

***REVIEW AND ASSESSMENT OF THE
METHODOLOGY OF THE RETAIL ENFORCEMENT
PILOT (REP) IN A BUSINESS ENVIRONMENT***

***May 2009: Report submitted to the
Local Better Regulation Office by***

***Centre for
Regional
Economic
Development***

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ACKNOWLEDGEMENTS

The authors would like to thank the staff at the LBRO for their cooperation in the production of this report. Thanks also to the businesses who gave their time for interviews for the case studies and the various stakeholders who attended and contributed to the focus groups.

EXECUTIVE SUMMARY

1. This document reports on the primary research undertaken by the Centre for Regional Economic Development (CRED) to review and assess the methodology of the Retail Enforcement Pilot in a business environment.
2. Specifically it will document the views of business stakeholders supported by the REP on the types and level of support provided including positive and negative impacts on business; impact on regulatory burden and the impact on engagement between local regulatory services and the business sector.
3. The report draws final conclusions and recommendations that will complement the LBRO Lessons Learned Report for the REP project.

Retail Enforcement Pilot

4. The REP has involved some thirty local authorities across England and is aimed at reducing the pressure on compliant businesses by addressing some of the recommendations of the Hampton Review.

Data sources and methods

5. It was considered that a large quantifiable survey of businesses covered by REP would not have given the owner/managers enough time to recall a REP visit or identify their true relationships with the regulatory system and that an open discussion with a selection of businesses would allow them to reflect on their experiences of regulatory visits and help them to identify the REP visit amongst the many events they have to recall. Accordingly a series of case studies were conducted with a cross section of businesses that had had a REP visit. The results of these case studies were then discussed by focus groups from business support organizations.

Analysis of the background documents and reports

6. The MORI report commissioned by LBRO identified the main issues in the regulatory system for the sub sectors covered by the REP.
7. A synopsis of the early transcripts gathered by the LBRO for the formulation of the Lessons Learned Report highlights the regulatory officers main concerns affecting the successful delivery of the REP. The issues were the engagement of officers; use of Information Communication Technology; engagement of partners and the clarification of the expectations of REP.
8. The pilot survey of sales directors confirmed the findings of the MORI survey.
9. The REP covered three main business sectors: retail, food premises and other business selling goods or services to the general public.

Analysis of the case studies

10. The case studies represented well established compliant businesses that had built up long term working relationships with their regulatory officers.
11. The case studies initial awareness of the term 'Retail Enforcement Pilot' was zero but 5 of the 6 cases could identify a visit that matched the REP process.
12. The case studies agreed with the REP goals but were concerned about how these goals would affect their relationship with their current regulatory officers.
13. The case studies recognised the experience of their current regulatory officers and were concerned that they would be replaced by REP inspectors without the depth of knowledge.
14. The different sectors within the case studies received different numbers of regulatory visits from a selection of regulatory authorities.
15. There was a wide range of types of support from different regulators with some closer to enforcement and some closer to advice.
16. All businesses surveyed required a consistent approach from the regulatory system.
17. The case studies that had experience of different regions highlighted the different interpretation of regulations of different local authorities.
18. The cost of the regulatory visit was perceived by the case studies as a **small part** of the total cost of regulatory compliance for business.
19. The cases felt that the regulators were generally moving towards support of business but that there were still **too many new regulations** been introduced and a perception that **old regulations were not removed**.
"The law has gone too far, laws change and always at an extra cost to business."
20. Additional costs were often experienced because of poor communications between the regulator and business.
21. The attitude to regulations varied between small business and the large business. The owner/managers of the SMEs were very aware of the weight of new regulations appearing in their sectors and spent time and resources ensuring that their business remained compliant. The managers of the branches of the larger businesses worked within their HO systems and were more aware of the consequences of not following company procedure than the direct effects of regulations.

22. Owner/managers were aware of the damage non compliance could do to their good business name whilst managers were aware the damage a bad inspection could do to their company's brand name and their subsequent career.
23. The case studies wanted clear advice on how to remain compliant "*Exactly what we need is: to be told what is needed within the law and sound advice on how to complete certain things.*"
24. From the case studies there was an understanding that regulators, business and the public were all on the same side within a virtuous circle of regulation, compliance and safety. "*Everyone should be on the same side, working towards a common goal.*"
25. The case studies positively greeted the REP aims of limiting the amount of enforcement visits on compliant businesses to allow more resources to regulators to visit non compliant businesses. Their main concern with REP was that compliant businesses would no longer receive the current level of support offered by their regulatory officers which was helping them achieve compliance with new regulations and that the interpretation and implementation of REP was still down to the individual regulatory authorities.

Results of the focus group

26. Most of the focus group was aware of the REP but the entire group was not aware of its details.
27. It was acknowledged by the focus groups that the raft of new initiatives and regulations from government meant that only a small number of central business functions would be fully aware of pilots such as REP.
28. The problems with the IT systems recognised by the user groups were also recognised by business with the focus group feeling that too much effort had been spent by the REP fixing IT and data transfer issues rather than focusing on Hampton principles. This led some of the stakeholders to conclude that the implementation of REP had become stuck in process and drifted away from the ideals laid out in Hampton.
29. The focus groups highlighted that the inconsistency of the regulatory system meant that for businesses to comply with central government regulations they constantly had to adapt to the interpretation of these regulations by local authorities and regulators.
30. The focus groups recognised that businesses requirements from the regulatory system depend on their size, their sector, the level of new regulations for their sector, the experience of the owner and the general level of compliance of the competition within their region and sector.
31. It was agreed by one focus group that new regulatory officers would benefit from business modules in their degrees been designed by current experts from the business sector and that these modules should be supported by similar modules in their CPD.

32. Two of the largest organisations within the focus groups agreed that in some cases a number of local authorities interpretation of '**best practice**' (which is suggested by central government) appears to be '**regulation**' (which is required for compliance for central government regulation) which results in unnecessary expense for the business and that REP does not appear to have fixed this.
33. The focus groups recognised the comparatively extra perceived burden owner/managers had with regulations compared with the perception of managers of branches of large businesses who were supported by their HO regulatory systems.
34. The focus groups agreed that the financial cost of the regulatory visit is a **small part** of the overall cost of business regulatory compliance.
35. There was an acceptance that regulators are always going to have to keep at arms length from business.
36. The case studies noted that businesses cannot separate the effect of REP from the overall direction the regulatory system is taking. They can comment on the aims of the pilot and speculate as to whether these have been achieved solely by the pilot or by the regulatory system as a whole.

Conclusions

37. A successful regulatory system recognizes that the majority of businesses do not intentionally want to harm its customers or staff and local authorities have a finite resource to deliver a regulatory system that ensures maximum business compliance across their region.
38. Regulations are now firmly embedded into the business process with small and large firms committing time and financial resources to ensure compliance. This commitment results in the improvement of the firms best practice a process that often increases the profitability of that firm.
39. Local regulatory officers and business owner/managers relationships are dictated by the economic need of the business and the local authority's interpretation of the regulatory system.
40. The aims of REP have been broadly welcomed by the business as they reflect the aims of Hampton. There is some concern that the 'clip board' approach may remove the long term relationships between business and regulatory officers.
41. REP affected the cost of the regulatory visit by a regulatory officer which is a **very small part** of the total regulatory cost burden on business.
42. From the focus groups the overall effectiveness of REP would seem to rely on the attitude of the local authority. From the case studies it would appear that all the compliant businesses that had received a REP visit were generally happy with the direction their regulatory system was taking,

however two of the larger businesses in the case studies were also aware of a lack of consistency across regions.

43. There is a perception that the future of REP may well depend on cuts in the public sector and a strong belief that REP or similar pilot's needs stronger marketing to the regulatory officers and the business sectors.

Recommendations from the focus groups

44. **The focus of all future REP style initiatives should be based on the recommendations of Hampton and Anderson and not on their delivery process.** To avoid future REP style regulatory systems been 'bogged down' by process the experience and knowledge gained of the necessary IT and data processes from the REP should be made available to all future authorities implementing a REP style process.
45. The launch of REP would have benefited from a closer working relationship with the various business support groups and clearer communication of its aims to regulatory officers and business owner/managers. To demonstrate LBROs commitment to creating a 'virtuous circle of compliance' between regulators and business, copies of this report should be circulated to all stakeholders involved in the focus groups and the local authorities involved in the REP. This would be part of the process that would create clear lines of communications between legislators, local regulators, business organisations and businesses to ensure that 'best practice' and 'regulatory compliance' is delivered consistently across regions and business sectors.
46. **REP affects the cost of the regulatory visit which is perceived by business as a comparatively small part of the overall cost of business compliance.** There needs to be further research into the comparative business costs of new regulations and the regulatory system so that future initiatives have a clear cost benefit to business as well as the regulators.
47. Some suggested forms of added value that could be added to future REP visits on business that have achieved the compliance level required to justify a REP visit:
 - A written acknowledgement of the level of compliance required to achieve 'REP standard' visit status which serves as a 'pat on the back' for broadly compliant businesses.
 - Overall commitment by the local regulatory authorities to support 'REP standard' businesses commitment to maintain compliance with new regulations.
 - A list of recommended suppliers for compliant equipment and services for 'REP standard' business.
 - A list of sources of available finance to help with compliance (training or equipment provision).
 - A physical reduction in the amount of record keeping required for 'REP standard' business.
 - Guarantee of support by professional regulators on compliance queries from 'REP standard' business.

- A commitment by the Local Regulatory Authority to offer a clear interpretation of best practice and regulatory compliance to all 'REP standard' business.

1: INTRODUCTION

This is the Report of the Review and Assessment of the Methodology of the Retail Enforcement Pilot in a Business Environment which the Centre for Regional Economic Development was commissioned to conduct on behalf of the Local Better Regulation Office.

The objectives of this study are to:

1. Summarise the overall experience of Local Authority Regulatory Services (LARS) of a sample of businesses.
2. Assess the business perception of the effectiveness and impact of the Retail Enforcement Pilot (REP) project.
3. Document the views of business stakeholders supported by the REP project on the types and level of support provided including the positive or negative impacts on business; impact on regulatory burden and the impact on engagement between local regulatory services and the business sector.
4. Prepare a report and presentation showing final conclusions that will complement the REP Lessons Learned Report.

2: BACKGROUND TO THE RETAIL ENFORCEMENT PILOT (REP)

2.1 Brief background to the relationship between regulators and business

Porter¹ acknowledged the influence of legislation on business as one of the five forces that drive the strategic direction of organisations. Balancing the needs of business with the safety of the public has always been the priority of public regulators. The role of the regulatory officer is a balance between maintaining public safety by ensuring enforcement of legislation and supporting business through sound advice on regulations. In 2005 Griffith² suggested that the role of environmental health practitioners was to:

1. Enforce Legislation
2. Advice/Education
3. Outbreak investigations

The paper suggested that regulators would best achieve the enforcement of legislation if they worked with businesses giving advice and education and that this would reduce outbreaks.

