

Title: Impact assessment of extending the Primary Authority scheme Lead department or agency: Department for Business, Innovation and Skills Other departments or agencies: Local Better Regulation Office	Impact Assessment (IA)
	IA No: BIS0275
	Date: 4 April 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Primary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The Primary Authority scheme was introduced in April 2009. It provides greater regulatory consistency and certainty for businesses operating across a number of local authority areas. The scheme is based on the creation of a statutory partnership between a multi-site business and its "Primary Authority" (PA). The PA acts as a coordinator of other local authority inspections of that business. The scheme has worked very well to date with widespread uptake and support from business, professional bodies and local authorities. Lord Young's Review of Health and Safety legislation recommended an extension of the scheme. The recommendations of Lord Young's review were accepted in full by the government. The overall rationale for intervention is to extend the benefits of the Primary Authority scheme by addressing continuing inconsistency in the enforcement of regulation at the local level in new policy areas (currently out of scope), further reducing the inspection burden on businesses (through strengthening of inspection plans) and extending eligibility criteria for businesses seeking a Primary Authority partnership.

What are the policy objectives and the intended effects?

The policy objectives are to address inconsistency in the enforcement of regulation at the local level in policy areas currently out of scope in the existing scheme and further reduction of the inspection burden on businesses by:

- ensuring that the Primary Authority scheme delivers all of its potential benefits, by strengthening key elements and incorporating a wider range of regulatory areas; and
- extending those benefits to more businesses, by increasing opportunities for participation in the scheme.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

We have considered two options:

Option 1: Do nothing

Option 2: Extend the scheme (preferred option).

No other alternatives are proposed. As the existing scheme has already demonstrated benefits, as evidenced by an evaluation, and has proved its capacity to deliver more effective and more streamlined regulation for multi-site businesses at local level and we believe that those benefits should be made available to a higher number of businesses.

This preferred option will require legislation; as the scheme is statutory, any amendments must also be statutory. The scheme is voluntary for business.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 2015

What is the basis for this review? PIR **If applicable, set sunset clause date** N/A


Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 20 June 2011

Summary: Analysis and Evidence

Policy Option 2

Description: Extend the Primary Authority scheme

Price Base Year 2011	PV Base Year 2011	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: 212.7	High: 352.5	Best Estimate: 282.6

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2	5	7.4	74.1
High	3.2		12.3	123.5
Best Estimate	2.6		9.9	98.8

Description and scale of key monetised costs by 'main affected groups'

Costs to business which choose to enter PA scheme: transition costs – start up, developing inspection plans and cost recovery (£1.3m–£2.1m) and annual costs – maintaining PA partnerships and cost recovery (£4.8m-£7.9m)

Costs to local authorities:

- transition costs to PAs – not recovered costs of start up and developing inspection plans (£701,000 – £1.2m)
- annual: costs to PAs – not recovered costs of maintaining PA partnerships and dealing with enforcing authorities (£1.4m – £2.4m), costs to enforcing authorities – costs of referrals and early contact with PAs (£1.2m – £2m)

Other key non-monetised costs by 'main affected groups'

Costs (transition and annual) to trade associations and businesses which choose to participate in the Primary Authority scheme through trade associations

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.5	5	29.2	286.8
High	0.8		48.5	476.1
Best Estimate	0.6		38.9	381.4

Description and scale of key monetised benefits by 'main affected groups'

Annual benefits to business which choose to enter Primary Authority scheme – improved consistency of advice and risk assessment (£15.1m – £25.2m)

Benefits to local authorities:

- transition benefits to PAs – cost recovery (£477,000 – £787,000)
- annual benefits: benefits to PAs – cost recovery (£3m – £5m), benefits to enforcing authorities – reduced workload (£11.1m – £18.3m)

Other key non-monetised benefits by 'main affected groups'

Benefits (transition and annual) to trade associations and businesses which choose to participate in the Primary Authority scheme through trade associations

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Main assumptions: number of partnerships after the extension (600 – 1,000), number of partnerships setting up inspection plans after the extension (240 – 420), categories of costs and benefits the same after extension as those identified for the existing scheme.

Main risks: scale of take-up, extent of costs and benefits to business and local authorities arising from the extension of the scheme.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 5.3	Benefits: 16.6	Net: 11.2	Yes	IN

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	2013				
Which organisation(s) will enforce the policy?	BIS				
What is the annual change in enforcement cost (£m)?	N/A				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 100		Benefits: 100		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 10	Medium 30	Large 60
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	Page 27

Economic impacts		
Competition Competition Assessment Impact Test guidance	No	Page 27
Small firms Small Firms Impact Test guidance	Yes	Page 27

Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	Page 27
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	Page 27

Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	Page 27
Human rights Human Rights Impact Test guidance	No	Page 27
Justice system Justice Impact Test guidance	No	Page 27
Rural proofing Rural Proofing Impact Test guidance	No	Page 27

Sustainable development Sustainable Development Impact Test guidance	No	Page 27
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¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	The Regulatory Enforcement and Sanctions Act 2008; http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/regulatory-enforcement-and-sanctions-bill
2	Impact Assessment of Statutory Instruments Implementing the Primary Authority Scheme http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=31048b816f9f409fa7eb2c97c48cc13d
3	Common Sense, Common Safety. A report by Lord Young of Graffham to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture, 2010 http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf
4	British Retail Consortium Retail statistics and information www.brc.org.uk
5	A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 http://www.bis.gov.uk/files/file50500.pdf
6	Initial Evaluation of the Effectiveness of The Regulatory Reform (Fire Safety) Order 2005, 2009 http://www.communities.gov.uk/documents/fire/pdf/regulatoryreformorder.pdf
7	Better Regulation of Age Restricted Products: A Retail View, 2010 http://www.lbro.org.uk/docs/age-restricted-products-report.pdf
8	Better Regulation in Europe: An assessment of regulatory capacity in 15 member states of the European Union, 2009 http://www.oecd.org/dataoecd/0/35/43307706.pdf
9	CLG, English House Condition Survey 2006 Private Landlords Survey, 2008 http://www.communities.gov.uk/publications/housing/privatelandlordsurvey
10	Centre for Regional Economic Development, University of Cambria, LBRO, "Review and assessment of the methodology of the retail enforcement pilot in a business environment", 2009 http://www.lbro.org.uk/docs/cred-report.pdf
11	Case study available from http://www.lbro.org.uk/news-pa-bss-1m.html

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Background

1. The Primary Authority scheme was created in response to recommendations in the Hampton Report (2005) which noted widespread inconsistencies of regulatory interpretation between different local authorities. It came into force on 6th April 2009 following the passing of the Statutory Instruments which set out more detail about the implementation of the Primary Authority scheme.
2. The scheme allows businesses, charities or other organisations that are regulated by more than one local authority to enter into a partnership with a local authority and for that local authority to then become its 'Primary Authority'. The Primary Authority scheme has two main aspects
 - **assured advice** from the Primary Authority to the business,
 - **national inspection** agreed between the Primary Authority and the business.

Assured advice

3. The Primary Authority provides assured advice to the business and can, if necessary, block proposed enforcement action by other local authorities that it regards as inconsistent with its advice or guidance. By helping to ensure consistency, the scheme is expected to provide greater confidence for businesses and regulators, and remove unnecessary regulatory barriers to economic growth. It is expected to increase compliance, reduce risk, reduce the cost of failure and reduce the cost of compliance. It also provides a means of resolving disputes when councils disagree on enforcement actions. The data collected by RAND Europe, a comprehensive evaluation of the Primary Authority scheme, shows that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership².

National inspection plan

4. As well as assured advice, Primary Authorities can work with partner businesses to prepare a national inspection plan. The Primary Authority develops and carries out the inspection plan across the business' area of operation so that other regulators or Local Authorities do not need to inspect the business. This saves time and resource for both the business and local authorities. 5% of Primary Authorities currently use inspection plans and these demonstrate benefits. The data collected by RAND Europe shows inspection plans result in a reduction of about 20 hours' work per partnership per year for businesses³.
5. The OECD country report on the UK cited the Primary Authority scheme as a "potentially far reaching innovation" to handle the specific issues that arise for national firms who are subject to multiple local regulatory jurisdictions, and the LBRO model has been of interest to governments in other jurisdictions at the leading edge of regulatory reform, including Scotland and the Netherlands⁴.
6. The Primary Authority scheme delivers this balance of regulatory intervention between local and national levels. The scheme gives councils the flexibility to account for local circumstances and their communities whilst bringing benefits by delivering consistent interpretation of regulation. The scheme continues as a crucial vehicle for better local coordination led by specific local authorities, aiming to prevent contradictory local regulation.
7. The scheme has had significant take up in less than two years of operation. There are now over 563 Primary Authority partnerships covering 179 businesses and over 35,000 UK premises. Businesses which have signed up include large retailers like Marks and Spencer and ASDA, and smaller companies like Daylesford Organics and smaller farming businesses. All the major supermarkets

² RAND Europe (an independent not-for-profit research institute) has carried out an evaluation of Primary Authority commissioned by LBRO. The early data has been made available to us. The full report is not available yet.

