

From the Business End of the Telescope

Perspectives on Local Regulation and Enforcement

ACS

CBI
THE VOICE OF BUSINESS

Provision Trade Federation

ptf

BRITISH RETAIL CONSORTIUM
for successful and responsible retailing

bh
GROUP

bssa
British Shops and Stores
Association

BHF-BSSA Group



Federation of Small Businesses
The UK's Leading Business Organisation



Forum of
Private
Business

The business people – an extension to your team

NFRN

'Representing Leading News & Convenience Retailers'

Food and Drink
Federation
FDf
Making a real difference



British
Chambers of
Commerce
The Ultimate Business Network

NFU

LBRO
Better Local Regulation



Purpose



Local regulation and enforcement can play a major part in either increasing or alleviating the regulatory burden on business. Different businesses and the major business federations have some differences in their views about local regulation, but also a great deal that they share.

This document brings together current business perspectives on local regulation, and explores the ways in which a better understanding of the needs of business could improve outcomes and efficiency both for the regulators and those who are regulated, and also for consumers and communities. It will provide a resource to business, local and national regulators, and policy makers when considering the future shape of local regulation and enforcement.

“Our members want to see real, tangible improvements that make their everyday business lives easier and ultimately more productive. This is why streamlining regulation and improving the way that the state, at all levels, interacts with business about regulation needs to be one of the main focuses of this new Government.

This useful report highlights the problems and concerns that businesses of all sizes face and crucially what exists that works well. It is this information that should be built upon, to use existing good practice as the building blocks for a new regulatory environment.

Small businesses are crucial for this country’s economic recovery and alleviating the regulatory burden is vital in helping them be the wealth and employment creators that they should be. Whilst this Government looks to cut the flow and stock of regulation at a national level, they also need to improve the way that the state nationally and locally interacts with and helps business with regulation.”

John Walker, National Chairman of the Federation of Small Businesses

September 2010



Foreword

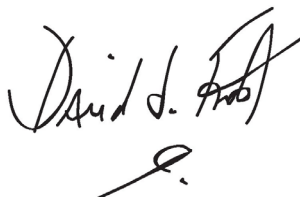


The Whitehall world often gets lost in theoretical debates about regulation policy, about how the legislative process should work, and about how those that design laws and interventions should operate. For the vast majority of the business community, however, terms like “impact assessment” and “regulatory budgets” are alien concepts, and the reality of regulation to them is felt when they have to start complying, or when an inspector pays them a visit.

This is why publications such as this are important. It highlights what is happening on the ground, how businesses of all sectors and all sizes are affected by regulation, how they have to interact with regulatory services, and, ultimately, how there are problems within the system as it currently exists. These problems take time away from core business activity, and away from the important task of wealth creation and economic growth.

Undoubtedly, the fall-out of the recession will create a number of challenges to the delivery of regulatory services, but is in no way clichéd to say that it will also present opportunities, as lesser resources will force local authorities to become more innovative and more risk-based in their approach to enforcement. But, what is absolutely crucial is that the good things in the present system, such as engagement and advice offered by inspection officers, are not lost in this changing environment.

Fundamentally, economic recovery is entirely dependent on private sector growth. This means that all elements of the regulatory process need to be on the same page in allowing business to create wealth and jobs. This means that the enforcement of regulation at a local level must be treated just as importantly as effective challenge of regulation at its source.



David S Frost
Director General, British Chambers of Commerce



Introduction



The importance of reducing the regulatory burden on business whilst maintaining key protections has never been more apparent. A key part of doing that is understanding better how business sees and experiences regulation, and making sure that regulators and policy makers have the benefit of that understanding. The 2010 National Audit Office and Local Better Regulation Office (LBRO) business perceptions survey found that for over half of surveyed businesses the overall level of regulation in the UK remains a key obstacle to their success. Despite this, only one in ten businesses claim to have ever made contact with an organisation to make a suggestion on how the regulatory regime could be improved.

Our area of responsibility is local regulation and enforcement. From our ongoing work with the key business federations and trade associations, and with individual businesses through the Primary Authority scheme, we became increasingly aware of the need to get that better understanding for ourselves and for others. We needed to see local regulation not just from our own perspective, but from the 'business' end of the telescope. For the first time (as far as we know) this document draws together the breadth and depth of these views and examines the challenges and opportunities of the agenda going forward. There is obviously not the only experience which needs to inform policy, but it is a critical one.