Gurtoo and Antony in 2007³ highlight that new regulations can act as entry barriers to new firms entering an industry as compliance becomes too expensive thus stifling entrepreneurial growth in the industry.

In a 2007 paper that could be linked to the regulated/regulator relationship Aurier⁴ concludes that the perception of justice within a relationship is highly influential:

"Consumers who experience higher levels of perceived justice are more likely to engage in relationship behavior and, as a consequence, to become and remain loyal customers."

Gurtoo & Antony and Aurier's arguments are combined in Schimdt et al's 2007⁵ paper as they highlight the perceived burden of legislation on SME retailers concluding that help and support with legislation would have a direct effect on the SMEs gross profit and tax contribution.

2.2 Concept of the Retail Enforcement Pilot

The UK government has worked towards the goal of supporting and regulating retail business through a DTI initiative the Retail Enforcement Pilot (REP) which was absorbed into the working programme of the LBRO.

¹ Porter M E (1984) *Competitive Advantage Creating and Sustaining Superior Performance* The Free Press

² Griffith C J (2005) "Are we making the most of food safety inspections?" *British Food Journal* Vol.107 No3 pp132-139

³ Gurtoo A & Antony S J (2007) Environmental Regulations *Management of Environmental Quality: An international Journal* Vol. 18 No.6 pp626-642

⁴ Aurier P & Siadou-Martin B (2007) "Perceived justice and consumption experience evaluations" *International Journal of Service Industry Management* Vol.18 No.5 pp.450-471

⁵ Schmidt R A , Bennison D , Bainbridge S and Hallsworth A (2007) 'Legislation and SME retailers- compliance costs and consequences' *International Journal of Retail and Distribution Management* Vol. 35 No 4 pp256-270

The Federation of Small Businesses (p3) initial response⁶ to the DTI's original 2005 consultation shows that from a business perspective the adoption of the suggestions within the Hampton Review⁷ should lead to a reduction in work for the regulators and the regulated:

"If this (the Hampton Report) is effected, and a light touch regulation policy adopted and actually implemented, burdens felt by local authorities should also decrease, along with the burdens of business."

The initial response from Trading Standards in Scotland in 2006 appeared less favourable, with their belief that traders north of the border were less burdened by regulators.⁸

Macrory⁹ in November 2006 recommended seven characteristics that regulators should adopt to ensure a better regulatory system.

In January 2008 the LBRO conducted a consultation exercise based on a postal survey and four workshops¹⁰. LBRO distributed 1200 copies of its draft strategy to a wide range of stakeholders for consultation; it received 51 responses of which 7 were business:

- John Lewis Partnership
- British Contract Furnishing and Design Association
- Food and Drink Federation
- Sainsburys
- CBI
- Kingfisher PLC
- British Retail Consortium

LBRO also held a series of four separate workshops between January and March 2008 the attendees from business were:

- Claire Neilson-Nelson...CBI
- Graham Wynn...British Retail Consortium
- Kieran O'Keeffe...British Chamber of Commerce
- Matthew Goodman...Forum of Private Business
- Mike Spencer...The Furniture Group
- Nyree Connell...Federation of Small Business
- Pam Nicholl...Waitrose
- Wendy Cave...The Co-operative Group

In October 2008 Matthew Fell, the CBI's Director of Company Affairs said¹¹:

"Businesses face regulatory burdens from all directions, but locally enforced regulations can be just as challenging as the big ticket issues such as employment

⁶ The Federation of Small Businesses response to the DTI's Consultation Entitled "Reducing Administrative Burdens-the Consumer and Trading Standards Agency"

<http://www.fsb.org.uk/policy/assets/CTSA%20cons%20doc,%20september%202005.pdf>

⁷ Reducing administrative burdens: effective inspection and enforcement Philip Hampton March 2005

⁸ <http://www.scotss.org.uk/reference/Cosla%20REP%20issues.pdf>

⁹ Regulatory Justice: Making Sanctions Effective Final Report November 2006 Professor Richard B. Macrory

¹⁰ LBRO Draft Strategy 2008-2011: Summary of consultation responses June 2008

¹¹ <http://www.lbro.org.uk/Pages/Article.aspx?id=157&articleid=210>

and tax. Businesses recognise the value of effective, consistent regulatory advice. The newly established Local Better Regulation Office has a key role to play in ensuring local authorities step up to the challenge of better regulation."

In November 2008 Clive Grace, the LBRO chair¹², recognised the complexity of the regulatory system:

"The system of local regulation is enormously complex. Local authorities have an exceptionally difficult and demanding job to do in enforcing the range of legislation they are responsible for with the resources made available to them. They have a key role to play not only in protecting society but in providing support to businesses in creating prosperity."

Stephen Carter (Better Regulation Minister)¹³ believes a good regulatory system is positive for business:

"Regulation can also be good for business as well as for consumers. Good regulation can support sustainable economic growth. It can provide both effective protections for the public and a competitive advantage for our economy."

Carter also believes the new regulatory system will give the country a strategic advantage over trading partners:

"This system, a world first I believe, will focus new regulation on this country's real priorities and provide a strong driver for government to cut or streamline existing burdens where benefits do not justify the costs."

Carter underlines the importance of supporting regulated business:

"Supporting and understanding business is central to our mission. In fact, it has never been more important. To achieve long term prosperity, we need to ensure that business can operate effectively – all of our futures depend upon it.... LBRO also has its role to play, working with councils to ensure that local regulation supports responsible businesses in their legitimate and desirable quest for growth. Local authorities' role in providing accurate and timely advice to their businesses has probably never been more important than it is today, in this situation we find ourselves in."

2.3 Hampton Principle

In November 2008 the LBRO¹⁴ set out the Hampton Principle which underline the Regulators Compliance Code:

- Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most.
- Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.
- No inspection should take place without a reason.

¹² <http://www.lbro.org.uk/Pages/Article.aspx?id=157&articleid=215>

¹³ Better Regulation Minister's speech to LBRO conference Stephen Carter, London, 11 November 2008
<http://www.lbro.org.uk/Pages/Article.aspx?id=157&articleid=223>

¹⁴ LBRO "Mapping the Local Authority Regulatory Services Landscape: Towards a Common Understanding" Nov 2008 page 15

- Businesses should not have to give unnecessary information, nor give the same piece of information twice.
- The few businesses that persistently break regulations should be identified quickly.
- Regulators should provide authoritative, accessible advice easily and cheaply.
- Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

These principles were refined by Macrory's report¹⁵ following his recommendations for regulators:¹⁶

- Regulators should publish an Enforcement Policy.
- Regulators should measure outcomes not just outputs.
- Regulators should justify their choice of enforcement actions each year to Stakeholders, Ministers and Parliament.
- Regulators should follow-up enforcement actions where appropriate.
- Enforcement should be in a transparent manner.
- Regulators should be transparent in the way in which they apply and determine administrative penalties.
- Regulators should avoid perverse incentives that might influence the choice of sanctioning response.

2.4 Official launches of REP

As part of the regulatory enforcement reform the Retail Enforcement Pilot has been adopted by various councils across England, a web search produced the following results:

The Test Valley¹⁷ in the Hampshire Cluster:

"The retail enforcement project illustrates just how regulatory agencies can work together to provide a better and more effective service to local businesses. It also promotes the work of Test Valley Borough Council's Commercial team in protecting the health, safety and welfare of employees and the public and ensuring that the food we eat is safe."

Havant Borough Council¹⁸ in the Hampshire Cluster:

"The aim of this pilot project is to improve consumer and employee protection by targeting high-risk and non-compliant businesses whilst reducing the number of separate agencies that inspect each business."

Torbay Council¹⁹ who encouraged cooperation from their local businesses:

¹⁵ Regulatory Justice: Making Sanctions Effective Richard Macrory Nov 2006
<http://www.berr.gov.uk/files/file44593.pdf> page 35

¹⁶ LBRO "Mapping the Local Authority Regulatory Services Landscape: Towards a Common Understanding" Nov 2008 page 17

¹⁷ <http://www.testvalley.gov.uk/default.aspx?page=8471>

¹⁸ <http://www.havant.gov.uk/havant-9561>

¹⁹ Food & Safety Bulletin No.9 - Summer 2008 Torbay Council

“The main benefit for businesses is that compliant businesses will receive fewer visits from the participating Enforcement Agencies reducing the burden of legal compliance.

If you are one of the premises asked to take part in the pilot, we would very much appreciate your collaboration in this exercise.”

The pilot has the backing of certain retail groups including the Kingfisher Group²⁰:

“DTI Retail Enforcement Pilot – Gerry Murphy is the principal retail sponsor, working with the Government to deliver a more effective risk based enforcement of regulation to provide better outcomes for the consumer, local authorities and retailers. Helen Jones participates in the steering group, working with the Better Regulation Executive (BRE) personnel to move the project forward.”

Whilst the initial response to the pilot has overall been favourable some concerns were raised. Leeds Metropolitan²¹ questioned if sufficient expertise would be available when only one inspector carried out the inspection on behalf of all regulators:

“Whilst such co-ordinated interventions reduce costs, their effectiveness in protecting the consumer has yet to be tested. A matter of concern to the professions is the limitation of expertise in certain areas of the inspecting personnel.”

And Usdaw²² questioned whether self regulation would work in the current retail environment:

“The retail trade union Usdaw(Union of Shop, Distributive and Allied Workers) believes the current 'Retail Enforcement Pilot' in Warwickshire and the London Borough of Bexley does not bode well for health and safety in its membership's workplaces.

The Dept. of Trade and Industry initiative involves the targeting of so-called 'poor-performers' for inspection by local authority officials. The union cites recent prosecutions of household names such as Asda, IKEA, Sainsbury's and Tesco as examples of organisations that may in future be expected to maintain or improve health and safety performance on the basis of self-regulation.”

The literature would suggest that REP has to balance the enforcement of legislation through regulatory visits with the compliance of legislation through advice and support to business. This enforcement and advice is required to be delivered with the minimum affect on businesses ability to trade balanced with the maximum protection for the public for whom the regulations have been introduced.