³ See footnote 2.

⁴ Better Regulation in Europe: An assessment of regulatory capacity in 15 member states of the European Union, 2009 <http://www.oecd.org/dataoecd/0/35/43307706.pdf>

are already enrolled in Primary Authority partnerships.

8. It has limited application in Scotland and Northern Ireland because of the devolution settlements. The scheme applies in Scotland and Northern Ireland in relation to local authority trading standards, environmental health, and some fire safety functions exercised under legislation where legislative competence has not been devolved to either the Scottish Executive or the Northern Ireland Assembly.
9. Local Better Regulation Office (LBRO), a non-departmental public body of BIS, operates the scheme. Its role is to:
 - Approve partnerships between businesses and local authorities (or to help businesses find a local authority partner).
 - Play a determination role on enforcement actions if either an enforcing authority or a business wants to challenge the Primary Authority's decision.
 - Set up and maintain a secure database containing all the details of the partnerships, actions taken and advice given.
 - Provide consent to inspection plans where these are in use within Primary Authority partnerships.

Problem under consideration

10. The Primary Authority scheme was introduced in April 2009 to provide greater consistency and regulatory certainty for businesses operating across a number of local authority areas.
11. During the Review of the Local Better Regulation Office in summer 2010, the scheme received strong support from business, professional bodies and some local authorities. The success of the scheme was also recently acknowledged by Lord Young's Review of Health and Safety legislation⁵. It was praised by the OECD as mentioned above.
12. The scheme has, however, limited scope (currently, it covers only trading standards, environmental health, licensing and health and safety regulations), the full potential of inspection plans have not been exploited and some businesses are currently ineligible for a Primary Authority partnership. As a result too many businesses still face inconsistency in local-level regulatory enforcement in the areas currently out of scope, some business cannot benefit from the scheme and inspections are often unnecessarily burdensome for business not within the scheme.
13. During the Review of LBRO arguments were put to the Review by business for an extension of the Primary Authority scheme into other legislative areas. The Lord Young's Review of Health and Safety legislation also recommended an extension of the scheme beyond a narrow definition of enforcement action into inspection and, further, that the existing statutory framework underpinning the inspection plan provisions could be strengthened. The recommendations of the report were accepted in full by the government⁶.
14. Because of the success of the scheme, and in line with the Coalition commitment to "end tick box regulation", Ministers have asked the Better Regulation Executive and LBRO to look into options for extending it. This impact assessment discusses the costs and benefits associated with extension.

Rationale for intervention

15. Overall rationale for intervention is to extend the benefits of the Primary Authority scheme by addressing continuing inconsistency in local-level regulatory enforcement in policy areas which are

⁵ "Common Sense, Common Safety", October 2010. *A report by Lord Young of Graffham to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture.*

http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

⁶ Number 10 News, *Lord Young restores common sense to health and safety*, October 2010, <http://www.number10.gov.uk/news/latest-news/2010/10/lord-young-report-55605>

currently out of scope, further reducing the inspection burden on businesses (through strengthening of inspection plans), and enabling access to the scheme's benefits for businesses which are currently ineligible for a Primary Authority partnership.

16. Legislation would be necessary to make appropriate amendments: as the scheme is statutory, any amendments must also be statutory. But it would be relatively straightforward to do so as part of a wider Regulatory Reform Bill. A public consultation will allow a full range of ideas to be collected and appraised.
17. The scheme has been a significant success in its current form and received overwhelmingly positive comments from business, professional bodies and local authorities (examples below). These benefits are explored in the cost benefit section.

"Why wouldn't businesses want a Primary Authority? After all, you succeed with regulators by working with rather than against them." - B&Q Safety Advisor Gary Howells⁷

"It's wonderful that we can have one authority which can efficiently ensure all our brasseries are run to the same high standards." - Brasserie Blanc Managing Director John Lederer⁸

"We feel this much more efficient way of working is beneficial to consumers, business and local authorities alike, and will help save millions of pounds in the process." - Westminster City Council Operational Director - Premises Management Steve Harrison⁹

"We now make changes with confidence, knowing that they will be supported by our partner." - Moto Head of Risk Management Jonathan Hayes¹⁰

"We can see many benefits of this partnership - not least being able to work closely with businesses, support economic prosperity and protect our communities by ensuring public health and safety is as good as it should be." - Wakefield Council Leader Peter Box¹¹

"This partnership is a fantastic example of how, by more effective enforcement, councils can help reduce the burden on local employers and help their businesses in these difficult economic times." - Chelmsford Borough Council Councillor Ian Grundy¹²

18. Moreover, there is potential to contribute to the Coalition government's commitment to "end the culture of 'tick-box' regulation, and instead target inspections on high-risk organisations through co-regulation and improving professional standards" by increasing the scope of the Primary Authority scheme and developing inspection plans as tools to deliver the benefits of co-regulation.
19. The Primary Authority scheme also fits squarely within the localism agenda. Regulatory power is maintained at the local level, but businesses operating nationally are afforded a joined-up approach to regulation. The scheme promotes a collaborative approach and dialogue between local authorities, allowing them to focus resources more effectively, while still responding to local concerns and intelligence.
20. There is also scope to engage the Local Enterprise Partnerships within the Primary Authority environment. For example, where inspections take place that do not follow the inspection plan, a feedback system could operate where the business is able to report these inappropriate visits to the Primary Authority. The Local Enterprise Partnership (LEP) could, acting on feedback from the Primary Authority and/or LBRO, then act as forum for the Primary Authority and the business to discuss such impediments to business growth.
21. Detailed rationale for intervention for each area proposed to be included in the extension is listed

⁷ <http://www.lbro.org.uk/pa-advice-to-business.html>

⁸ <http://www.lbro.org.uk/pa-inspection-plans.html>

⁹ <http://www.lbro.org.uk/pa-finance-and-resources.html>

¹⁰ <http://www.lbro.org.uk/pa-business-participation.html>

¹¹ <http://www.lbro.org.uk/pa-becoming-a-primary-authority.html>

¹² <http://www.lbro.org.uk/pa-resources-for-local-authorities.html>

below:

Area	Rationale
<p>Extend regulatory scope to include age restricted sales of alcohol (Licensing Act 2003) and fire safety (Regulatory Reform (Fire Safety) Order)</p>	<p>Age restricted sales of alcohol and fire safety are two regulatory areas that, while in LBRO's remit, were specifically excluded from the scope of the Primary Authority scheme following consultation in 2009. We said in the impact assessment of Statutory Instruments implementing the Primary Authority scheme that we would review these exclusions in 2011 and, as we are consulting on the wider landscape, it is appropriate to reconsider these areas as well.</p> <p>Both areas are of significant interest to business.</p> <p>Retailers, in particular, place a high priority on compliance; from ensuring products are safe to preventing sales of age restricted products to children - the sector spends over £20m in training and in-store leaflets¹³ per year¹⁴ on the latter case alone. However, at present, the same system or products can be inspected by all 433 local authorities, even if the business' procedures have been approved by the Primary Authority.</p> <p>The current legal system is complex and fragmented for age restricted sales which underlines the simplification PA extension could have – there are 13 separate categories of age restricted products sold by retailers. These include alcohol, tobacco, aerosol spray paint, knives and fireworks. The sale of these products is governed by 18 separate pieces of legislation, spanning the responsibilities of six government departments. This legislation has developed piecemeal over time and as a consequence there are a number of different rules that apply, particularly in terms of offences and defences. The situation is worst for those retailers that sell more than one category of product. This has obvious cost implications for enforcers and businesses. This is partly owing to the high staff turnover rate. In the pub trade staff turnover is even higher than the average rate in retail, at around 60%. All staff have to be properly trained and supervised. Currently there are in the order of 600,000 staff employed in pubs and bars. BRC survey information indicated that 2.9m people are employed in the UK's 293,000 retail outlets. Extending the PA scheme to age restricted products has great scope to simplify this.</p> <p>Businesses and business representative bodies strongly support bringing age restricted sales of alcohol, and fire safety, into scope.</p> <p>For example the Confederation of British Industry said: "if consistency is the aspiration of the Primary Authority scheme then the scope needs to be as wide ranging and comprehensive as possible with no exclusions of licensing (...) and fire legislation"¹⁵.</p> <p>The recent review of the Regulatory Reform (Fire Safety) Order 2005 reported that businesses expected their fire and rescue authority or local authority to provide targeted advice and guidance: "Few of the businesses interviewed for this evaluation were aware of the availability of the HM Government's guidance, or of other sources of fire safety guidance. All, however, felt it important that guidance on implementing their responsibilities</p>