In developing the document we have worked closely with the LBRO Business Reference Panel to ensure that the perspectives described here are indeed faithful to business views. There are differences in the perspectives of business on these issues, often relating to the size of a business and the economic sector in which it operates. Overall, however, it is evident that businesses see local regulation as more than merely ensuring compliance with regulatory requirements. Indeed, business would welcome an approach which recognised more the need to enable enterprise, founded on a change in culture in which business does not avoid regulators but rather maximises the value of interaction with them. For the overwhelming majority of legitimate businesses the end point for both regulators and the regulated is the same – timely and cost-effective, sustainable compliance. Along with this, the diverse range of UK businesses also signals the need for business-focused and tailored approaches that meet their legitimate requirements and preferences in ways which actively reduce regulatory burden and optimise the value of regulatory work in terms of supporting enterprise whilst delivering protection.

This document will act as a resource for policy makers and national and local regulators, shaping the emerging agenda on a national level and informing the development of practical approaches that will help local regulators better support businesses on the ground. Through our work on alternative regulatory approaches and the development of business-focused professional standards, LBRO is actively taking forward the findings with our stakeholders.



Clive Grace
Chair, LBRO



Graham Russell
Chief Executive, LBRO



Contents



Foreword	3
Introduction	4
Executive Summary	6
1. Listening to Business Tailoring approaches to support growth	8
2. Burden or Benefit? An inspector calls	12
3. Getting it Right First Time Business advice and guidance	16
4. Trusting Relationships Working together for better results	20
5. Targeting the Rogues The aim of enforcement	23
6. Defining the Agenda Challenges and opportunities	26
Further Acknowledgements	29
Glossary	30
Sources	31
End Notes	33



Executive Summary



Over the last few years, the world in which public and private sector organisations operate has changed dramatically. As Britain emerges from recession, tackling the UK's budget deficit and enabling private sector growth to secure enduring financial stability have emerged as core Government priorities. A key element of this work, as laid out in the Coalition agreement, has focused on 'cutting red tape' to lift the regulatory burdens on business. Statistics show that regulation is still perceived to be a major issue across a wide range of sectors, both start ups and long established businesses alike. Although regulatory management at the top is a necessary starting point, businesses are now keen to see that change is also driven at a local level to enable them to feel the benefits on the ground.

This document demonstrates that the UK's diverse business community experiences barriers to compliance on a variety of levels. In some instances, a lack of coordination in the regulatory system at a local or national level can result in duplication of information requests or inconsistency of inspection or enforcement. In others, an enforcement-focused culture or lack of communication may inhibit regulators from providing advice and support that meets business needs, potentially leading to unintentional non-compliance and unnecessary sanctions or prosecution. In either case, such barriers impose needless time and resource costs on both regulator and the regulated and may lead to negative perceptions of the regulatory system as a whole.

In the face of such barriers, the fact that regulators and the regulated share a common aim – compliance – is sometimes lost. Businesses therefore welcome an approach based on improved mutual understanding that would enable the development and delivery of more tailored and cost-effective approaches and more effectively support longer term sustainable compliance. For businesses without in-house regulatory support, this might mean regulators recognising the gaps in their knowledge and supporting them to design practical and low-cost compliance solutions. For businesses with strong compliance systems in place, this might mean working with them to assess what structures would allow them to best gain recognition for their compliance efforts.

Despite these numerous needs and barriers, there are some common elements that the majority of the business community would welcome as the foundations of a better local regulatory environment. These are summarised in the key findings and recommendations at the end of each chapter and can be found below.

Findings and Recommendations

- ❖ **Listening to business:** The burden of regulation remains a significant concern for UK businesses and needs to be addressed at both national and local level. The regulatory system as a whole and local regulators individually need to tailor their approaches to support businesses into compliance in a way that meets their needs. Business organisations and trade bodies could play a useful role in helping regulators gain a solid understanding of business concerns and barriers to compliance.