2.5 The Anderson Review

Moving beyond REP the Anderson Review ²³ considers regulatory advice to businesses of up to 250 employees (which represents 60 per cent of overall private sector employment or 99.9% of all private sector enterprise) acknowledges the good

²⁰ http://www.kingfisher.co.uk/managed_content/files/reports/cr_report_2007/index.asp?pageid=57

²¹ <http://www.leedsmet.ac.uk/health/publichealth/research/ehfood/enforcement.htm>

²² <http://www.safetyservices.co.uk/news.asp?ID=63>

²³ The Anderson Review 'The good Guidance Guide: taking the uncertainty out of regulation' BERR Jan 2009

practice suggested by the July 2008 Government Code of Practice with its list of eight golden rules of good guidance (p34):

- Based on a good understanding of users
- Designed with input from users and their representative bodies
- Organised around the users way of working
- Easy for the intended users to understand
- Designed to provide an appropriate understanding of how to comply with the law
- Issued in good time
- Easy to access
- Reviewed and improved

This is supported by the 63% of businesses that say taking a joined-up approach to inspectors by different local regulatory services is very or fairly important (p37) but leads to the SME dilemma that they want fewer inspections but also demand a high level of knowledge from the inspectors. (p38)

Recommendation 10 of the Anderson Review (p39) states:

"Professional bodies, local authorities and regulators should examine how to broaden the skills of inspectors so that they can better provide advice and guidance that is based on the experience and needs of business." All of which are skills that could be learned from the REP process.

The regulators have a duty to advise conforming business and regulate non compliant business and as Anderson concluded:

"The majority of small and medium sized businesses are willing to comply with their regulatory duties and have an interest in doing so. Government guidance should represent a cost effective and efficient way for them to do so."

2.6 Outputs and outcomes

The output of the REP will be fewer regulatory visits for business; this can be measured by a broad quantifiable survey. The Hampton and Anderson reports would suggest that businesses need a more supportive regulatory system and that the outcomes of a better system would be an improved business and a more effective compliance system.

Mcrory suggested that these outcomes are as important as the outputs, they are however extremely difficult to quantify as they represent the business perception of a regulatory initiative and can only be accessed by in depth interviews with businesses that have experienced the regulatory pilot.

3: DATA SOURCES AND METHODOLOGY

In order to summarise the experience of the Local Authority Regulatory Service and assess the business perception of the effectiveness and impact of the Retail Enforcement Pilot this research followed an analytical framework based on data gathered from four sources (Figure 1)

Background Documents and Reports collated by the Retail Enforcement Pilot (REP) team and a pilot survey of sales directors of a national grocery chain

To gain an initial understanding of business perceptions to regulators this research referred to a business survey by MORI commissioned by LBRO on the business perception of regulatory bodies which had a sample of retail outlets and the early findings from the Lessons Learned gathering exercise carried out by the LBRO REP team.

These sources were supported by a short pilot telephone survey of sales directors of a national grocery chain to gather an initial business perception of the Local Authority Regulatory Services (LARS).

Meetings with LBRO staff

To ensure the report met the criteria of the clients a series of project meetings were held with LBRO staff.

To ensure the research had an understanding of the regulators perspective the LBRO also facilitated a meeting with a focus group of Local Authority Regulators.

Six In-depth interviews with businesses who have received a visit from the REP

It was considered that a large quantifiable survey of businesses covered by REP would not have given the owner/managers enough time to recall a REP visit or identify their true relationships with the regulatory system and that an open discussion with a selection of businesses would allow them to reflect on their experiences of regulatory visits and help them to identify the REP visit amongst the many events they have to recall.

So a series of case studies were conducted with a cross section of businesses that had had a REP visit. The interview guidance schedule (see appendix 1) was based on the findings from the initial research on existing documents; the meetings with the LBRO staff; the Local Authority Regulators focus group and the pilot survey of sales directors.

Two Focus groups with business stakeholders

To confirm that the evidence gathered from the case studies reflected the experience of the business sectors covered by the REP, two focus groups were held with representatives from business support groups that represented all sizes of businesses and a wide range of sub sectors covered by the REP.

Evidence from these focus groups highlighted the impact of REP on the engagement between the local regulatory service and the business sector and was used to re-evaluate the findings from the case studies.

Presentation of the findings to the Steering Board

A draft report was then presented to a steering board of the LBRO so that their feedback could be used to ensure that the analysis of the case studies and the focus groups was a true representation of the implementation of REP.

Attending the meeting from LBRO:

Graham Russell
Carol Brady
Graham Dodge
Graham Grey
Rebekah Eden

From the University of Cumbria:

Frank Peck
Keith Jackson

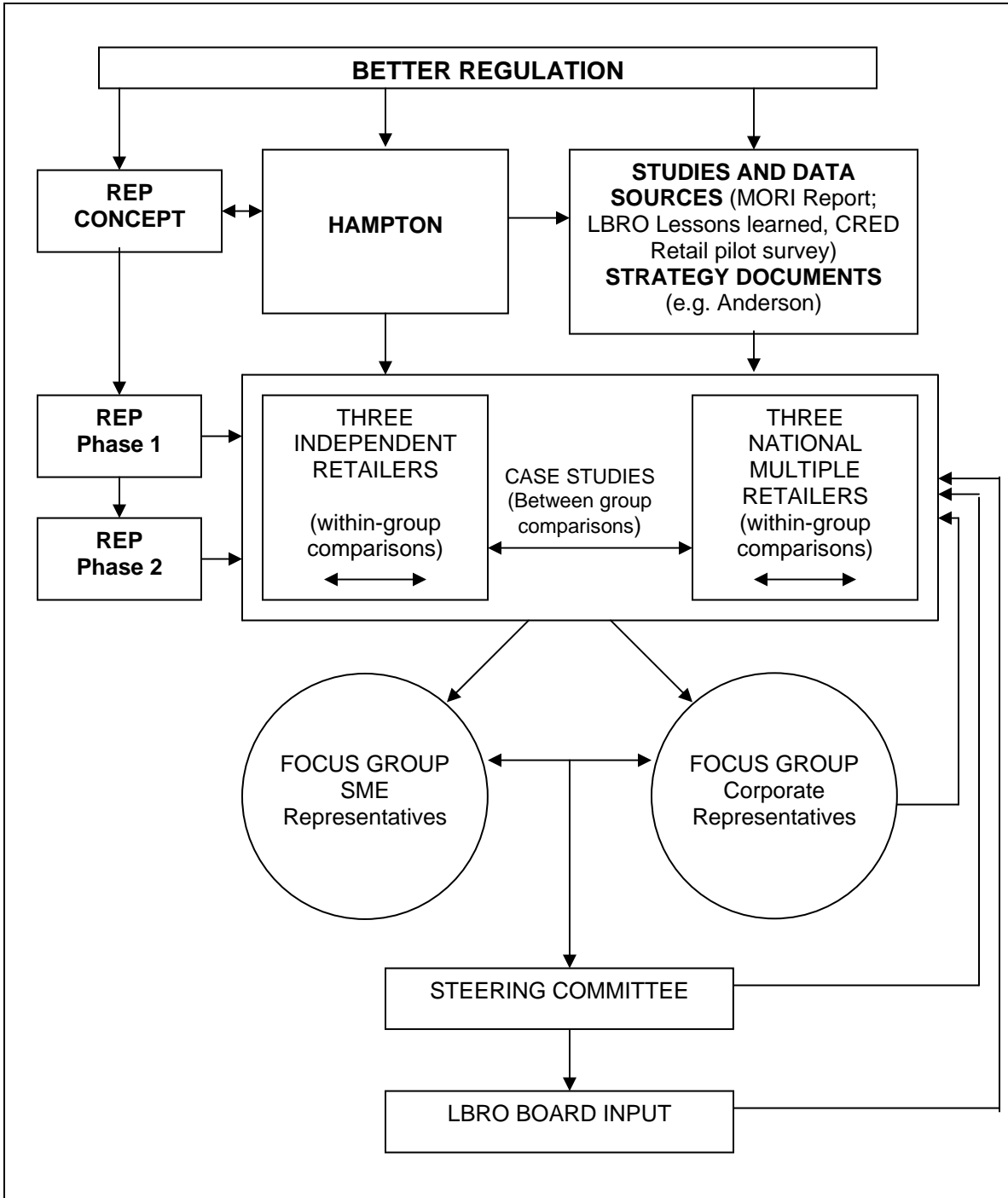
Presentation of the draft report to the LBRO Board

After considering the discussions at the steering board a draft report was then presented to the LBRO board to ensure that the main findings from the report were a fair representation of the REP process.

Final draft of the report

By following this analytical framework (see Figure 1) the “Review and Assessment of the Methodology of the Retail Enforcement Pilot in a Business Environment” final report should represent a sound interpretation of the business perspective of the REP.

Figure 1: Analytical Framework for Case Studies



4: ANALYSIS OF THE BACKGROUND DOCUMENTS AND REPORTS

4.1 MORI Survey of businesses

4.1.1 Scope of the survey

To identify the issues in the regulatory system the MORI research²⁴ (based on a 1000 businesses across England and Wales between mid June and Mid July 2008) had three aims:

- *To measure business satisfaction with local authority regulatory services and the fire service, where they have had direct experience of them.*
- *To ascertain businesses' views on the consistency of advice provided where they deal with several local authorities.*
- *To gauge how easy it is for businesses to comply with different areas of regulation.*

The businesses covered by this survey were mainly small:

- 907 'small' employed less than 50
- 50 'medium' sized employed between 50 and 249
- 29 'large' employed over 250 people

The report also highlighted the findings from BERRs survey of small business²⁵ and the UK Business Barometer²⁶ that UK business saw regulation in general as an obstacle to success. The survey covered the legislative areas of:

- Agriculture
- Animal Health and Welfare
- Environmental Protection
- Fire Safety
- Food Safety, Standards and Hygiene
- Health and Safety
- Housing
- Licensing
- Consumer Protection

4.1.2 Findings of the survey

The survey aimed to gather the opinion of the businesses on the regulators visiting their businesses. The two legislative areas of most contact with the businesses surveyed were Fire Safety and Health & Safety; this was matched by both the 130 businesses in the retail sector ; the 100 'other' businesses and the 40 businesses in the motor sector surveyed. The 70 hotel businesses surveyed differed slightly from retail and motor in that the two legislative areas they had most contact with were Food Safety Standards & Hygiene and Health and Safety.

²⁴ Ipsos MORI Social research Institute 'Business perceptions of local authority regulatory services. A survey of businesses conducted for the Local Better Regulation Office' Sept 2008

²⁵ <http://www.berr.gov.uk/whatwedo/enterprise/enterprisesmes/research-and-statistics/researchevaluation/business-surveys/page38370.html>

²⁶ <http://www.ukbb.ac/UI/home.aspx>

The majority of businesses saw the provision of an advisory service, taking a joined up approach to inspections and maintaining an ongoing relationship as important. The provision of an advisory service in relation to regulations enforced by local councils and the fire service received the most support.

