the level of risk:

55. The level of risk associated with a particular business is determined by applying the LOC factor to the level of hazard. Application of the LOC factor may cause the level of risk to increase, decrease, or remain the same as the level of hazard – see Table 3 below.

Table 3: Risk Categories:

		Likelihood of Compliance				
		Very high	High	Medium	Low	Very low
Level of Hazard	High	LM	UM	UM	H	H
	Upper medium	LM	LM	UM	UM	H
	Lower medium	L	LM	LM	UM	UM
	Low	L	L	LM	LM	UM

56. Each risk category can be assigned a letter to represent the level of risk, as is currently the case in many of the existing risk assessment schemes:

- High risk – Cat A
- Upper medium risk – Cat B1
- Lower medium risk – Cat B2
- Low risk – Cat C

The link between intervention type and frequency, and the level of risk assigned

57. In most of the current risk assessment schemes, the concluding stage involves assigning a suitable type of intervention, and its frequency, for the particular level of risk. For example in the current health and safety risk assessment scheme, 'Category A' premises are scheduled to receive an inspection at least annually, whereas a change of risk rating from Cat A to Cat B changes the approach to alternative forms of intervention. For the food standards scheme, a change from Cat A to Cat B generally means a move from annual primary interventions to once every 2 years.
58. There is no suggestion that a move to a common approach as set out in this document should lead to a standardisation of the frequency and nature of interventions, as it is proposed that the hazard element of the assessment cannot be sensibly compared.

Applying the principles of risk based targeting at different levels:

59. Section 1 of this paper (paragraphs 8 to 12) acknowledges that risk assessment, and risk based targeting, happen on many levels, and suggests some of these – there are others. The risk assessment scheme proposed in this paper is focused on bringing together a number of existing schemes into a common approach, to simplify, deduplicate, create transparency and lay the foundations for improved information sharing.
60. Risk assessment in this case is focused at the level of the individual business. The approach can of course be used at a more macro level, both nationally (principally by national regulators) and locally, as in the example below.

Example:

61. A local authority may, when considering where to direct its regulatory resources for maximum impact, take account of the following in deciding whether to target the issue of unroadworthy vehicles:
- whether the issue is covered by one of the national enforcement priorities;
 - whether the matter has been raised as an issue of concern by local citizens;
 - whether there is evidence of widespread non-compliance locally in this sector.
62. Determining the level of hazard in this example would involve consideration of the types of harm involved with unroadworthy vehicles, eg economic detriment following the purchase of such a vehicle, injury as a result of a potential accident from driving these vehicles, and the possible extent of the harm, which will depend upon how many vehicles are sold locally.
63. The likelihood of compliance would be determined according to the extent of the evidence / intelligence indicating the level of non-compliance (scale of the problem). The level of hazard and likelihood of compliance can then be used to identify the level of risk resulting from this activity, and accordingly to determine whether the issue should become a local priority.

Section 4: Next Steps and Action

Phased approach

64. The following phased approach is planned:

- Phase 1: test the feasibility of the common approach set out in this paper. This began with the consultation exercise that took place in September / October 2010, and will be followed by testing of the approach across a range of local authorities and a range of regulatory areas as listed in paragraph 28. The testing will then be subject to an evaluation report.
- Phase 2: subject to the outcome of the evaluation undertaken at phase 1, test the feasibility of information sharing, and assess the costs and benefits of the planned common approach.

Feedback: Comments on this paper are welcome, and should be made to phil.preece@brdo.bis.gsi.gov.uk or Tel. 0121-226-4013.

Annex 1: Glossary

The terms and definitions provided below are not new concepts; most of them already exist within some national risk assessment schemes, or in the language used by certain regulators. Within this glossary the terms have, where necessary, been amended for clarity and wider applicability.

Hazard

Definition: 'Anything with the potential to cause *harm*'.

Notes: This is a wide definition that includes objects, substances, conditions, processes, premises and activities. The level of a hazard will be determined by the nature of the harm it can cause (in terms of its severity) and the extent of that harm (e.g. in terms of the number of people that could be affected).

Harm

Definition: 'Adverse impact on individuals, the environment, or on other businesses'.

Notes: This is a wide definition that includes physical, mental, social and economic adverse impacts.

Risk

Definition: 'A function of the level of a *hazard* **and** the likelihood that the *hazard* will cause *harm*'.

Notes: The likelihood of a hazard causing harm is represented by the 'likelihood of compliance'.

Risk Assessment

Definition: 'The process by which the *risk* associated with a particular *hazard* is identified and categorized'.

Notes: The categorisation process normally allows comparisons to be made between businesses.

Likelihood of compliance

Definition: 'The likelihood that a business will achieve *compliance*'.

Notes: Assessing the likelihood of compliance involves consideration of a range of factors that allow a business to be compared with others for the purpose of conducting a risk assessment. It is largely a reflection of the assessor's confidence in management's ability to achieve compliance and so control the risks presented by the hazard in the foreseeable future.

Compliance

Definition: 'Adherence to regulation with direct or statutory application in a given activity'.

Enforcement

Definition: 'The activities undertaken by a regulator for the purpose of securing *compliance*'.

Intervention

Definition: 'Any activity undertaken by a regulator with respect to a particular business, in order to encourage or require *compliance*'.

Inspection

'The process carried out by inspectors which involves assessing relevant documents held by the duty holder, interviewing people and/or observing site conditions, standards and practices to verify compliance. It is a type of *intervention*'.