¹³ British Retail Consortium Retail statistics and information available at www.brc.org.uk

¹⁴ British Retail Consortium Retail statistics and information available at www.brc.org.uk

¹⁵ A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 <http://www.bis.gov.uk/files/file50500.pdf>

Area	Rationale
	<p>should be available – and expected their Fire and Rescue Authority or local authority to be a primary source.”¹⁶</p> <p>Evidence received from business on the existing scheme shows that businesses benefit from improved consistency of advice and a consistent approach to risk assessment in respect of regulatory areas currently in scope after joining the scheme¹⁷. Government intervention is necessary to enable businesses also benefit from Primary Authority in respect of age restricted sales of alcohol, and fire safety.</p>
<p>Extend regulatory scope to include Part I of the Housing Act - matters relating to health and safety in housing and the Criminal Justice Act 1988 which deals with age restricted sales of knives</p>	<p>Since the scheme came into force, it has become clear that not all relevant legislation relating to health and safety in housing, and age restricted sales of knives, was included within the statutory scope. Government intervention is necessary to rectify this to enable businesses to benefit from Primary Authority in respect of these areas.</p> <p>This has been highlighted by stakeholders who are supportive of the changes:</p> <p>“..in reference to the Housing Act 2004, it is inconsistent that Part 1 of the Act, relating to the enforcement of the Housing Health and Safety Rating system, should be excluded from the scope of the Act, while Parts 2-5 of the Act - those relating to the regulation of houses in multiple-occupation - are included. We are of the view that Parts 1 and 2-5 of the Housing Act 2004 should fall within the purview of the Primary Authority scheme.” Chartered Institute of Environmental Health¹⁸.</p> <p>“Given the investment made by businesses in compliance, the review group took the view that the Primary Authority scheme should be extended to cover all age-restricted products, including alcohol. This offers the recognition of business efforts to prevent under-age sales in inspection plans and enforcement activity. There is little to be gained from 'test purchasing' at public expense in a business that already funds its own scheme of a similar nature and acts upon the results. This offers scope for efficiency savings and the ability to release public funds to target less responsible businesses¹⁹”</p>
<p>Enable access for businesses seeking a Primary Authority partnership – Company Group structures</p>	<p>Currently excluded from the Primary Authority benefits are some Company Group structures where not all the separate legal entities within the group conform to the eligibility criteria; even if the group members share a common compliance approach. These separate entities, even if they are eligible in their own right, are unable to share a common Primary Authority for premises-based activities such as Health & Safety and some of the Company Group members may not actually be eligible for a Primary Authority partnership at all.</p> <p>All of the companies within a group are only able to enter into Primary Authority partnerships with the same Primary Authority if they operate across</p>

¹⁶ Initial Evaluation of the Effectiveness of The Regulatory Reform (Fire Safety) Order 2005, March 2009, <http://www.communities.gov.uk/documents/fire/pdf/regulatoryreformorder.pdf>

¹⁷ The data collected by RAND Europe shows that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership and inspection plans results in a reduction of about 20 hours' work per partnership per year for businesses.

¹⁸ A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 <http://www.bis.gov.uk/files/file50500.pdf>

¹⁹ *Better Regulation of Age Restricted Products: A Retail View*, August 2010. <http://www.lbro.org.uk/docs/age-restricted-products-report.pdf> The membership of the Review Group that wrote the report represents in the region of UK 250,000 retail outlets.

Area	Rationale
	<p>local authority boundaries and are themselves regulated by the Primary Authority. This is not always the case. For example, Rank operates Mecca Bingo and Grosvenor Casinos through two separate companies. The two businesses face similar compliance issues (aside from gambling regulations) and would benefit from a co-ordinated Primary Authority approach.</p> <p>Grosvenor Casinos has registered for Primary Authority with Westminster but Mecca Bingo is not able to do likewise as it does not operate in Westminster. This means that although Rank may disseminate the advice provided by Westminster Primary Authority to Grosvenor Casinos throughout the group, the advice is only assured for Grosvenor Casinos. Mecca Bingo would require a separate partnership with a local authority that directly regulates the business, meaning that Rank is unable to fully access the consistency that a single Primary Authority can offer.</p> <p>Government intervention is necessary to address this so that Primary Authority benefits can be extended to businesses that cannot currently participate.</p>
<p>Enable access for businesses seeking a Primary Authority partnership – Franchises</p>	<p>At the moment franchises are only eligible to participate in Primary Authority where they themselves are regulated by more than one local authority.</p> <p>Some businesses operate a dual model with both franchises and outlets wholly owned by the business. Approaches to compliance are often shared by the franchises and the business. Some franchise operations are tightly controlled, with compliance being directed by the franchisor rather than being left to the discretion of franchisees. Within this dual model, compliance is often shared by the franchises and the business</p> <p>Within such tightly controlled franchise operations, there would be benefits in the franchisor being able to enter into a Primary Authority partnership and to disseminate assured advice, and develop an inspection plan, for the business as a whole. As Primary Authority partnerships are only available to individual companies, single Primary Authority partnerships for franchise operations are not currently possible.</p> <p>Moreover, a “work around” whereby the franchisor and the franchisees all enter into partnerships with the same Primary Authority, and the Primary Authority treats those partnerships as linked, is rarely available for franchise operations. Most franchisees operate only a small number of premises which means that they are excluded from the scheme by the eligibility gateways which require that they are regulated in more than one local authority area and that they are regulated in the Primary Authority’s area. Kentucky Fried Chicken has, for example, entered into a Primary Authority partnership with Woking Borough Council but only a very small number of its franchisees would be able to enter into linked partnerships and so benefit from assured advice.</p> <p>Government intervention is necessary to address this so that Primary Authority benefits can be extended to businesses that cannot currently participate and so that the scheme remains responsive to the changing economic climate and business’ need to develop an adaptive response to that.</p>
<p>Enable access for businesses seeking a Primary Authority partnership –</p>	<p>Many businesses which hold membership of trade associations are not individually regulated by multiple local authorities and therefore do not meet the current eligibility criteria for Primary Authority. However, trade associations can provide extensive and detailed compliance advice, guidance</p>

Area	Rationale
Trade Associations	<p>and services to their members which improve their compliance capability and performance in a similar, albeit looser, way to a business HQ disseminating compliance advice to its locations. A much wider range of businesses could benefit from the Primary Authority principle, particularly SME's.</p> <p>Trade associations and most of their members are generally excluded from the Primary Authority scheme because they do not meet the current eligibility criteria for Primary Authority:</p> <ul style="list-style-type: none"> • Member businesses may not be individually regulated by multiple local authorities; • Alternatively they may not all be regulated by a single local authority; and • Trade associations often do not themselves undertake the regulated activities of their members. <p>Government intervention is necessary to enable trade associations to access the scheme, and so extend the benefits of Primary Authority to a wider range of businesses. This would be a slightly different form of the scheme, focused on the provision of advice and guidance, with local authorities taking the advice provided by the Primary Authority into account. This would enable more efficient use of local authority and business resources, as the Primary Authority would interact with trade associations rather than all the individual businesses, reducing the administration workload for Primary Authority, trade associations and local authorities as well as for organisations wanting to join the scheme.</p>
Use co-regulation delivered through the strengthening of Primary Authority inspection plans for those businesses with good compliance systems in order to better focus inspections	<p>Primary Authorities can work with partner businesses to prepare a national inspection plan. Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks. As already mentioned the data collected by RAND Europe shows inspection plans result in a reduction of about 20 hours' work per partnership per year for businesses.</p> <p>At the moment, however, there is little obligation on other local authorities to comply with inspection plans and local authorities infrequently provide feedback to the Primary Authority after inspections or enforcement action. This prevents the full potential of inspection plans from being exploited and weakens the capacity to build a dynamic risk-based inspection plan which reflects the current compliance situation for the business and the local authorities regulating it. Strengthening inspection plans so that local authorities are required to follow them would enable full recognition and exploitation of business-led activities such as third party inspections and business audits. This would reduce the costs associated with regulation by multiple local authorities, for example by avoiding repeated checks, by coordinating activity and standardising feedback, while also reducing costs for local authorities and business and, ultimately, increasing compliance through a better information flow.</p> <p>Feedback to the Lord Young review from some large multi-site food retailers suggests that the Primary Authority scheme has not yet delivered consistent inspection in practice and recommends strengthening the existing statutory framework underpinning the inspection plan provisions.</p> <p>Several large businesses have made it clear to us that they think this would greatly increase the return on their investment in Primary Authority.</p> <p>This approach is also important in supporting our policy intention to broaden the use of co-regulation where this provides a more cost effective solution for</p>