- ❖ **Inspections:** Businesses welcome a risk-based approach towards inspection, which is informed by effective inter-agency working and recognises their investment in compliance. Where appropriate, visits should be pre-booked if possible, with communication channelled through one local authority contact and useful feedback provided on compliance performance.
- ❖ **Advice and guidance:** Businesses welcome an approach that is focused on enabling enterprise by providing assured guidance and advice in the first instance. Guidance should be accessible, practical and legally defensible, with a ‘twin-track’ structure to support preferences for both rules and principles-based approaches. Regulatory advice needs to be tailored to meet businesses’ needs and clearly distinguish between minimum requirements and best practice.
- ❖ **Trusting relationships:** Businesses welcome a strengthened relationship with local regulators. Such ‘progressive partnerships’ should be founded on mutual trust and understanding and aim to achieve compliance in a way that is cost and time effective for both parties.
- ❖ **Enforcement:** Businesses want proportionate and consistent enforcement, which is targeted at non-compliant businesses, ensuring a fairer playing field for the businesses that do invest in compliance.
- ❖ **The way ahead:** Businesses are keen to ensure that shrinking local resources result in innovative approaches with increased focus on business needs, rather than reduced levels of support. Approaches should be designed in close collaboration with local business partners and delivered at a level that balances the benefits of local contact against efficiency, consistency and effective management of risk.

As explored in the document, many of these recommendations demonstrate that the findings of previous reports in this area, such as the Hampton, Macrory and Anderson Review, still hold true, or are even more relevant in the current environment. However the importance of a change in regulatory culture at local level has now come to the fore, as an important precondition to realising a more compliance-focussed approach.

LBRO hopes that this document provides a useful starting point for both discussion on specific points of local regulatory practice and wider business-focused policy going forward.

Acknowledgements

LBRO would like to express its thanks to all colleagues on the LBRO Business Reference Panel who invested time and effort in providing views and evidence during the compilation of this document. We are particularly thankful to the British Chambers of Commerce, the British Retail Consortium, the Confederation of British Industry, the Federation of Small Businesses, the Forum of Private Businesses, the Institute of Directors, the BHF-BSSA Group, Müller, the National Farmers’ Union and Geoffrey Budd M.B.E, who have provided us with useful feedback and have assisted us greatly in shaping and developing the document. A full list of acknowledgements is included on page 29.

The key LBRO staff who worked with the above colleagues to develop the document were Laura Robinson and Wendy McVey.





1. Listening to Business

Tailoring approaches to support growth



“There has been more change to regulations in the last few years than I have known at any time in my 35 years as a newsagent. On waste and recycling, food, fireworks, tobacco, alcohol, fire, health and safety, employment, planning, customer rights and so on. If I didn’t have the Federation [The Federation of Retail Newsagents] to check it out for me and tell me what I need to do and by when I would really struggle – I’d probably have packed it in long ago! It would be good to know that enforcement worked closely with the Federation to help them to help us”.

Gordon Bird, Mellor’s Newsagents, Barnsley

Lifting the burdens for better business

Both new and existing businesses care about regulation and the adverse impact it can have on their ability to survive, compete, be profitable and grow. For many businesses, regulation is not the most important factor in their success or failure (although it is for some). But it matters to them all, whether it is about minimising the barriers to getting started, avoiding the costs and frustrations of inconsistent regulation or enforcement, or knowing that rogues are being dealt with.

While businesses recognise both the need for regulation and its role in ensuring a fair trading environment and maintaining consumer confidence, 62 per cent still see it as a key issue¹. The British Chamber of Commerce’s (BCC) Burdens Barometer states that the cumulative cost to business of new regulations since 1998 has risen to £88.3bn². A recent survey conducted by the Institute of Directors (IOD) has shown that 50 per cent of surveyed businesses thought the regulatory burden is still increasing³. The smaller the business, the greater the perception of this burden, with 33 per cent of SMEs reporting that regulation is the greatest barrier to success⁴.

Changes at the top

“Cutting the burden of regulation is vital if we are to help the private sector grow. This is especially the case for small and medium-sized enterprises that face disproportionate costs from unnecessary red tape.”

Mark Prisk MP, Minister of State for Business & Enterprise

A key element of these burdens originates from the number and frequency of regulatory changes. At a national level, the Government has committed to combating this in a number of ways. These include the establishment of a Reducing Regulation Committee to conduct a fundamental review of all regulation in the pipeline and oversee the introduction of the 'one in one out' system to reduce the volume and burden of regulation going forward. There has also been considerable recognition of the need for a widespread change of regulatory culture that allows a greater focus on risk and a move away from a tick-box approach. Although the business community welcomes these measures, it is keen to note that their impact will largely depend on the way in which these changes are communicated and delivered on the ground.