Overall two thirds of those surveyed were happy with the service they received, this matches with BERRs averaged 'NI182 satisfaction of business with local authority regulation service' score of 69%. The greatest concern raised appeared to be a lack of understanding of business by the regulatory services which reflected the findings of the UK Business Barometer that showed that Government regulations were the second most severe problem that business faced behind the tax burden and that a majority of business do not believe that government consults well before regulatory change. However the vast majority of businesses agreed that they were treated fairly by the regulators.

Most businesses perceived the burden of complying with areas of local regulation as broadly similar to that imposed by areas of regulation such as planning, tax, employment and company law. One in five saw local regulation as less of a burden whilst one in eight saw it as a greater burden.

4.2 Lessons Learned from LBRO

To broaden our understanding of the implications the REP project had on Local Authority Regulatory Services and the way it may have influenced their dealings with businesses, LBRO shared with us their initial findings from the early transcripts gathered to support the production of the Lessons Learned Report.

The four key areas of discussions with Local Authority officers centred around

- Partnership Working
- Resource and Culture
- Sharing Information
- Tools

4.2.1 Initial points raised

Officers expressed the opinion that the REP would only work if it involved the right team of people who had a clear understanding of the objectives of REP. With REP being a new process officers felt that they needed support to understand the new way of working and opportunities to offer feedback where the system could be improved.

It was felt that the officers needed more support at the beginning of the process to help them deliver REP in a professional manner to business. There was an apprehension that by spreading their remit over areas where they didn't have expertise officers were in danger of devaluing the service.

There appeared to be some discussion of the failure of the system due to hardware problems identified once the project was live and software problems mainly related to enabling the various systems to communicate with each other. The IT problems coupled with over lapping databases that identified a business as more than one

separate entity led to various issues that may have disillusioned some officers to the viability of the REP.

There was also some concern over data security as it was transferred across various systems and stored in a new data base.

It was noted that not all partners were fully committed to REP and that in some cases partners withdrew leaving the remaining partners the task of completing the REP.

The officers acknowledged that for REP to succeed it had to have their engagement and to ensure this strategic communications between partners to guarantee coordination of resources was critical.

There was some concern expressed to the level of derogation that REP would bring and that some Chief Executives/Councillors would see the process as a cost saving exercise.

Some officers because there was no established methodology for REP were also unclear to what was expected and their areas of responsibility.

4.3 Pilot Survey of sales directors

The survey covered sales directors responsible for the geographical area covering all of England except the SW region. The responses from the directors were broadly in line with the MORI survey and the data sources used to support the Anderson Review.

4.3.1 Summary of findings

All interviewees mentioned Trading Standards and EHO as regulators who visited them, one failed to mention the fire brigade; this broadly matches the findings from the MORI research.

All interviewees agreed that they learned something, one specifically mentioned advice from the fire officers whilst EHO and TSO tended to point out failings, summed up by one as:

"The inspections are necessary for some enforcement issues and generally proceed without too much hassle. However, judgement as to whether we learn useful things from them are harder to quantify."

There was no agreement over whether the role of the inspectors was advisory or enforcement and there were opposing views on the impact of inspections on smaller stores.

When prompted on the balance of inspection and advice, one interviewee felt that store managers would appreciate more frank discussions with the inspectors. One had noticed a shift from advice to inspection by the fire officers:

"Generally the balance is about right but there are exceptions in specific areas where individuals still adopt their own routines. Fire Officers in particular have changed from advisors years ago to enforcers now and are generally more confrontational."

All noticed a range in the level of advice:

“There is a lot of inconsistency across different authorities and their enforcement action. Some serve Improvement Notices at the first visit for minor items; others do long involved informal letters and no notices.”

4.4 Implications for the assessment of the methodology of the REP in a business environment

The report was going to use the results of a series of case studies of businesses effected by REP to gather qualitative data that would be assessed at focus groups of business support organisations.

It was important that the case studies identities were protected and that they represented a fair cross section of businesses involved in REP.

The 8 clusters of local authorities each offered around 12 randomly selected businesses that had been in the REP.

This sample was checked against Yel.com to identify the ‘active’ businesses which left 56 ‘active’ businesses that could be split into three sectors (see figure 1)

Figure2 Split of Premises for Case Studies

Retail		Food Premise	
Petrol	2	Pub	8
Shoe shop	2	Restaurant	7
Butcher	1	Café	4
Grocer/Convenience store	1	Take away	2
Pharmacy	2	Hotel	3
Newsagent	1	TOTAL	24
Baker	1		
Video Hire	1	Others	
Greengrocer	1	Care Home	2
F&V wholesaler	1	Golf Club	1
Engraver	1	Tourist attraction	1
Supermarket	3	Sports/Health Club	2
DIY	1	Metals	1
Car Dealers	2	Tyres / Windscreen Garages	3
TOTAL	20	Paper & Board	1
		Plumbers Merchants	1
		TOTAL	12

The three suggested groupings of Retail, Food Premises and Other Businesses (selling goods or services to the general public) do not fit with the sectors from the MORI survey as this did not have a specific food premises sector. However the MORI

survey on page 17 acknowledges that their Hotel Sector would be more likely than the average businesses surveyed to come into contact with regulators for food safety; this would probably be the case for this reports Food Premises Sector where food preparation takes place. This report Retail Sector should broadly match the Retail Sector in the MORI survey. The Other Businesses Sector should broadly reflect the sample within the MORI survey of 'Motor and Other' where the two main points of contact with regulators were the same as the report overall which were Fire Safety and Health and Safety.

The MORI survey split the businesses into three sizes:

- o Small (<50 employees)...907 businesses surveyed
- o Medium(50-249 employees)...50 businesses surveyed
- o Large(250+employees)...29 businesses surveyed

The difficulty of identifying businesses in the medium category from the information available meant that businesses within this research were split into two sizes; three from the small size sector (less than 50 employees) and three from the large size sector (over 250 employees).

To cover the sectors identified the case studies represented two businesses from Retail; two businesses from Food Premises and two businesses from Other Business.

To ensure a geographical coverage the case studies would represent six of the eight clusters of local authorities.

This selection procedure should protect the identity of the case studies.

5: ANALYSIS OF THE CASE STUDIES

5.1 Introduction

The case studies were selected from a list of premises that had had a REP (or in the case of the Association of Greater Manchester Authorities (AGMA) a Business Compliant Audit) visit.

Six case studies were chosen from six different local authorities.

Three of the case studies were with national firms and three were with small firms with one outlet.

For the purpose of the case studies the businesses were split into three broad categories of:

- 'Retail' where the main function is selling consumer goods to the public
- 'Food Premises' where the main function was the preparation of food and drink for the consumption of the public on or near the premises
- 'Other Businesses' where the function was selling goods or services to the general public.

Two of the case studies were 'retail' based, two were 'food premises' and two were 'other businesses'

5.2 Business/Personal background

5.2.1 Local pub

This business was located on the outskirts of the town. First impressions from the layout of the premises and the good state of repair of the fixtures and fittings would suggest that this was a professionally run business, the owners lived in the first floor flat above the business. The partners just managed to get a wage from the business with 60% of the turnover coming from food preparation. The business was visited annually by various regulators, their biggest problem was the public's 'sue culture' and the business saw extra legislation as the main problem not the regulatory officers who were seen as helpful experts.

5.2.2 Multiple village store retailer

This was a busy petrol forecourt on the outskirts of a country village. At the time of the visit the store was clean, well merchandised and the staff were friendly and professional with their customers. The current manager was about to be promoted within the group and their area manager was present at the interview. The Head Office system was used to ensure compliance and there appeared to be more apprehension about a visit by internal regulators than external regulatory officers. The group concentrates on protecting its brand and welcomes the regular visits from regulatory officers who it sees as an extra pair of eyes. The biggest problem the business had was with the consistency of the regulators.

5.2.3 Small Café in city centre

This café was run by a young owner who had recently bought the business from a relative. The owner happily worked seven days a week in order to pay the business loan off early. The café was visited every year by regulators and always complied with their requests. The biggest problem to the business was the cost of complying with regulators requests, the owner felt that there was unfair pressure on SMEs compared to big business.

5.2.4 Gym

This business had been run by the same family for 20 years; they had sold their house to keep the business viable. It was a busy premises; seen as the heart of the community and was regularly visited by regulatory officers who had a good working relationship with the owners. The biggest problem to the business was the amount of paperwork they had to keep to maintain compliance and the owner felt that there were too many new regulations.

5.2.5 Garage part of multiple group

This business was located on a busy feeder road into a major city. The manager had been with the company for more than 10 years and 2 years ago was promoted to manager. The area manager was due to attend the interview but had to withdraw at the last moment. The manager kept the Head Office compliance system up to date and correctly filed all the compliance paperwork, the business had regular visits from the regulators and never had a problem with them. The manager was keen to point out that health and safety were drummed into him and his staff and that he saw it as an important part of his duties to protect the company brand.

5.2.6 Multiple retailer on town high street

This business was located on the towns pedestrian high street with a mixture of various other multiple and independent retailers. The manager had worked for the same company for twenty years working as a manager in several locations across the region. The area health and safety manager was also present and had a dual role of H&S manager and financial auditor for the region. Both had good experiences with the regulators for the case study store but could highlight issues with regulators of stores in the neighbouring local authority.

5.2.7 Summary of backgrounds

All but one of the interviewees had been in their industry for between 10 and 25 years. The exception was a young entrepreneur who two years ago had bought a well established business from a family member. All the interviewees had built up a relationship with the various regulators that visited their premises and their regulators were aware of the day to day issues that these businesses faced.

The premises visited employed between four and twenty staff on various full and part time contracts, although three of the businesses would be classified as large because they belonged to national chains.

The time spent with each of the interviewees suggested that they were confident and comfortable with their role and had good relationships with both their staff and their customers.

5.2.8 Business attitude to regulators

There was an overall feeling that the regulators were there to ensure that everybody complied with current regulations and so the interviewees did not have a problem with them calling on their business as one interviewee commented:

"No one comes to work to do a bad job."

The premises run by national chains all had company set procedures to ensure that they were compliant

"We've all been through the training by the company...health and safety can see we are on top of things."

Whilst two of the smaller businesses benefited from systems set out by their trade bodies

"We have started to work up to the national quality assurance mark for our industry and the EHO said that this was excellent as it gave quality assurance mark for the business."

and the other small business relied on advice from the regulatory officers.

"Exactly what we need is to be told what is needed within the law and sound advice on how to complete certain things."