Area	Rationale
	<p>business – as it provides regulators and businesses with a formal framework within which to do this²⁰.</p> <p>“...the scheme has been successful, but it has had insufficient impact on the inspection regime. One of the intentions behind the scheme was to remove inconsistencies here as well, but the specific provisions have limited ‘teeth’. Businesses and the Primary Authority may draw up an inspection plan, but there is little obligation on other local authorities to comply with it. Feedback to the review from some large multi-site food retailers suggests that the scheme has not yet delivered consistent inspection in practice. I believe that we need to tackle this issue. The existing statutory framework underpinning the inspection plan provisions could be strengthened, with an enhanced role for the HSE. I therefore propose a consultation with the intention of having an improved system in place as soon as practicable.” Lord Young²¹</p> <p>Government intervention is necessary to reduce the burden of inspection for compliant businesses and local regulators by strengthening the existing statutory framework underpinning inspection plan provisions.</p>

Policy objectives

22. The policy objectives are to address inconsistency in the enforcement of regulation at the local level in policy areas currently out of scope of the existing scheme and further reduction of the inspection burden on businesses by:
- ensuring that the Primary Authority scheme delivers all of its potential benefits, by strengthening key elements and incorporating a wider range of regulatory areas; and
 - extending those benefits to more businesses, by increasing opportunities for participation in the scheme.
23. The intended effects include:
- a reduction of the cost of regulation to business and public services
 - improved compliance through an improved relationship between business and their Primary Authority
 - help in making new ‘localist’ structures of accountability and transparency work effectively
 - removal of barriers which may deter the business community mounting an effective and adaptive response to changing economic circumstances thus generating economic growth; for example by moving into different business structures.
 - ensuring that local issues are properly taken into account and will maximise the effectiveness of compliance activity; this enables better targeting of local resources at the greatest local need, such as face-to-face business support for SMEs or creating a level playing field for compliant businesses by targeting ‘rogue’ businesses

Options identification

24. We have considered two options:

Option 1 – Do nothing

Option 2 – Extend the scheme

²⁰ More information on co-regulation is available in a separate impact assessment attached to the White Paper.

²¹ *Common Sense, Common Safety* http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

25. No other alternatives are proposed. As the existing scheme has already demonstrated benefits and has proved its capacity to deliver more effective, more streamlined, regulation for multi-site businesses at local level and we believe that those benefits should be made available to a higher number of businesses.

Options analysis

Option 1 – Do nothing

26. This option involves the scheme continuing as it currently is.
27. The impact assessment of Statutory Instruments implementing the Primary Authority scheme assumed that 700 – 1,100 partnerships to be set up by 2014.
28. This is a counterfactual for the other option.
29. The current take up on inspection plans suggests that the potential of this part of the Primary Authority benefits would remain substantially unfulfilled.
30. 'Doing nothing' would also place the government at reputational risk due to: failure to comply with the Lord Young recommendation that the government has accepted; unmet demand for extension from business; and failure to fully meet the Coalition Commitment to end 'tick box regulation'.
31. There is also the opportunity cost of 'untapped potential' in not maximising the benefits the scheme offers for removing barriers to economic growth. It would also prevent maximisation of the savings to the regulatory system in providing greater efficiency in improving business compliance.

Costs

32. There would be no additional costs associated with this option. However, we would anyway need to revisit the position on the three regulatory areas which are currently excluded as this was a commitment made in the original response to consultation.

Benefits

33. This option would not deliver any additional benefits other than those associated with the projected take up for the existing scheme over time.

Option 2 – Extend the scheme

34. This option includes the following:

- **Extending to new policy areas:** age restricted sales of alcohol (Licensing Act 2003); fire safety (Regulatory Reform (Fire Safety) Order) matters relating to health and safety in housing (Part I of the Housing Act); and age restricted sales of knives (Criminal Justice Act 1988).
- **Strengthening of Primary Authority inspection plans.** Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks. At the moment, however, there is little obligation on other local authorities to comply with inspection plans or to provide feedback to the Primary Authority. The option proposes strengthening inspection plans so that local authorities are required to follow them and to facilitate feedback flow.
- **Increasing access for businesses seeking a Primary Authority partnership:** Company Group structures; Franchises and trade association members.

35. This option will require legislation. As the scheme is statutory, any amendments must also be statutory.

Gambling

36. This option will not include gambling although gambling was also specifically excluded from the scope of the Primary Authority scheme following consultation in 2009.
37. In the case of the Gambling Act 2005, the vast majority of enforcement for age-restricted sales is undertaken by the Gambling Commission – the national regulator for commercial gambling in Great Britain.
38. The Act sets out three licensing objectives which underpin the functions that the Commission and Licensing authorities perform. They are:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
39. The Act also gives a role for local authorities in licensing gambling premises in their area which involves; issuing premises licences for casinos, betting offices and race tracks, bingo clubs, adult gaming centres and family entertainment centres, issuing permits for gaming machines in members' clubs and licensed premises (fruit machines or amusement with prizes), gaming in members' clubs etc. Monitoring and enforcement of these licenses and permits also falls within the licensing authorities remit.
40. In practice, we understand that the Gambling Commission undertakes most enforcement of the Act, and for this reason we believe that the provisions of Primary Authority to enforcement may not apply fully as this is undertaken at a national level, and not by local enforcers. We are testing this in consultation.
41. The Gambling Commission are in the process of developing a partnership approach with businesses that incorporates the principles of Primary Authority. However, this activity is embryonic and we are not certain that the arrangement will apply only to national enforcers or meet the needs of stakeholders. For these reasons, we feel that the Primary Authority scheme should be extended to the Gambling Act 2005.

Data and assumptions

Sources

42. Much of the data used for the estimates is data provided by RAND Europe (an independent not-for-profit research institute) on an evaluation of Primary Authority commissioned by LBRO²² – we have received information from 27 businesses and 23 local authorities within the Primary Authority scheme.
43. In addition we have used evidence from the stakeholder engagement with 93 organisations conducted for the Review of LBRO.
44. We have also gathered data from various databases and relevant documents (details below).
45. This impact assessment has also made use of the evidence base from the previous consultations carried out for Regulatory Enforcement and Sanctions (RES) Bill and for Statutory Instruments (SIs) implementing the Primary Authority scheme.

Number of partnerships after the extension

46. We have looked in detail at each area proposed to be included in the extension to estimate the number of likely candidates for the new categories of partnerships. We have gathered data about the business population in each area and the current partnership figures.

²² See Footnote 2.

47. We have gathered data from the following sources:
- Inter Departmental Business Register (February 2011)
 - CLG, English House Condition Survey 2006 Private Landlords Survey, 2008²³
 - Financial Analysis Made Easy database
 - LBRO 2010 Corporate Plan
 - Primary Authority database.
48. We have also consulted LBRO and other relevant bodies (e.g. the British Property Federation, the Chartered Institute of Environmental Health, Federation of Small Businesses, and the Chief Fire Officers Association) for their expert opinion.
49. We have compared the population of businesses likely to be affected by the extension with take up in the population of business affected by the existing scheme.
50. Some proposed extensions are quite niche (such as matters relating to health and safety in housing where based on our discussions with the housing associations and relevant statistics we assume that few businesses would be in scope) so we have adjusted the figures accordingly.
51. If we assume a similar proportion take up the extension (with some exceptions such as matters relating to health and safety in housing) then we estimate that between 600 and 1000 partnerships will be set up by 2016 as a result of the extension. This compares to 563 partnerships set up in the 2 years since Primary Authority was established and 700 – 1,100 partnerships assumed to be set up for the existing scheme in the impact assessment introducing the scheme.
52. As this is a forecast we use a range of projections to capture the sensitivity of the analysis.
53. We will test these estimates in consultation.