A local approach

"Local authorities [...] have a major role in ensuring enforcement of regulations does not add unnecessary cost, is consistent, proportionate, targeted and risk-based in accordance with the Hampton principles."

21st Century High Streets, British Retail Consortium

Efficient and effective local regulation will play a key role in ensuring that reduction of regulation really does translate into reduction of burdens for British businesses. The better regulation and Hampton principles are generally seen to be current and relevant by businesses but there is a perception that there still is more work to be done to ensure that they are fully understood, embedded and built into practices and protocols at grass roots level⁵.

A recent survey of 2000 businesses highlighted a number of key challenges that businesses face when dealing with local regulation:

- ❖ **Understanding what regulatory requirements apply:** Two thirds of businesses report that keeping up to date with requirements is burdensome, particularly in relation to understanding which requirements apply in their individual context.
- ❖ **Understanding how to comply:** 58 per cent of businesses report that finding guidance and advice explaining what they have to do to comply with given regulations is burdensome. Consequently, 33 per cent of businesses do not feel that it is straightforward to understand what needs to be done to comply with regulations.
- ❖ **Dealing with inconsistency:** A third of businesses experience inconsistency, and this proportion rises with the size of the business. This can result from a lack of coordination between local councils or between local and national bodies.
- ❖ **A lack of coordination:** 65 per cent of businesses reported that providing the same information more than once due to a lack of coordination between regulatory bodies was a burden.
- ❖ **Understanding business needs:** 48 per cent of businesses feel that local councils do not understand businesses well enough to regulate⁶.

"Our members find that licensing costs and conditions for operating a pet shop vary significantly between local authorities, as does the competence of inspectors. Given that businesses cannot choose who they are regulated by, this adds cost and no value for their businesses, which undermines respect for the law."

Janet Nunn, Chief Executive, Pet Care Trade Association

Recognising common aims

“Everyone should be on the same side, working towards a common goal.”

Report, Centre for Regional Economic Development

Businesses are keen to stress that their decisions are driven by a need to win and retain customers in order to remain profitable, and the protection of the customer relationships and the reputation of the quality of product they supply or service they provide are therefore key concerns⁷. However, unlike local regulatory officers, for whom regulation is their core activity, regulatory compliance is one of a huge array of operational decisions for businesses. At a time when growth is more important than ever but public sector resources are limited, businesses welcome a change in regulatory culture that recognises compliance as a common goal. At the same time, approaches should be founded on an understanding of the environment in which businesses operate to ensure that compliance is delivered as timely and cost effectively as possible for both parties⁸.

No single business voice – listening and understanding

“Regulators need a good awareness of the regulations and the business models...then they are more likely to understand the business and gain compliance.”

Report, Centre for Regional Economic Development

UK businesses are as diverse as the people who own, manage and work in them. Local authority regulators come into contact with a wide variety of businesses whilst conducting their work – sole traders, partnerships, companies, franchises – and each will have their own requirements in relation to achieving compliance. As local regulators already have a high level of contact with local businesses, they are well placed to use this day to day interaction to further develop their understanding of the barriers faced by businesses in complying with regulations and the support they require.

Businesses also recognise the potential value that increased engagement between local regulators, business organisations and trade associations could add. On a strategic level, business organisations have well-established communication channels and therefore a good understanding of common barriers faced across the regulatory system and the approaches that best meet their members’ needs. Trade associations are similarly in a good position to provide local regulators with practical support when dealing with complex requirements or designing approaches to address sector-specific needs⁹. Given the fragmented nature of the regulatory system, such interaction is currently conducted on an ad hoc basis, meaning that available intelligence is not necessarily used as effectively as it might be.

Responding to individual business needs

Responding to a diverse range of business needs requires the ability and capacity of regulators to tailor their approaches. Responses should take both capacity barriers and the business's approach to compliance into account. Some businesses may encounter capacity barriers, such as limited time, regulatory knowledge, expertise or resources, leading them to be insufficiently aware of requirements or respond inappropriately to them. Here, clear and easy to understand guidance, supported by reliable and tailored advice, might be sufficient to support the business into longer term compliance. Others may be burdened by issues resulting from the regulatory system itself, such as duplicated information requests or uncoordinated inspection regimes, which reduce the effectiveness of a business's compliance efforts. Here, better information sharing amongst regulators might save both parties time and money.