5.3 Awareness of Retail Enforcement Pilot

None of the businesses interviewed were initially aware of the REP, typical response of: *"Not heard of REP"*. However in five cases it was apparent that the last visit by the regulator had involved the REP process:

"The last visit from the EHO involved a check of all regulations using a hand held computer; the officer had said that this should reduce the number of visits..."

One of the case studies also commented that their local authorities had become a unitary authority and they presumed the way they had been visited had changed over the last few visits because of the change of authority (it may have also been due to the REP process).

5.4 Attitudes to the goals of REP

It was briefly explained to the interviewees that the most widely accepted driver for the REP was to reduce the number of planned inspections on broadly compliant businesses, this would not only reduce the burden on compliant businesses it would also allow the regulators to focus their resources on effective enforcement. This more effective enforcement on the non-regulated was generally welcomed by the case studies:

"One man running a corner shop who is never visited...to address that is a good idea...give a consistency to the visits..."

However the potential loss of contact with regulators that the case studies had built up working relationships with was brought up by large and small firms:

"At the moment I would rather talk to the group of regulators I deal with rather than someone that doesn't know me."

This is because the case studies all recognise the expertise of the regulators:

"Enforcement officers are experts in legislation, that's what they do... The branch manager Food safety, H&S is a small part of what they do...their expertise is as a retailer..."

"wants to be visited by someone who does the job (EHO or trading standards officer...not someone from behind the desk ... needs to talk to someone who is trained to do the job."

The concern for the case studies that the regulators could be replaced with people who did not fully understand the whole regulatory system or their business was also brought up by two of the case studies. They were also worried that the new regulators may be more 'draconian' in their approach to visits.

It was explained that the REP visits would be completed by qualified regulators and this did alleviate some of the concerns, but two interviewees (one from each size of business) wondered if this was just a cost saving exercise that would end up costing more because of the extra communications required between the different regulatory bodies.

"Rather see all the regulators. If not it gets more expensive for them...passing it (information) on."

"They are trying to make the visits shorter—working with business but has it got right round the country? HOW MUCH OF THIS WORK IS TO GOVERNMENT TARGETS?"

There was also some discussion about whether the various regulatory bodies would let go:

"Shocked that not all regulators want to talk to me when I become proactive, is it that they are resistant to change...the regulatory body could be out of a job if they let go..."

There was some resistance to changing the system: *"if it ain't broke don't fix it"*.

"Regulators- done brilliant for us. Not creating a problem. Not at all. If people have problems they brought it on themselves."

The overall ideal of more advice for the compliant and more enforcement on the non compliant was generally positively greeted:

"In theory REP is a good idea as long as competency is satisfied with it...for example Food Officer agrees with EHO to check standards- would need to be a network-would be confusing unless joined up with all councils (if some councils did joint check and others separate then we would have to develop two methods of compliancy)"

5.5 Experience of Regulatory Visits

The number and variety of regulatory visits to the case studies premises varied depending on the sector of industry they were from:

- One case study a national firm from the '**other business**' category only ever recalled been visited by Health and Safety. The other case study from the '**other business**' sector a SME was visited by the EHO, Health and Safety and the Fire Officers.
- Both case studies from the '**food premises**' were from the SME sector and recalled visits from: Health and Safety, Fire Officers and EHO and one of these case studies had also had a visit from Weights and Measures.
- The '**retailers**' had had visits from Trading Standards, Fire Officer, Health and Safety, EHO, DEFRA and Petrol Safety Officer.

The case studies accepted the need for regulations; it was the degree to which they were regulated that caused some worries:

"There would be no bureaucracy in a perfect world, we would just need guidelines"

And for this reason they are glad when they have a working relationship with the regulators:

"In the main the agencies are helpful...they give them time to go through any changes. If these people had been 'jobs worth' it would have meant trouble because of the changing rules and regulations."

Generally the experience with Health and Safety and EHO appears to be supportive and fairly positive with both sizes of business commenting on the support offered:

"The EHO officer usually leaves his business cards behind after a visit so that if the proprietor has any problems like the delivery man he can hand them a card to contact the EHO who are satisfied with the way the business is run."

The experience from one of the smaller businesses with fire officers appears to be more regulative and dictatorial:

"H&S- very understanding but fire not as understanding- time limit (for recommendations to be fixed) was 2-3 months at a cost of £1,000- last week had to change the door (supplier fitted wrong type of replacement door)-when is it going to stop?"

This experience was mirrored by a large business in the retail sector who felt that standards expected from large business were unjustifiably high compared to smaller businesses and occasionally led to conflict between regulatory bodies:

"Feel that there are unreasonable expectations from us certain things were let go by regulators for the previous owners but because we took over they felt they had to do more. Appreciate that they expect more of a larger company with far more resources but some of the requests involved the 'nice to have' and have cost us lots of money. These changes were classed as legal requirements as opposed to requests on previous owner."

Several case studies also noted the occasional clash of interests between regulators:

"Conflict of requirements from different agencies seemed to be quite common...you keep one officer happy and create a problem in another area."

Occasionally problems in communication appear to arise when the enforcement officer doesn't manage to talk to the owner or manager:

"The last visit at a store (not the one of the case study) was dealt with by a deputy manager...there was a conflict of demands from two regulatory agencies and it seemed to take a lot of work and communication between HO and the agencies to sort the problem out" (Large business)

"Fire officer came to look at premises to check if adequate- the fire exits, extinguishers etc he came in when owner wasn't on site...needed new fire proof door...done BUT on a second visit was advised that the new door wasn't adequate-even though the supplier said it was." (Small business)

From the case studies it would appear that communication between local authorities still appears to be a problem:

"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."

There was also a perceived inconsistency in the interpretation of the regulations:

"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 whats happened-this is what is likely to happen, but they can't do that...vague or get letter of improvement."

There is acknowledgement that the regulators are moving away from enforcement towards advice:

"The last few years we have got a lot more cooperation...coaching and improvement rather than hitting with a stick...WITH YOU RATHER THAN AGAINST YOU."

This may be because the case studies visited were all working to maintain compliance and welcomed the advice that the regulators offered whilst competing with businesses that might not have their same high standards:

"Shops OH MY GOD I know ones that appear not to be of standard...there are brand new shops that are not up to standard...The standard expected of us should be in place with everybody." (Large business)

"(the case study) gets visits from H&S at lunch time whilst his competition is only open at night when the H&S staff do not visit so they do not get regulated...This is not fair. As far as the interviewee is aware the only regulators to visit at nights or weekends are the fire officers." (Small business)

"NEED CONSISTENCY" (Small business)

5.6 Cost of Regulatory Visit

The case studies thought regulatory visits lasted between 9 minutes (an extreme) and one to one and half hours. These visits were ideally handled by the manager or owner and so by implication took their time away from the business. All of the case studies accepted the need for regulatory visits and none of them appeared to resent spending the time with the regulators:

"No problem with regulations- nothing to hide. They are not enemies-here to help. Someone trips in the car park, we can say we did everything we were asked."

The greatest costs to the business appeared not to be the regulatory visits but the costs involved with correctly complying with new regulations and the interpretation of the regulatory officers' requests:

"The law has gone too far, laws change and always at an extra cost to business."

"End of day we have to comply but we are trying to run a business."

One business that was mainly supported by grants from government noted:

"Regulators throw an edict down to you and then you have to finance it- we are good at complying-not good at chasing grants. We could do with direct information on how to get grants. This would be a massive help like Moses parting the waters."

They felt that a joined up approach between regulators and funding providers would help charitable organisations remain compliant and sustainable.

Additional costs were often experienced as a result of poor communications between the regulator and the business:

A small business replaced a fire door as requested but was supplied with a non compliant door and had to replace that one; he felt that a list of recommended suppliers from the regulators would stop this type of extra expense.

A large business noted that the one page report handed to their branch manager who was given the impression that it was a good visit turned three weeks later into a four page report to the Head Office. Sorting through the confusion between the two reports both in size and timing of receipt of the two reports cost a great deal of man hours for the company. This may be because the officer does not perceive the manager as the company expert and so is more explicit when reporting to the head office, but this practice does not help the company or the manager.

5.7 Perception of Regulatory Visits

All the case studies that had long experience in their trades recognised the value of regulatory visits, the smaller firms especially valued the advice they received from regulatory officers who had built up good working relationships with them over the years:

"We need people on the ground like our EHO- 12 years relationship we need that kind of person- attitude to progress the place rather than trying to trip you up...if he could link to funding. But they are different agencies- no joined up thinking at the end of the day...A foot in both camps would help."

The larger firms all had HO systems that the managers stuck to in order to remain compliant...the managers appeared to be so concerned about complying with company regulations that they were confident that they could satisfy any regulatory visit:

"We are set up to do things right."

The area manager of one of these firms even considered the regulators as 'an extra pair of eyes' for them.

The impression was that all the case studies valued their relationship with their regulators and did not want that jeopardised:

"COMMUNICATIONS IS KEY TO THESE THINGS WORKING...POSITIVE OR NEGATIVE"

"We build up a relationship with the enforcement officers sometimes we have to deal with difficult personalities....Need to know the type of person you are dealing with...We want someone we can approach ...how do you want us to fix it? What can be done? WE need solutions and someone who is familiar with the process."

There was an overall feeling that the regulatory visits were there to identify problems rather than acknowledge good practice and one case study discussed the possibility of a 'star rating' for all premises acknowledging the difficulty of maintaining consistency across sectors and regions and the danger of damaging a good business because of a single mistake.

5.8 Perception of Regulations

All sizes of business perceived a non compliance threat because of an increasing number of new regulations; the reaction to this was split between the large and small firms. The managers of large firms worked within their firms' compliance systems and were more concerned with complying with company regulations than worrying about new regulations:

"It finds its way down to us ...it is cascaded from HO...its pretty handy we have regular checks from HO, as far as I am aware we are on top of everything...HO cascades all the necessary info. Down to us, on the last visit H&S were really happy- we could direct to any paperwork needed."

Whilst the owner/managers of small firms were spending an increasing amount of time and in some cases money attending private sectors seminars on complying with new regulations:

"Small business is been strangled by bureaucracy and red tape...sometimes feel like we are smothered...I understand there is a need for regulation 110%. We all need a safe and healthy working environment, I am not blaming the people enforcing it, the rules are agreed by their supervisors and ultimately it (the regulations) all comes down to us."