Number of first and subsequent partnerships

54. LBRO data showed that 47% of partnerships are first partnerships (e.g. a business and/or a local authority will not have any experience in the scheme) and 53% are subsequent ones. We have assumed the same for this impact assessment.

Cost recovery

55. LBRO data showed that 48% of the current partnerships recover full costs and 12% do not recover any costs. We have assumed the same for this impact assessment. This will be a transfer from business to local authority. While it does not change the total cost to society it affects the distribution of the cost between business and local authority.
56. It has been noted that remaining 40% of the current partnerships recover some but not all the costs. “Some cost recovery” encompasses a range of options which include:
- service levels as provided previously under home authority will be free, additional services are chargeable;
 - certain services are chargeable, others are provided for free;
 - set number of hours provided annually for free, additional hours chargeable at hourly rate and
 - costs recovered at the discretion of the Primary Authority.
57. It has not been possible to establish the percentage of costs which are recovered under “some cost recovery” arrangements for the current scheme. For the purpose of this impact assessment we have assumed that 40% of the partnerships will recover half of the cost. We will invite views on this in consultation. This will be a transfer from business to local authority. While it does not change the total cost to society it affects the distribution of the cost between business and local authority. This is relevant for One In, One Out calculations.

²³ <http://www.communities.gov.uk/publications/housing/privatelandlordsurvey>

Number of partnerships setting up inspection plans after the extension

58. We believe that after strengthening of inspection plans more businesses would be interested in development of inspection plans (as already mentioned 5% of partnerships currently use inspection plans). Based on our discussions with LBRO we have assumed one fifth of the total number of partnerships assumed to be set up in existing and new areas (260 - 420) will be interested in developing an inspection plan²⁴. It is important to note that the inspection plan can cover several partnership categories and business can only ever have one inspection plan with one primary authority.

Business and local authorities labour cost

59. We have used the mean hourly senior manager hourly tariff of £22.46 uplifted by 24% for overheads (£27.85) as business labour costs. The tariff is based on the ASHE 2010 data²⁵.
60. LBRO data has showed that average hourly rate charged by current Primary Authorities is £44.86²⁶. We have used this figure as Primary Authorities' labour costs. However, it is important to note that the figure has been extrapolated from a small base. We will invite consultation views on the accuracy of this figure.
61. We believe that the hourly costs for Primary Authorities and enforcing authorities are different - feedback to LBRO suggests that Primary Authorities tend to use a senior officer to be the Primary Authority relationship manager whereas enforcing authorities use a less senior manager as they undertake more "routine/frontline" tasks such as inspection. The impact assessment of Statutory Instruments implementing the Primary Authority used the average hourly costs of the work of a Trading Standards and Environmental Health Officer of £27.75²⁷ as enforcing authorities' labour costs. This was based on the consultation on the draft Statutory Instruments on Primary Authority. We have used it, uplifted for overheads and inflation, in this impact assessment (£35.27). We will invite consultation views on the accuracy of this figure.

Number of trade associations developing a Primary Authority relationship after the extension

62. Trade associations represent an opportunity to extend the benefits of Primary Authority to a much wider range of businesses. Trade associations could cascade the advice to their members who can all follow the same consistent approach. For example, the National Federation of Retail Newsagents would like to obtain advice for all 17,000 of its member businesses with regard to age restricted sales. We will test in consultation how many trade associations will be interested in participating in the Primary Authority scheme.

Categories of costs and benefits

63. We have assumed the same categories of costs and benefits as a result of the extension as those identified for the existing scheme. However, we will test in consultation whether there will be additional costs and benefits specific to the extension.

²⁴ The impact assessment of Statutory Instruments implementing the Primary Authority scheme assumed that 700 – 1,100 partnerships to be set up. This impact assessment assumes that additional 600 – 1,000 will be set up as a result of the extension of the scheme.

²⁵ 2010 Annual Survey of Hours and Earnings (ASHE), http://www.statistics.gov.uk/downloads/theme_labour/ashe-2010/2010-occupation.pdf

²⁶ We understand that the figure includes overheads.

²⁷ It did not include overheads.

Other data and assumptions

Subject	Assumption	Source/Comment
No of hours spent by local authorities (LAs) on setting up PA partnership	1 st PA: 29.9 subsequent PA: 8.6	Data provided by RAND Europe ²⁸
No of hours' per week spent by PA on dealing with the PA business to maintain partnership	1 st PA: 3.11 subsequent PA: 1.5	Data provided by RAND Europe
No of hours per week spent by PA on dealing with enforcing authorities (EAs)	1 st PA: 1.95 subsequent PA: 0.3	Data provided by RAND Europe
No of hours spent by PA on developing the inspection plan	20.1	Data provided by RAND Europe
No of hours per week spent by EA on dealing with PAs	1	Our assumption based on corresponding data for PAs (consulted with LBRO)
No of contacts with business reduced per year by EA due to PA (in terms of familiarisation, risk assessment ect)	50	Our assumption after consultation with LBRO
No of hours per contact saved by EA due to PA (in terms of familiarisation, risk assessment ect)	7	Our assumption after consultation with LBRO
No of hours spent by business on setting up PA partnership	37.68	Data provided by RAND Europe
No of hours per week spent by business on maintaining partnership	2	Data provided by RAND Europe
No of instances of inconsistent advice a year	Reduced from 5.5 instances (pre-PA scheme) to 3 instances	Data provided by RAND Europe
No of hours spent by business on developing the inspection plan	20.6	Data provided by RAND Europe
Average loss from contradictory advice	£10,000	The assumption from the impact assessment of Statutory Instruments implementing the Primary Authority scheme modified downwards after our discussions with business.
No of hours saved by business as a result of consistent approach to risk (inspection plans)	20	Our assumption after consultation with LBRO
Cost recovery	partnerships which will not recover costs at all – 12% partnerships recover full costs – 48% partnerships which recover 50% of costs – 40%	Our assumption after consultation with LBRO
No of referrals per partnership per year	5	Our assumption after consultation with LBRO
No of hours spent by EAs on each referral	1	Our assumption after consultation with LBRO
No of hours saved by EAs per an inspection plan per year	2	Our assumption after consultation with LBRO

64. We will invite consultation comments on all the above assumptions.

²⁸ See Footnote 2.

Risks

Scale of take-up of the Primary Authority scheme

65. The main potential risk is that of lower than expected take-up of the Primary Authority scheme due to the fact that businesses will be unaware of the changes. However, we believe that this risk is not significant because of the popularity of the existing scheme. We have also used a range of uptake to capture the sensitivity of the analysis in this impact assessment. Moreover, the consultation will seek views on this issue.
66. There is also the risk of lower than expected take-up of the Primary Authority scheme owing to the fire authorities' limited capacity to support Primary Authority partnerships²⁹.
67. The Chief Fire Officers Association (CFOA) has expressed some concerns that lack of resources may mean that each fire authority would only be able to act as the Primary Authority for one business. This may limit the number of partnerships likely to be set up in this area. CFOA thinks that it would be unlikely that an average Fire and Rescue Service (FRS) would have capacity to support more than one Primary Authority partnership; some of the larger services might be able to host multiple partnerships, whilst many of the smaller services are now reducing their workforces and so are unlikely to have any capacity at all.
68. Capacity of local authorities was expressed as a concern at the developmental stages of the scheme. Yet, the operation of the scheme has shown that these risks have not materialised, due to a combination of active management by LBRO and cost recovery. We feel that the cost recovery element and LBRO's key role in the formation of a Primary Authority partnership will mitigate the risk. To determine whether a proposed partnership is suitable, LBRO takes account of issues such as the capacity of an authority to resource the partnership.
69. There is no barrier to those authorities that have greater capacity hosting a greater number of partnerships. For example, the London Fire Brigade currently supports 10 businesses in a petroleum licensing Primary Authority partnership, which is resourced by cost recovery from the businesses. If fire authorities are sufficiently resourced, they may be able to support multiple businesses in fire safety Primary Authority partnerships in the same way. Currently 46 local authorities (which include one combined fire authority and one county fire authority) support 182 businesses between them. This demonstrates the capacity for local authorities to support multiple businesses. If an individual authority had capacity difficulties, there would be no compulsion to host a partnership.