Research has shown that various elements can play a role in a business's approach to compliance, ranging from age, structure and size of the business to the level of competition within the region or sector¹⁰. Smaller businesses, or those with fewer in-house regulatory resources, may welcome a more rules-based approach, which gives them certainty about the most effective way to approach compliance. Larger companies with significant in-house resources generally welcome a more principles-based approach, which allows them to design compliance solutions that meet the individual's needs. The level of compliance is another factor, with fully compliant businesses generally welcoming an approach that recognises and gives credit to their efforts.

In short, the burden of regulation remains a significant concern for UK businesses and needs to be addressed at both national and local level. The regulatory system as a whole and local regulators individually need to tailor their approaches to support businesses into compliance in a way that meets their needs. Business organisations and trade bodies could play a useful role in helping regulators gain a solid understanding of business concerns and barriers to compliance.



2. Burden or Benefit?

An inspector calls



“Done in the right way inspections and visits can be very valuable in supporting compliance by our members – done the wrong way they can confirm negative preconceptions of the role and behaviour of regulation and regulators.”

James Lowman, Chief Executive, Association of Convenience stores

Just under half of surveyed businesses found preparing for and complying with inspections burdensome¹¹.

Businesses have a wide range of views about the value of inspection visits. On the one hand, some are confident about their internal compliance processes and therefore view uncoordinated and inconsistent inspection regimes as distracting resources away from more strategic business issues¹². On the other hand, businesses without specialised resources can see good quality visits as a useful learning experience, enabling them to get free face-to-face advice and check that they are getting it right¹³. When seeking to minimise burdens and maximise value, the frequency and coordination of visits and the manner in which they are conducted are perceived to be important.

Frequency and coordination

Businesses indicate that inspection frequency can vary considerably and this can impose different burdens for businesses of different sizes and in different sectors. In agriculture, for example, duplication between inspections conducted by national regulators and local authorities can mean that the same records are inspected by different officers within a short period of time¹⁴. Inconsistency in inspection practice across the country is often observed, with similar stores receiving significantly different numbers of inspections¹⁵. In smaller businesses, visits may force the manager or a key member of staff to spend time away from running the business. In the smallest enterprises, this may mean ceasing trading or resulting in disruption to large parts of the business for the duration of the visit¹⁶.

To relieve these burdens, some recommend that the UK implements a version of the Dutch model, where businesses should not undergo more than two inspections a year and routine inspections are ceased during times of national emergency¹⁷. The majority of businesses are strongly supportive of the increased use of risk-based approaches, underpinned by effective interagency working and information sharing that allows ‘common sense’ decisions’ to be made across the regulatory spectrum¹⁸. By linking regulatory efforts to compliance performance, there is potential to minimise the duplication of information requests, improve targeting of inspections and ultimately reduce both time and money costs for compliant businesses and local authorities¹⁹.

Recognising compliance

Lack of recognition of the amount of money and time invested in compliance is a common concern. Larger businesses in particular see 'earned recognition' as a potential solution here and a logical extension of existing risk-based approaches²⁰. Businesses that can demonstrate consistent compliance, for example through internal assurance systems, would welcome recognition of this information as part of the intelligence used to assess risk profiling. Some trade associations including the Provision Trade Federation (PTF) acknowledge that such structures have the potential to support better targeting of regulatory activity, recognising that industry-led third party audits generally provide a consistent framework for compliance. However, others stress that models must be designed in a way that does not disadvantage smaller businesses, which may not have the time or resources to benefit from them²¹.

"We don't feel that our efforts to achieve compliance are properly taken into account by local authority inspectors. They seem to largely ignore the audit and third party accreditation systems we have in place in our operation and just focus on their own inspections. It would save the public purse if our efforts on compliance could be used to enable scarce public resource to be targeted at businesses needing more support and particularly at those that can't or won't meet basic standards."

Compliance Director, National Supermarket Chain

Some think that third party accreditation or assurance schemes might be a useful alternative here and may provide an opportunity to cut costs, both for businesses and taxpayers²². A positive example here is the farm-assured scheme, through which farmers receive a reduced frequency of inspection under food hygiene regulations. However, business organisations are keen to note that the costs involved may, in some instances, form a barrier for smaller business participation. Small business variants that take turnover or number of staff into account are therefore considered to be a potential solution here²³.