"All our staff go on courses there always seems to be a sea of change in regulation because some one has changed the rules"

5.9 Brand Protection

It was implied by the owners of the small companies that they were aware of the importance of been compliant, but they seemed to be more aware of the public's perception of regulations (the suing culture) than the protection of their businesses name. The managers of the large companies were more aware of protecting their brand name and were monitored by their HO because of this:

"We can't afford a mistake, we need to keep our reputation...it may be different for smaller firms with other priorities...all our information is cascaded down to us"

"This book (manager points to the firms' health and safety record book) isn't sexy; health and safety isn't sexy- the manager fills this in because he doesn't want to be fined or sacked- we are working on an electronic hand held system that should be much better."

5.10 Requirements from Regulators

The smaller businesses in the case study all value the advice they receive from their regulatory officers. They would like a little bit more joined up thinking from them to help solve issues such as:

- Recommended suppliers for compliant equipment.
- Sources of available funding to help with compliance.
- Consistency of regulatory visits across local competition.
- Reduction in amount of record keeping required to prove compliance.
- Continue to be visited by experts who can offer relevant advice on compliance.

"Exactly what we need is to be told what is needed within the law and sound advice on how to complete certain things."

The larger businesses in the case study appeared to see the regulatory visits as a way of checking that their compliance system was working. They wanted to maintain a relationship with the regulators that ensured their company was compliant and that protected their company's brand:

- Engagement with the regulators to achieve compliance that is practical, effective and cost effective.
- Good clear communications with the branch manager.

- A communication system that allows the company to react immediately to any compliance problem.
- A pat on the back for the manager if they are performing well.
- Consistency of enforcement across regions, sizes of business and regulatory bodies.

All the case studies recognised the needs for regulations and all had built up a relationship with their regulators because:

"Companies don't want to hurt customers"

"Regulators want to protect the public"

This would imply that *"Everyone should be on the same side, working towards a common goal."*

One case study suggested a virtuous circle of regulatory communications where the regulator advises compliance to the business that then installs compliant systems that are used by staff and customers who can feed back the results of the systems to the business who can then report the results of the compliant system back to the regulator (Figure 2)

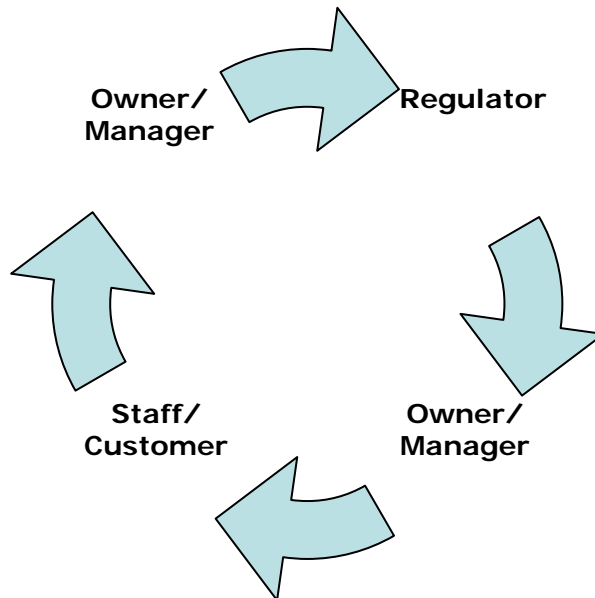


Figure 3 Virtuous circle of regulatory compliance

6: RESULTS OF THE FOCUS GROUP

6.1 Attendees of focus groups

Fifteen of the eighteen organisations approached to attend the focus groups expressed an interest in participating in the research demonstrating the continuing significance of the evolution of the governments' regulatory service for the business support sector. The pressure of prior commitments and unforeseen circumstances resulted in a focus group of seven with contributions by email and phone from another two of the organisations.

Several of these business support groups run on very tight staff resources so the research team gratefully acknowledge the time commitment they made to this research.

6.1.1 Attendees

Annabel Berdy: British Retail Consortium (BRC)
Denise Craig: Federation of Small Businesses (FSB)
Jenny Brown: Association of Convenience Stores (ACS)
Linda Jackson: Confederation of British Industry (CBI)
Rebecca Abbott: British Hardware Federation (BHF)
Steve Hughes: British Chamber of Commerce (BCC)
Thomas Parry: Forum of Private Business (FPB)

Prof. Frank Peck: University of Cumbria
Dr. Simon Parry: University of Cumbria
Keith Jackson: University of Cumbria

6.1.2 Input prior to focus groups

John Dyson: British Hospitality Association (BHA)
Kenneth Parsons: Rural Shop Alliance (RSA)

6.1.3 Apologies due to unforeseen circumstances

Abigail Miller: Home Retail Group (HRG)
Alexander Ehmann: Institute of Directors (IoD)
Bob Osbourne: Federation of Small Business (FSB)

6.1.4 Other Commitments

Andrew Kuyk: Food and Drink Federation (prior engagements)
Federation of Wholesale Distributors (felt that ACS could best represent their sector for REP)
Gill Brooks-Lonican: National Association of Master Bakers (National Conference)
Paul Chambers: National Association of Retail Newsagents (other commitments)

6.1.5 Businesses represented at the focus groups

The organisations at the focus groups represented all sizes of business from the micro to SME (FSB/FPB/BRC/RSA/ACS/BHA and BCC) and the SME to the large national organisations (FPB/BRC/BCC/ACS/BHA and CBI).

The specific sectors relating to the REP included food retail stores (ACS/RSA and BRC); hardware and gardening specialists (BHF) and the food and hospitality industry (BHA).

The groups' activities relating to regulations and regulators ranged from:

- Interpreting regulations and offering advice to members.
- Offering advice to members and some limited lobbying on specific issues affecting their membership.
- Lobbying on regulatory issues that have direct effect on their general membership.
- Commissioning and participating in national research linked to the regulatory needs of the membership and been directly consulted by government prior to new regulatory initiatives.

The groups agreed that they could offer perspectives of the business experience of regulators and REP in particular but that it was very difficult to generalise the business experience because of the *'hotch potch'* nature of the sectors with some businesses feeling supported by regulators and some feeling that *'they are trying to close us down'*.

6.2 Awareness of REP

Those groups who were generally concerned with the day to day support of their members were generally aware of the REP but unaware of the details and felt that the vast majority of their members in the test areas were unaware of the pilot.

"REP is just another visit; even amongst big organisations... on a quick poll of the regions affected only one person had heard of it"

The lack of awareness in small business may be because the large stream of information on regulations is filtered by the various trade bodies who deliver summaries of the regulations that directly affect their members. This is reflected in the large organisations where the *"awareness is likely to be limited to individuals within the business"*

This view was reflected by a group representing all sizes of business who felt that: *"smaller retailers tend to have no idea and that large retailers were aware of it as a pilot but had no understanding of the regulatory objectives of the pilot."*

The lack of awareness in business in general may be because *"businesses may not have taken much notice of the name because they see so much new regulation"*.

The two groups involved in the initial consultation with the REP felt that the original concept was very good but that *"the objectives were getting lost...bogged down in data exchange, IT became too important"*

There was considerable discussion as to how this pilot could have been communicated better:

- The reference to 'Retail' was confusing bearing in mind the mix of businesses affected.
- Part of the group felt that a communication budget was needed that there was too much reliance on members' organisations. However part of the focus group also felt this was the best way of communicating new regulatory needs.
- The communication should not be via expensive glossy hand outs.

This lack of awareness was balanced against the overall regulatory pressure on business:

"It's about perception...new regulations coming in with new initiatives all the time, business might notice if something is removed."

"Would be better if we had smaller regulations...better regulations ...it is supposed to be getting less..."

It was clear that the focus groups liked REPs reflection of Hampton principles:

"Its not just about inspection visits...it's more important to build up relationships ... to discuss the problem."

"It's not just support it's developing the partnership."

6.3 Regulators and Business

As REP was intended to limit the contact of compliant businesses with their regulatory officers it was important to identify the relationship between business and its regulators. A discussion on the balance between advice from the regulators and enforcement by them highlighted some interesting issues.

6.3.1 Business attitude to regulations

There was an acknowledgement that the size, type and relative success of the business has an effect on the attitude of the owner/manager to regulations:

"The size and success of the business can have an effect on the regulators attitude which may impinge on the regulatory outcomes...so regulators may impose more burdens on the less successful who may also be less compliant."

"The attitude to regulations may vary depending on how successful a firm is so the more successful may understand regulations better."

"The regulations on sectors are disparate...various sectors have different numbers of regulators."

"Some sectors can be untouched by regulators for years whilst environmental standards change every few years."

"Three reasons behind non compliance:

- *Really trying but not getting there.*
- *Can't afford it.*
- *Don't care."*

6.3.2 Business and the state

It was perceived that regulations on business were being used to help with the state reengineer society:

"Used as social engineering...under age issues...feeling that business is been used...'social engineering' by the back door."

"There are things that business needs that the public sector is too cautious to deliver."

"What do businesses get from business rates...it appears that the authorities take from business and give to the community...the local authority doesn't spend on the community but central government does."

"The way things are drafted places the criminality on the owners."

6.3.3 Consistency of the regulators

Regulators had a lot of perceived power over the owner/managers of business and generally this power was well used to build up a progressive partnership that maintained and improved compliance (visits seen as a *'free audit'*). There was acknowledgment from the groups that enforcement would always be necessary on some occasions and that businesses do not always see or communicate individual cases fairly back to their business organisations however on some occasions it was felt that the regulators power was abused using heavy handed enforcement techniques where advice and support would have been more productive:

"Balance has to be struck"

The focus groups believed that the relationship between the regulatory officer and the business was the most important part of the regulatory system and a lot of this relationship depended on the cultural influence of the local authority.

It was generally agreed that there was a lack of consistency in the way regulators behaved across different authorities with some *"authorities been more problematic than others"* and *"entrapment issues"*. It was acknowledged by both groups that some local authorities would offer advice to a non compliant business where another authority would issue improvement notices for the same non compliance.

6.3.4 Direction of regulatory control

Business recognises that regulations have become an integral part of the way they operate, with internal auditors for H&S a recognised role within multiples as much as internal financial auditors and the numerous trade bodies representing SMEs directing a large part of their resources to the dissemination of new regulation. The perceived view of the direction of regulatory control has therefore a part to play on the level of business confidence.

The focus groups highlighted several issues:

- The effect a bad regulatory visit can have on external agencies such as banks or insurance companies who penalise businesses for bad regulatory visits.
- Businesses were often told what needed fixed and not directed to a supplier/service that could provide the specification required to achieve compliance.
- Businesses now need protection from customers and employees re regulations.
- The additional costs of work done at the request of regulators where this work is on top of their original request (due to poor communication between regulator and officer) or where the work is to fit 'best practice' rather than regulatory compliance.
- Regulations paperwork...there is no consistency between agencies or in the guidance notes.
- SMEs are not always aware of the relevance to them of regulations.
- An understanding that regulators use 'risk based analysis' to identify the businesses that need to be monitored.
- Some new sectors such as the internet were not regulated as closely as established retail sectors.
- Increased fear of business of litigation.