Extent of costs and benefits to business and local authorities arising from the extension of the scheme

70. There is also the risk that this impact assessment has not captured the full extent of the costs and benefits to business and local authorities arising from the extension. This may be caused both by the fact that we have used data from the evaluation of the existing scheme which still is in its infancy and that we have assumed the same categories of costs and benefits as a result of the extension as those identified for the existing scheme. We believe that this risk has been mitigated by providing a range of costs and benefits estimates. Moreover, the consultation will seek views on these issues.

Amendments of the definition of regulated person

71. There are potential challenges associated with amending the definition of regulated person. For example, allowing trade associations to act as a conduit for the dissemination of Primary Authority advice. The advice would only be fairly general in nature, as it would need to be applicable to all members. This enables the trade association to take on a co-regulatory role. The Primary Authority would need to ensure there is a strong incentive for the trade association to continue to honour this role. One way to do this could be by the Primary Authority charging the trade association for this guidance.

²⁹ In this impact assessment, similarly to the RES Act, references to a local authority include also "a fire and rescue authority". See: Regulatory Enforcement and Sanctions Act 2008, p. 2
http://www.legislation.gov.uk/ukpga/2008/13/pdfs/ukpga_20080013_en.pdf

Communication risk

72. There is a risk that regulators would be unaware of the changes and of the new relationships. This could be mitigated through ensuring publicity and through LBRO keeping a register of the new partnerships. This would increase visibility to regulators and local authorities.

Cost and benefit detail

Costs for businesses

One-off costs

73. There will be start up costs involved for businesses developing a Primary Authority partnership with a local authority. Using figures provided by businesses and local authorities already participating in Primary Authority partnerships, it is estimated that businesses spend on average almost 38 hours per partnership liaising with the local authority to establish a Primary Authority partnership. This liaison includes negotiation of the scope of the partnerships, agreement of the nature of services to be provided, charging arrangements and agreement of the legal contract. For 600 -1,000 partnerships assumed to be set up after the extension, start-up costs for businesses developing new partnerships have been estimated at between £630,000 and £1.1m³⁰. Businesses and local authorities surveyed noted that agreement of the legal terms and conditions of the partnership represents a significant proportion of the time taken in establishing a partnership and it is expected that the time required establishing subsequent partnerships will be reduced.
74. One-off costs for businesses will also include costs related to the development of inspection plans. Primary Authorities can work with partner businesses to prepare a national inspection plan. Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks. Using figures provided by businesses and local authorities already using inspection plans, it is assumed that businesses spend on average 20 hours on the development of the inspection plans. For 260 - 420 partnerships assumed to develop an inspection plan after the extension, one-off costs to businesses in the development of inspection plans have been estimated at between £149,000 and £241,000³¹.
75. As the RES Act allows Primary Authorities to recover the costs from the business involved, one-off costs for businesses will also include start-up costs and costs in the development of inspection plans incurred by a local authority acting as a Primary Authority. As already mentioned in the assumptions and data section for the purpose of this impact assessment, we have assumed that 48% of the partnerships assumed to be set up after the extension will recover full costs³² and 40% will recover half of the costs³³. This equates to a cost for business between £477,000 and £787,000 for 600 – 1,000 partnerships³⁴.

³⁰ The lower figure is based on the number of hours assumed to be spent on setting up a partnership (37.68), and the lower number of partnerships (600) at the senior manager hourly tariff (£27.85). The higher figure has been estimated similarly but using the higher number of partnerships (1,000).

³¹ The costs have been estimated using the average number of hours assumed to be spent on developing the inspection plan (20.6) for the lower and higher number of partnerships assumed to develop an inspection plan after the extension (260 – 420) at the senior manager hourly tariff (£27.85).

³² Based on data provided by LBRO.

³³ Our assumption after consultation with LBRO.

³⁴ The basis for this figure is discussed under the annual costs for local authorities part.

76. The details of one-off costs³⁵ to businesses are summarised in the table below. Low refers to low take up and high to high take up.

Costs	One-off costs Low	One-off costs High
One-off costs to business including	£1.3m	£2.1m
Business start up costs	£630,000	£1.1m
Developing inspection plan costs	£149,000	£241,000
Primary Authority costs recovery	£477,000	£787,000

Annual costs

77. Based on RAND data, it is assumed that on average businesses spend about 2 hours a week on maintaining the Primary Authority partnership. Using these figures, the annual costs for businesses for maintaining Primary Authority partnerships have been estimated at between £1.7m and £2.9m³⁶.

78. Annual costs for businesses will also include charging arrangements for partnerships. As already mentioned Primary Authorities are able to recover the costs of operating a partnership from the business involved, and there are a number of charging models in place in existing partnerships. We have estimated the direct cost of cost recovery to business at between £3m and £5m for 600-1,000 partnerships³⁷. However, it is assumed that these costs will be compensated by a reduction in duplication and inconsistent advice, as discussed below.

79. It is worth noting that in case study discussions carried out by RAND Europe, businesses were asked for their views on being charged for the services they were being provided with through the scheme. In each of the three cases, businesses thought the service was good value for money and did not represent a large financial burden for them.

Benefits for businesses

Improved consistency of advice

80. Evidence received from business shows that communication between local authorities can be an issue. The quotes from case studies in the research undertaken by the Centre for Regional Economic Development to review and assess the methodology of the Retail Enforcement Pilot in a business environment³⁸ show that there is still a perceived inconsistency in the interpretation of the regulations:

“There are huge inconsistencies between different local authorities...some listen and compromise...others banging your head against a wall as they can do what they want to do.”

“Confusion because of different interpretation...different councils’ confusion with H&S, Fire and FSA. However Trading standards are black and white...good practical procedures...if wrong get 28 days notice of revisit ...you know where you stand-what you are working to.”

“CONSISTENCY that is the problem with the authorities...we need ...this is what has happened - this is what is likely to happen, but they can’t do that...vague or get letter of improvement.”

³⁵ We expect all one-off costs and benefits to be spread across businesses and local authorities over that period 5 years.

³⁶ This is based on the number of hours assumed to be spent on maintaining the partnership (2) at the senior manager hourly tariff (£27.85) for all 600 – 1,000 partnerships.

³⁷ The basis for this figure is discussed under the annual costs for local authorities’ part.

³⁸ Centre for Regional Economic Development, University of Cambria, LBRO, “Review and assessment of the methodology of the retail enforcement pilot in a business environment”, May 2009 <http://www.lbro.org.uk/docs/cred-report.pdf>

81. The Primary Authority scheme addresses this as local authorities are required to contact Primary Authorities before proceeding with enforcement action against a business with a Primary Authority partnership. The scheme, therefore, creates greater certainty and consistency for businesses operating across local authority boundaries and therefore reduces losses from contradictory advice (where, for example, businesses plan on the basis of advice given by one local authority, only for this to be contradicted elsewhere).
82. The loss value is dependent upon the size of the business and scope of the advice, and it is assumed that the average loss from contradictory advice amounts to £10,000 per incident per business³⁹. Based on RAND Europe data we have also assumed that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership. Based on these assumptions, it is estimated that the annual savings to business resulting from improved consistency of advice as a result of joining Primary Authority scheme at the range of £15m and £25m⁴⁰.
83. Examples received from businesses and local authorities also suggest that Primary Authority reduces costs that arise for businesses as a result of 'gold plating' of legislative requirements. The case study below shows how Primary Authority advice saved up to £1m in relation to a single issue.

Case study⁴¹

Leeds City Council acts as Primary Authority BSS Group for health and safety regulation. BSS Group operate trade counters at 434 sites across the UK. BSS Group were concerned about the need to properly address the risk from legionella at their sites, and felt that they did not have the necessary specialist expertise internally so they hired a consultant to put together a control strategy. The consultancy provided detailed reports recommending a series of actions including detailed risk assessments at all of their sites, and a variety of control measures such as removing dead legs of pipework etc where these were found. The total cost for implementation of the recommendations is estimated by BSS at in excess of £1m. BSS went to their Primary Authority to get detailed advice on legionella. The Primary Authority was able to give advice that the business should control legionella by eliminating all sources of aerosols where possible, and then only applying controls where they could not be eliminated. The cost of implementing this recommendation is negligible and can be dealt with through existing processes. The annual cost of Primary Authority for BSS is around £5,000, meaning that this piece of advice alone has saved the equivalent of 200 years of Primary Authority costs.