It was generally perceived that regulators were moving closer to business:

"Underlying partnership is changing to partnership rather than prosecution."

"Resources focused on support for 'willing' business."

With some discussion as to where the business support groups sit within the regulatory system and how much unpaid support the government should expect these groups to give to the introduction of new regulations and regulatory schemes.

There was acknowledgement that regulators are moving towards business with various initiatives:

- Regulatory visits in general are becoming more visits rather than enforcement visits however one sector did comment that the regulatory situation was getting worse and that *"things have got worse not better"*
- The TSI was recognised as having gone through a *'root and branch change over the last 15 years'* moving towards business with such schemes as its recorded visits scheme which helped inform the aim of the regulations to the businesses.
- (LBRO)Trading Places where senior managers swap between public and private sector.
- The 'myth of the month' on the HSE website.
- A move towards 'primary authorities'.
- Use of translators by some regulators when dealing with SMEs run by ethnic minorities.

There was still a perceived need for a cultural change in regulators, authorities and businesses to help relationships in regard to compliance. It was acknowledged that it was changing slowly but that business needed more *'business savvy'* regulators

and regulations. The perceived lack of trust of regulators of firms self regulating was also highlighted:

“Unfortunately many regulators believe that there would be businesses committing offences if they did not visit, failing of course to recognise the business imperative of protecting customers and proving service.”

6.4 Affect of REP on Business and Regulators

The discussion supported both the appreciation of fewer visits and the loss of the support from well managed regulatory visits. It was generally accepted that the principles of the REP were a good idea but that its application had been a bit *‘topsy turvy’* with process taking over from the REPs main aim of supporting the Hampton report.

The main issues raised regarding a REP style regulatory regime were:

- The ‘checklist’ approach may cause more problems.
- Issues of training and the knowledge/competency of regulators involved in REP visits; a concern that the *‘dumbing down’* of regulatory officers would affect the advice given and the perceived value of the visit.
- Concern over lack of follow up visits if changes needed.
- Some businesses may miss the regulatory visits viewed as compliance advice sessions rather than regulatory visits.
- There is a need for better advice and guidance rather than less regulatory visits.
- A perceived fear that the increased power the REP officer has with his visit could severely damage a businesses reputation with all regulators.
- The REP regime may not be implemented by all authorities in the same manner so businesses will still have to train there managers in different ways depending on their geographical location.
- Compliant businesses would prefer arranged visits rather than surprise REP visits.
- A perception of the potential of *“babies straight from university with a clip board who were not business trained”* being used to conduct the REP visits.

6.5 Experience of Regulatory Visits

The apparent inability for business to directly identify a REP visit and the disparate views of business in the sectors affected by REP suggested that a brief analysis of the perception of the recent experience of regulatory visits would indicate if business in general felt that regulators were working more closely with them or against them.

6.5.1 Relationship between regulatory officer and business

It was generally accepted that business is never going to be happy all the time with the regulators who visit them. All of the attendees agreed that businesses experience with the regulatory system was greatly influenced by the personal relationship between the business and the regulatory officer. The relationship style of the regulatory officer appeared to depend on their level of training, the culture of their local authority and the personality of that officer:

"Visits are really dependant on the personalities...and a common sense approach to regulations...the regulators needs a good awareness of the regulations and the business models...then they are more likely to understand the business and gain compliance."

There appeared to be different levels of acceptance for regulations, the focus groups accepted the need for good fire regulations and in general would see the need for improvement to meet fire officers' requests but business saw the TSA more as a burden to meet central government regulations. The attitude of businesses to an EHO request depended on the interpretation of the importance of each situation by the business and the EHO officer.

6.5.2 Regulatory Officers Competencies

The importance of the competencies of these officers to the regulatory process was highlighted:

'Nothing worse than a regulator who doesn't understand the impact of the decisions they make.'

"Want regulators with knowledge"

"Understand the impact on business"

"Not so much consistency but a lighter touch for some micro businesses"

"Ability to query decisions"

"Businesses to be 'treated as adults'"

"Built up (personal) relationship with regulators is important"

"At present, too much depends on which official you get visiting. Generally, more experienced ones understand the practicalities and are seen to be realistic in their demands, whereas younger ones play it officiously and to a degree over-regulate."

6.5.3 Training of officers

The understanding of regulations coupled with the understanding of the pressure of business to comply (compared to the other pressure due to the economic market) may not be the current priority of regulatory officers and it was agreed that greater business awareness of the regulators would be appreciated especially if this was sector specific.

There was a suggestion that the commercial awareness module of the regulators professional exams should be designed in consultation with business. This was strongly supported by the CBI, BRC and BCC who felt that the regulators professional degrees business modules should be designed and updated by experts from the business sector and that these modules should be further supported by similar business modules in their CPD.

6.5.4 Consistency of advice and enforcement

A common problem appeared to be a conflict of advice between regulatory bodies and local authorities (with some local authorities enforcing best practice as well as regulations) and the focus group expressed a desire for more consistency of advice and enforcement.

"Treat businesses as adults- the penalty for non compliance varies between regions from a simple warning to a jail sentence."

"Businesses have to risk assess all suggestions (from the regulators) to find a 'workable solution'."

One serious point raised by two of the larger organisations was the use of 'best practice' as regulation:

"Depends on the local authorities interpretation of regulation, they can make a 'best practice' (which is suggested by central government) appear to be a regulation (which is required for compliance for central government regulation) to a business which will result in unnecessary expense for the business...REP does not appear to have fixed this."

6.5.6 Affect of regulatory visit on SMEs

Bigger firms outlets are run by managers who are supported and regulated by their HO specialists in regulations and can't immediately affect the way their business complies with regulations. The smaller firms are run by owner-managers who are responsible for the compliance of the business along with its profitability; they tend to be less patient with the system. SMEs would claim *"to be at the heart of their communities, they keep relationships with all of their community (including regulators)...they care more."* The groups felt that this would mean the advantage within regulations would shift towards a head office run business if regulators became less personal.

Specific points raised for SMEs were:

- Many SME owner managers may be struggling with the credit crunch which may affect the way they deal with 'intrusions' by regulators and the officers should allow for this when dealing with them.

"Owners with business going under are very stressed people and can be 'prickly'- any one regulating them could 'get it in the neck' and a degree of tolerance would be appreciated."

"In the past the regulatory framework has made proprietors structure their business to avoid excessive regulation." A reduction in regulation via a REP system may encourage shops to sell "wider ranges without fear of bureaucratic overload."

- Some regulators use translators when dealing with ethnic minority businesses; a joined up approach where more regulators used this service either collectively or individually would be greatly appreciated.
- There was a suggestion that we don't need consistency but that we need a 'lighter touch' with new and micro businesses.

- There was a suggestion that REP could be a prequel for compliance to public sector contracts, this could replace a half day H&S audit costing around £500.

6.6 Cost of Regulatory Visit

The discussion around regulatory visits highlighted that some visits can result in '*priceless advice*' been offered to the businesses, whilst others can result in unnecessary costs to meet '*best practice*'. There was a view that many SMEs saw regulatory visits as a burden rather than protection although this was not reflected in the case studies. Once again the 'cost' of the visit depended on the relationship between the regulatory officer and the business. The cost of the visit also depended on the business sector and the rate of new legislation that sector was experiencing, the greater the number of new regulations the greater the cost of the visit.

The aim of REP was to reduce the regulatory burden on compliant businesses so the focus group helped to highlight the financial cost of a regulatory visit:

- ***The time cost of the regulatory visit:*** this was not as much an issue as the timing of the visit...all businesses have periods of time which could accommodate a regulatory visit with out affecting the efficient running of the business. It was suggested that compliant businesses would appreciate notification of the visit so that the owner/manager could arrange the necessary staff cover.
- ***Maintaining regulatory paper work:*** needs to be kept up to date to prove compliance for next visit.
- ***Reading regulatory documentation:*** this is either done by the owner of a SME or a central function of the LE.
- ***Secondary Research:*** where the jargon or the terminology of the original documentation needs interpreted by the business. In one example the new REACH regulation took two people six months work to ensure a company was compliant.
- ***Decisions on the impact of one regulation on another:*** decisions have to be made on whether compliance with one regulation will effect non compliance on another.
- ***Updating risk assessment:*** checking that the compliance hasn't created a new business risk.
- ***Post impact assessment:*** assessing the impact on the business of gaining compliance to the new regulation.
- ***Updating firms procedures:*** To prove compliance at regulatory visits and to ensure a compliant system.
- ***IT implications:*** ensure computer records and systems are updated.
- ***Training of staff and suppliers:*** To ensure that compliance is maintained.
- ***Communication with consumers:*** To ensure they understand any affects of compliance.
- ***Cost of external training to gain certification:*** This can have a disproportionate effect on SMEs, if one person per company needs accreditation this will cost £5K for a business doing £5million (0.1% cost of T/O) and £5K for a business doing £100million.(0.005% cost of T/O).
- ***Cost of fighting unnecessary enforcement:*** It was believed by the SMEs that the LEs had a bottomless resource that could be used to dispute overzealous enforcement of '*best practice*' by regulators. The LEs do occasionally fight cases on unfair regulation but this is expensive and in most cases they will comply with requests rather than fight them in court.

This would imply that the time cost of the regulatory visit is very small compared to the time cost to businesses of remaining and proving compliance. It was accepted that the main cost of the regulatory burden to business was not the regulatory visit but the number of new regulations been introduced. The REP was accepted as a good idea but that it needed to go further : it would be useful if it was acknowledged that it was only offered to generally compliant businesses; that the REP visit was pre arranged and that the businesses received a written 'pat on the back' if they continued to be compliant. One attendee did observe that a number of its members within the REP received a questionnaire at their branches which had to be forwarded to the HO for processing increasing the cost of regulations to the business.

6.6.1 Potential costs of REP style visit

Adopting a REP style visit would cut down the time business spent with regulatory officers and could be seen as a pat on the back for compliant business but the groups did express some concerns that the REP could cost business:

- Fear of loss of long term relationships.
- Practicality of long time to apply the new initiative with businesses having to fit to two styles of regulatory visits with authorities who have or have not adopted a REP style visit.

6.7 Perception of Regulations

It is very difficult for businesses to identify the exact effect of individual parts of the regulatory system has on them, so the groups had a general discussion around the current perceptions of the effects of the regulatory system.

It was generally accepted that the problem was regulation rather than the way it was enforced and that this burden was getting worse as legislators never seemed to remove regulations when introducing new ones. There was a perception that regulations were been used to raise revenue, with a wide felt belief that small business was a soft target that already contributed via business rates and hadn't got the resources to challenge the system. Small businesses cited councils increasing town centre parking charges which encouraged out of town shopping, whilst still maintaining business rates which didn't appear to offer additional services compared to those the public paying normal rates received.

6.7.1 Effect of REP on the perception of the regulatory system

Several attendees felt that the local authorities had missed the point of the Hampton report and that we needed to get better regulations first before rolling out REP. The groups valued the input of experienced inspectors and would value this more than the clipboard approach, it was agreed that it was difficult to gauge the impact of REP and part of the focus groups felt that REP had not reduced the regulatory burden. The overall impact depends on the relationship between regulatory officer and business owner/manager and this to a large extent is dictated by the culture of the local authority:

"Difficult to tell it could be part of the overall improvement in the system... possible that business would report this but in a sea of change...tinkering with the system... its difficult to gauge the effect."

"... don't think REP has made a difference... maybe the LBRO and the Hampton Report has had more effect ...the objective for all local authorities should be to embrace Hampton, this has not happened in all authorities...SOME WITHIN REP have not done this, a significant number and this is agreed by all of our members."

6.8 Brand Protection

The case studies highlighted the importance of brand protection (or the businesses good name) to small and large businesses.

The focus groups generally agreed that big firms can survive 'slip ups' whilst small firms can't. The groups representing the smaller firms felt that fines and punishment for non compliance should be proportional to the size of the business. It was agreed that there were plenty of support agencies for the SMEs including Business Link, Chambers and the various trade bodies.

A by product of regulatory visits was better compliance which in turn helped protect the 'brand'. If REP achieved its objectives then it could help with brand protection but a lack of training in business issues for REP inspectors and a lack of business awareness of the REP would hinder this process.

Some form of accreditation of 'REP' status of a business was thought to be worthwhile but the monitoring and installing of this process would probably be expensive and if not applied consistently could lead to severe business anomalies across sectors and regions.

6.9 Summary

The focus group ended with a summary of the groups discussions. It was generally accepted that regulations will always be carried out at arms length and that *"you are never going to be a winner as a regulator"*.

A lot of regulatory costs are hidden and that there is a need to simplify the regulations not the regulatory system.

Businesses crave consistency in regulations with a flexible and appropriate approach to business depending on its size. They also recognise that the level of regulation depends on the area, the businesses in the area and the outside pressures on the local authorities (Levels of crime etc.) and that some business clusters want more enforcement because of the prevailing grey market in their area.

This is complicated by the spread of the experience of regulators which is huge and a lot of regulatory compliance is down to human relationships. There is some qualitative evidence that the culture of the local authority has a direct effect on the business relationship with regulatory officers.

There is a belief that if regulators could offer added value to regulatory visits they could get more compliant businesses, this may be possible through accreditation or other rewards for good practice (Such as agreed visits instead of surprise visits).

There is a perception that the future of REP may well depend on cuts in the public sector and a strong belief that REP or similar pilot's needs stronger marketing to the regulatory officers and the business sectors.

7: CONCLUSIONS AND RECOMMENDATIONS

7.1 Overall Experience of the Local Authority Regulatory Services

The majority of business does not intentionally want to harm its customers or staff.

Local authorities have a finite resource to deliver a regulatory system that ensures maximum business compliance across their region.

Businesses requirements from the regulatory system depend on their size, their sector, the level of new regulations for their sector, the experience of the owner and the general level of compliance of the competition within their region and sector.

Regulations are now firmly embedded into the business process with small and large firms committing time and financial resources to ensure compliance which in some cases means improving their best practice and profitability.

Local regulatory officers and business owner/managers relationships are dictated by the economic need of the business and the local authority's interpretation of the regulatory system.

The major regulatory cost to business is ensuring compliance with new regulations not the cost of regulatory visits.

7.2 Business perception of the effectiveness and impact of REP

Businesses deal with a multitude of events and cannot be expected to recall all pilots launched by central or local government. This does not mean that they cannot recall a perceived effect of a pilot.

Businesses cannot separate the effect of REP from the overall direction the regulatory system is taking. They can comment on the aims of the pilot and speculate as to whether these have been achieved solely by the pilot or by the regulatory system as a whole.

The aims of REP have been broadly welcomed by the business as they reflect the aims of Hampton. There is some concern that the 'clip board' approach may remove the long term relationships between business and regulatory officers.

7.3 Business stakeholder views of REP

From the focus groups the overall effectiveness of REP would seem to rely on the attitude of the local authority. From the case studies it would appear that all the compliant businesses that had received a REP visit were generally happy with the direction their regulatory system was taking, however two of the larger businesses in the case studies were also aware of a lack of consistency across regions.

The problems with the IT systems recognised by the user groups were also recognised by business with the focus group feeling that too much effort had been spent by the REP fixing IT and data transfer issues rather than focusing on Hampton principles. This led some of the stakeholders to conclude that the implementation of

REP had become stuck in process and drifted away from the ideals laid out in Hampton.

7.4 Main issues regarding REP

The cost to business of the actual regulatory visit is very small in comparison with the overall business cost of maintaining compliance with their regulatory burden which is perceived to be increasing.

It appears to be extremely difficult for business to separate the individual effect of one government initiative on their regulatory burden. It is possible to gather business perception of the direction the regulatory burden is going and to summarise if they believe that an individual initiative has been well implemented and represents a movement of the burden in the right direction.

There is a perceived need of business for better advice and guidance rather than less regulatory visits. This was represented by the views of some businesses that would miss the regulatory visits which they viewed as compliance advice sessions rather than regulatory visits.

Businesses initially welcomed the REP ideal of less regulatory visits but there was a fear that limiting the potential number of visits would remove current grey areas of enforcement/advice where compliance could be achieved without the enforcement of black and white regulations. There was concern over the style of the visits with some businesses feeling that the 'checklist' approach of the REP could cause problems. This was demonstrated in the view that the '*dumbing down*' of regulatory visits to REP visits would affect the level of advice given and the perceived value of the visit. This fear of the loss of the long term relationships with current regulatory officers to be replaced by "*babies straight from university with a clip board who were not business trained*" which would leave the regulatory officer with an increased control of the perceived compliance of the business which could potentially severely damage the businesses reputation with all regulators.

It was also noted that the practicality of the length of time needed to apply REP across the country would mean that large businesses would have to fit to two styles of regulatory visits with authorities who have or have not adopted a REP style visit. This was coupled with the fear that the REP regime may not be implemented by all authorities in the same manner so businesses would still have to train their managers in different ways depending on their geographical location.

It was generally agreed that compliant businesses would prefer arranged REP visits rather than surprise regulatory visits.

Overall business positively greeted the REP aims of limiting the amount of enforcement visits on compliant businesses to allow more resources to regulators to visit non compliant businesses. The main concern with REP was that compliant businesses would no longer receive the current level of support offered by their regulatory officers which was helping them achieve compliance with new regulations and that the interpretation and implementation of REP was still down to the individual regulatory authorities.

There is a perception that the future of REP may well depend on cuts in the public sector and a strong belief that REP or similar pilot's needs stronger marketing to the regulatory officers and the business sectors.

7.5 Recommendations from the focus groups

The focus of all future REP style initiatives should be based on the recommendations of Hampton and Anderson and not on their delivery process. To avoid future REP style regulatory systems been 'bogged down' by process the experience and knowledge gained of the necessary IT and data processes from the REP should be made available to all future authorities implementing a REP style process.

The launch of REP would have benefited from a closer working relationship with the various business support groups and clearer communication of its aims to regulatory officers and business owner/managers. To demonstrate LBROs commitment to creating a 'virtuous circle of compliance' between regulators and business, copies of this report should be circulated to all stakeholders involved in the focus groups and the local authorities involved in the REP. This would be part of the process that would create clear lines of communications between legislators, local regulators, business organisations and businesses to ensure that 'best practice' and 'regulatory compliance' is delivered consistently across regions and business sectors.

REP affects the cost of the regulatory visit which is perceived by business as a comparatively small part of the overall cost of business compliance. There needs to be further research into the comparative business costs of new regulations and the regulatory system so that future initiatives have a clear cost benefit to business as well as the regulators.

To aid future relationships between regulatory officers and owners/managers the commercial awareness module of the regulators professional degrees should be designed in consultation with business and that these modules should be further supported by similar business modules in their CPD.

Some form of added value could be added to future REP visits on business that have achieved the compliance level required to justify a REP visit. This could include:

- A written acknowledgement of the level of compliance required to achieve 'REP standard' visit status which serves as a 'pat on the back' for broadly compliant businesses.
- Overall commitment by the local regulatory authorities to support 'REP standard' businesses commitment to maintain compliance with new regulations.
- A list of recommended suppliers for compliant equipment for 'REP standard' business.
- A list of sources of available finance to help with compliance (training or equipment provision).
- A physical reduction in the amount of record keeping required for 'REP standard' business.
- Guarantee of support by professional regulators on compliance queries from 'REP standard' business.
- A commitment by the Local Regulatory Authority to offer a clear interpretation of best practice and regulatory compliance to all 'REP standard' business.

8: APPENDIX

Appendix 1: Case Study Guidelines

Introduction: we have been appointed by the Local Better Regulation Office to conduct an independent study on the business view of regulatory enforcement...we want your side of the story; everything talked about will be confidential.

Business/Personal background

Gather brief details of the business and the employee.

- When was business established
- How long been trading
- What does it do
- How long interviewee been with business
- What is their position
- What is their professional background

Awareness of the Retail Enforcement Pilot

Were you aware of the Retail Enforcement Pilot?

- If yes...dig deeper:
 - What does it mean to you?
 - How were you made aware?
 - What happened?
 - Has it helped to understand the needs of regulators better?
 - Do you get all the information you ask for?
 - Has it altered the level of support?
- If no...what has their experience been of regulatory visits?
 - Have they perceived something different with the inspections happening?
 - Check have they started recently...

Experience of Regulatory Visits

- Noticed anything different in the inspections
- Difference in number of visits
- Length and detail of visits
- Relationship with regulator
- 'Joined up' approach between regulators
- Are you aware of the experiences of other businesses, how does their experience compare with yours? (level playing field)

Perception of Regulatory Visits

Do you feel a joined up approach to regulation is better or would you rather have individual inspections?

- Why and in which way better?
- Time saving/ concerns of reduced inspections
- Lighter touch on compliant businesses...does it help compliant businesses?
- Better advice, more joined up advice?
- Advice or enforcement?
- Do you think 'rogue traders' are addressed more vigorously now?

Any Other Thoughts