Improved consistency of risk assessment

84. As already mentioned Primary Authorities can work with partner businesses to prepare a national inspection plan. Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks.
85. At the moment, however, there is little obligation on other local authorities to comply with inspection plans and local authorities infrequently provide feedback to the Primary Authority after inspections or enforcement action. This prevents the full potential of inspection plans from being exploited and weakens the capacity to build a dynamic risk-based inspection plan which reflects the current compliance situation for the business and the local authorities regulating it. Some businesses already having inspection plans noted that it was difficult to quantify savings as a result of them due to a limited awareness amongst local authorities of the existence of the inspection plans.
86. We believe that strengthening inspection plans so that local authorities are required to follow them would enable full recognition and exploitation of business-led activities such as third party inspections and business audits.
87. Based on RAND data, it is assumed that inspection plans result in a reduction of about 20 hours' work per partnership per year. Based on this assumption the savings for multi-site businesses as a

³⁹ The assumption from the impact assessment of Statutory Instruments implementing the Primary Authority scheme modified downwards after our discussions with business for the Review of LBRO.

⁴⁰ The costs have been estimated using the assumed number of incidents reduced by the Primary Authority scheme (2.5) and the assumed average loss (£10,000) for 600 and 1,000 partnerships.

⁴¹ Case study available from <http://www.lbro.org.uk/news-pa-bss-1m.html>

result of improved consistency of risk assessment due to inspection plans have been estimated at between £145,000 and £234,000 per year⁴².

Net benefits for business

88. Our estimate is that the overall net benefits for businesses will amount to between £10.4m and £17.3m a year.

89. The monetised impact of Primary Authority on businesses is summarised in the table below.

Costs and benefits	Annually Recurring Low	Annually Recurring High
Business annual benefits including	£15.1m	£25.2m
Savings - consistency: advice	£15m	£25m
Savings - consistency: risk assessment	£145,000	£234,000
Business annual costs including	£4.8m	£7.9m
Maintaining Primary Authority partnerships	£1.7m	£2.9m
Primary Authority costs recovery	£3m	£5m
Net benefits	£10.4m	£17.3m

Costs for local authorities

One-off costs

90. Collected evidence for the evaluation of the existing scheme has shown that the costs for setting up a partnership are lower for Primary Authorities who have previously been involved in setting up more than one partnership. It is assumed that a typical Primary Authority start-up would involve a single officer's time of almost 30 hours for first partnerships and almost 9 hours for subsequent partnerships. Based on LBRO data, we have assumed that 47% of partnerships will be first partnerships (e.g. a business and/or a local authority will not have any experience of the scheme) and 53% will be subsequent ones.

91. Start-up costs for local authorities developing new partnerships have been therefore estimated at between £477,000 and £795,000 for 600 to 1,000 partnerships⁴³.

92. It is important, however, to note that the costs may be even lower if there were already existing arrangements between a business and a local authority which became a basis for a Primary Authority partnership. Therefore the time spent on setting up the Primary Authority partnership might be lower than it might have been without a previous arrangement.

93. There will also be some small one-off costs to local authorities in the development of inspection plans. It is assumed that it takes about 20 hours for a local authority to develop an inspection plan. The one-off costs have been estimated at the range of £224,000 and £362,000⁴⁴ for partnerships assumed to develop an inspection plan after the extension.

⁴² This is the numbers of hours assumed to be saved as a result of an inspection plan (20) at the senior manager hourly tariff (£27.85) for 240 and 420 partnerships assumed to develop inspections plans after the extension.

⁴³ The cost has been estimated using the numbers of hours assumed to be spent on setting up first partnerships and subsequent partnerships (29.9 and 8.6), the number of first and subsequent partnerships for 600 partnerships (280 and 320 respectively) and 1,000 partnerships (467 and 533 partnerships) at the average hourly rate charged by a Primary Authority (£44.86).

⁴⁴ The cost has been estimated using the average number of hours assumed to be spent on developing the inspection plan (20.1), the number of partnerships assumed to develop inspection plans (240 and 420) at the average hourly rate charged by a Primary Authority (£44.86).

94. The details of one-off costs to Primary Authorities are summarised in the table below.

Costs	One-off costs Low	One-off costs High
One-off costs to Primary Authorities including	£701,000	£1.2m
Primary Authority start up costs	£477,000	£795,000
Developing inspection plan costs	£224,000	£362,000

Annual costs for Primary Authorities

95. Collected evidence has indicated that Primary Authorities spend about 3 hours per week administering a first partnership and about 1.5 hours for each subsequent partnership. The range is dependent on a number of factors, including the size of the business, the scope of the partnership and the nature of support given through the Primary Authority relationship.

96. The annual costs for maintaining Primary Authority partnerships have been estimated at between £3m and £5m for 600 – 1,000 partnerships⁴⁵.

97. Annual costs for Primary Authorities also include costs of dealing with enforcing authorities. Collected evidence has indicated that that Primary Authorities spend about 2 hours per week on this for first partnerships and about 0.3 hours per week for subsequent partnerships. This results in annual costs to Primary Authorities of between £1.4m and £2.4 for 600 – 1,000 partnerships⁴⁶.

98. We have estimated that Primary Authorities will recover between £3m (in case of 600 partnerships) and £5m (for 1,000 partnerships) from the businesses involved⁴⁷ resulting in between £1.4m and £2.4m of costs not recovered. As mentioned already, we have assumed that 48% of partnerships will recover full costs of providing Primary Authority and 40% will recover half of the costs.

Annual costs for enforcing authorities

99. Annual costs for enforcing authorities will include costs of notifying enforcement actions to Primary Authorities. Notifications (or referrals) take place where enforcing authorities refer complaints regarding a business to the relevant Primary Authority for it to follow up with its partner business therefore results in releasing resources for enforcing authorities.

100. Since Primary Authority came into force, there have been 48 referrals of intended enforcement action against 13 different businesses. The range is from 0 notifications of enforcement action per partnership year (for the majority of partnerships) to 20 for one business in six months.

101. As mentioned in the assumptions and data section for the purpose of this impact assessment we have assumed 5 referrals per partnership per year. We have also assumed that enforcing authorities spend 1 hour on each referral. The annual costs related to this have been estimated at between £106,000 and £176,000⁴⁸.

⁴⁵ The cost has been estimated using the number of hours assumed to be spent on maintaining first and subsequent partnerships (3.11 and 1.5 for first and subsequent partnerships respectively). We have also used the average hourly rate charged by a Primary Authority (£44.86) and the number of first and subsequent partnerships within the range of 600 and 1,000 partnerships.

⁴⁶ The cost has been estimated using the number of hours assumed to be spent by Primary Authorities on dealing with enforcing authorities (1.95 for first partnerships and 0.3 hours for subsequent partnerships), first and subsequent partnerships within the range of 600 and 1,000 partnerships at the average hourly rate charged by a Primary Authority (£44.86).

⁴⁷ This is 48% of annual costs to Primary Authorities plus 40% of half of those costs for lower and higher ranges of the number of partnerships assumed to be set up after the extension.

⁴⁸ The cost has been estimated using the assumed number of referrals per partnership per year (5), the number of hours assumed to be spent on each referral by enforcing authorities on dealing with Primary Authorities (1), the number of partnerships assumed to be set up after the extension (600 – 1,000) at the hourly rate for enforcing authorities (£35.27).

102. The contacts between Primary and enforcing authorities do not relate only to notification of enforcement action but also include large volumes of early contact to resolve compliance issues. We have assumed that enforcing authorities spend 1 hour a week on this per each partnership. The annual costs related to this have been estimated at between £1.1m and £1.8m⁴⁹.

Benefits for local authorities

One-off benefits

103. As mentioned already, the RES Act allows Primary Authorities to recover costs from the business involved and we have assumed that 48% of the partnerships will recover full costs and 40% will recover half of the costs. This will result in between £477,000 and £787,000 one-off benefits to Primary Authorities⁵⁰. We consider this a benefit to the Primary Authority but a cost to business hence it is a transfer and does not affect the aggregate cost benefit figure.

Annual benefits

104. The impact assessment of Statutory Instruments implementing the Primary Authority scheme anticipated that Primary Authority would have quantifiable benefits for enforcing authorities which would be achieved through the release of resources. It was assumed that Primary Authority would reduce the collective workload of other local authorities dealing with a particular business with a Primary Authority partnership in terms of familiarisation, risk assessment, and follow up work on enforcement issues, up to and including prosecution. We have assumed an average 50 contacts per annum with a saving of 7 hours per contact for the enforcing authority. The savings for enforcing authorities as a result of this have been estimated at between £7.4m and £12.3m annually⁵¹.

105. Benefits in the form of time savings to enforcing authorities will also arise from the development of inspection plans.

106. During our engagement with local authorities it has been indicated that with inspection plans in place, this will lead to a reduced number of inspections carried out, by enforcing authorities, of businesses within a Primary Authority. Some local authorities and businesses have suggested that an inspection plan may not substantially reduce the number of inspections but should lead to more focused inspections.

107. We have assumed that for a given enforcing authority 2 hours' work per year per an inspection plan will be saved as a result of an inspection plan. Assuming that between 240 and 420 inspection plans will be developed after the extension, the benefits to enforcing authorities from the use of inspection plans is likely to be between £3.7m and £5.9m⁵².

Net benefits for local authorities

108. The cost and benefit analysis for local authorities has shown that the overall net annual benefits for local authorities amount to between £11.5m and £18.9m.

⁴⁹ The cost has been estimated using the number of hours assumed to be spent per week by enforcing authorities on dealing with Primary Authorities (1), the number of partnerships assumed to be set up after the extension (600 – 1,000) at the hourly rate for enforcing authorities (£35.27).

⁵⁰ This is 48% of one-off costs to Primary Authorities plus 40% of half of those costs for lower and higher ranges of the number of partnerships assumed to be set up after the extension.

⁵¹ The benefits have been estimated using the number of hours assumed to be saved per contact by enforcing authorities on dealing with Primary Authorities (7), the number of contacts per year per partnership (50), the number of partnerships (600 – 1,000) at the average hourly rate for enforcing authorities (£35.27).

⁵² This is 2 hours' work at the enforcing authority tariff (£35.27) over the 200 authorities that we have estimated the average Primary Authority partnership will operate for between 240 and 420 partnerships assumed to develop inspection plans after the extension.

109. The monetised impact of Primary Authorities on local authorities is summarised in the table below.

Costs and benefits	Annually Recurring Low	Annually Recurring High
Local authorities annual benefits including	£14.1m	£23.3m
Savings to enforcing authorities including	£11.1m	£18.3m
<i>Savings as a result of reduced workload</i>	<i>£7.4m</i>	<i>£12.3m</i>
<i>Savings as a result of inspection plans</i>	<i>£3.7m</i>	<i>£5.9m</i>
Cost recovery to Primary Authorities	£3m	£5m
Local authorities annual costs including	£2.6m	£4.4m
Costs to Primary Authorities not recovered - maintaining partnerships & dealing with enforcing authorities	£1.4m	£2.4m
Costs to enforcing authorities including	£1.2m	£2m
<i>Costs of referrals</i>	<i>£106,000</i>	<i>£176,000</i>
<i>Costs of early contact</i>	<i>£1.1m</i>	<i>£1.8m</i>
Net benefits	£11.5m	£18.9m

Summary

110. Our best estimate is that the net overall annual benefits of the extension of the Primary Authority scheme for all parties will amount to £29m. The midpoint of the net benefit range, estimated over 15 years⁵³, amounts to £282.6m.

111. The impact of the extension of the Primary Authority scheme as a whole is summarised in the table below.

Costs & benefits	Range	Annual Recurring	PV
Total benefit	Low	£29.2m	£286.8m
	Mid	£38.9m	£381.4m
	High	£48.5m	£476.1m
Total cost	Low	£7.4m	£74.1m
	Mid	£9.9m	£98.8m
	High	£12.3m	£123.5m
Total net benefit	Low	£21.9m	£212.7m
	Mid	£29m	£282.6m
	High	£36.2m	£352.5m

112. It is important to note that the estimates in this impact assessment do not include costs and benefits associated with enabling access for businesses seeking a Primary Authority partnership through trade associations. At this stage of policy development we have not been able to assume how many trade associations will be interested in participating in the Primary Authority scheme. We will test this in consultation.

113. Moreover, LBRO are currently piloting two approaches to this which will provide feedback on the scope and format of any resulting legislative changes.

- Sector Models Pilot: The first will test the feasibility of providing Primary Authority advice through trade associations. As part of this pilot, LBRO will be working with the Health and Safety Executive (HSE), the Food Standards Agency (FSA), and up to five trade associations with their prospective

⁵³ NPV is calculated over 15 years. We have assumed a gradual take up for the first 5 years and a steady state for the following 10 years. This is consistent with the impact assessment of Statutory Instruments implementing the Primary Authority scheme.

Primary Authority partners.

- Compliance Models Pilot: For the second pilot, LBRO will work with a number of businesses that operate inter-related approaches to compliance (for example franchises and tenanted premises) to explore the extent to which the Primary Authority approach can deliver benefits. The pilot aims to test how well the existing arrangements for assured advice under Primary Authority can operate for businesses where there is an inter-related approach to compliance. As part of this pilot LBRO will be working with HSE, FSA, and two franchise businesses with their prospective Primary Authority partners.
114. The pilots are scheduled to go live in April 2011 and will provide feedback on the scope and format of any legislative change that is needed to deliver Primary Authority benefits to small businesses through trade associations and franchises.

One-In, One-Out and sunseting regulations

115. This will be a legislative change which will impact business therefore it is in scope of the One In, One Out rule. However, as the direct incremental economic cost to business (£5.3m) less the direct incremental economic benefit to business (£16.6m) is negative (-£11.2m) i.e. the change will lead to the net benefit to business, it is zero net IN, so no corresponding OUT is required.
116. As the proposal will not result in any new burden on businesses or civil society organisations and is voluntary it is out of scope for sunseting.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)]; We intend to include a duty to review the impact of the Primary Authority scheme through the proposed secondary legislation to bring LBRO's functions in-house.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] Review the impact of the extended the Primary Authority scheme in achieving greater regulatory consistency and certainty for businesses operating across a number of local authority areas.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] 1) In-depth evaluation of the Primary Authority scheme 2) Analysis of stakeholder views 3) Consider whether the costs and benefits have been realised and if not why 4) Evaluate lessons learned</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] 1) Impact Assessment that accompanied the statutory instruments to implement the Primary Authority scheme 2009 2) Data from RAND Europe's evaluation of the Primary Authority scheme 2011</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Costs and benefits in line with expectations or benefits exceeded</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review] LBRO collects extensive quantitative and qualitative data about the Primary Authority scheme and reports to the department against its progress on agreed Corporate Plan targets. It does this annually through its published Annual Report and Accounts. This target setting and reporting system will continue when the functions are bought in house.</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here] N/A</p>

Annex 2: Specific impact tests

Equality Impact Test

117. We do not believe that there will be any impacts in the area of equality.

Competition Test

118. The initial analysis of the competition filter test reveals that a detailed competition assessment is not considered necessary. The table below gives the results of the competition filter test.

Results of the Competition Filter test:

In any affected market, would the proposal	
Directly limit the range of suppliers?	No
Indirectly limit the range of suppliers?	No
Limit the ability of suppliers to compete?	No
Reduce the suppliers' incentives to compete vigorously?	No

Small Firm Test

119. Creating a Primary Authority framework for small businesses by enabling them to access the Primary Authority scheme through trade associations is likely to bring some benefits to small businesses.

120. At the moment, as mentioned in the rationale for intervention, many businesses which hold membership of trade associations (often SMEs) are not individually regulated by multiple local authorities and therefore do not meet the current eligibility criteria for the Primary Authority scheme.

121. Enabling access for businesses seeking a Primary Authority partnership through trade associations would focus on the provision of advice and guidance, with local authorities taking the advice provided by the Primary Authority into account.

122. This would provide benefit to small businesses, are likely to contact associations for early advice. This would also enable more efficient use of local authority and business resources, as the Primary Authority would interact with the trade association, rather than all the individual businesses, which would reduce the administration for organisation. Similarly, the trade association would contact the Primary Authority for advice, rather than a range of local authorities.

123. Our discussions with trade associations have found that small businesses are supportive of this policy.

Other Impact Tests

124. We do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.