Points of contact

In terms of delivery models, business opinion is mixed. Although the use of 'generalist' officers when conducting inspections would reduce the burdens imposed through a lack of coordination, some businesses have reservations about whether they would have the competence and specialist knowledge that make the visit valuable. However, almost all businesses are in favour of a single and consistent point of contact within regulatory services or the local authority as a whole²⁴. The contact would act as an account manager, filtering queries to the correct people in the local authority and ensuring that responses meet the need. This would promote a more joined up approach and a closer working relationship both between different local authority departments and between local authorities and their business communities²⁵.

“It is important to meet inspectors face to face and see the problem and solution.”

“[Inspections are] a tool to continual improvement, though in the current financial climate our ability to react to costly demands has changed.”

Participants, Better Regulation in Food Project

Maximising the value

Where visits are conducted in a way that meets business needs, interactions with regulatory officers are seen as valuable, particularly to SMEs. Smaller businesses often rely on inspections to learn what is expected of them, welcoming officers’ visits as ‘an extra pair of eyes’ and as an official source of advice and guidance²⁶. However, businesses of all sizes were eager to stress two points in particular that could maximise the value of interactions and improving efficiency of activity for both parties – pre-booked inspections and increased feedback on compliance.

Pre-booked inspections

“I just don’t understand why local authority inspectors can and do turn up at my hotel without making an appointment. If I’m not there it can put a real strain on my staff and it’s hard for me to get the full feedback. It’s not as if we would do anything different if we knew they were coming other than to make sure I was there and that we had the right people on hand to help them.”

Independent hotel operator, Wombwell

Business organisations stress that booked inspections would not result in changed business practices to falsely boost apparent compliance. It would allow regulatory managers to match businesses to officers with the relevant regulatory expertise. This will mean that both parties are fully prepared for the visit, allowing the business to make the most of the time with the officer and get the advice and support they need first time round. Businesses feel that this change would strengthen the regulatory relationship and support better communication between both parties²⁷.

The value of feedback

“It is very valuable to our business to be informed even where we have passed an inspection or ‘test purchase’ visit. We use such information to improve training and to motivate our staff. Recognition for doing a good job is really motivational. If one member of staff is rewarded for successfully refusing a test purchase their recognition can significantly raise the focus of all employees not just at the site concerned but also more widely across our regions. I am not sure all local authorities fully understand the value and opportunity providing good feedback presents.”

Nerys Mai- Jones Licensing Manager, TOTAL (UK) Ltd (ACS member)

Businesses are keen to see a shift from a tick-box approach to regulation with a reduced focus on admin and paperwork and an increased focus on outcomes and prosperity²⁸. Many therefore welcome an increased level of feedback following inspection visits to provide clarity about why decisions are made, underpinning a good relationship and increasing efficiency in achieving compliance. In doing so, regulators should focus on the benefits of compliance, as businesses will invest more to gain a benefit rather than prevent a risk²⁹. Positive feedback is also seen to have much value as a motivational tool for both managers and their employees at local level and can help counteract any negative feelings about past enforcement action³⁰. Trade associations noted that the feedback on compliance provided through inspection visits was a 'huge bonus' for members but was particularly important for businesses that are not trade association members as they do not have access to external support networks³¹.

In short, businesses welcome a risk-based approach towards inspection, which is informed by effective inter-agency working and recognises their investment in compliance. Visits should be pre-booked if possible, with communication channelled through one local authority contact and useful feedback provided on compliance performance.



3. Getting it Right First Time

Business advice and guidance



“It’s hard to get straight answers and clear advice when you need it. We are often told that things are somebody else’s responsibility and passed from pillar to post. [...] Online information is often too general to fit my particular circumstances and isn’t written from a business perspective – even if I understand what it says you still need to read between the lines to find out what you really need to do before spending money – it would be great if I could just pick up the phone and know I can get reliable answers.”

Member, British Hospitality Association

Over 80 per cent of surveyed businesses think that the role of local councils is to provide advice as well as enforcement³².

For the 74 per cent of businesses that do not have a member of staff who deals specifically with regulation, the accessibility of reliable regulatory advice is especially important to ensure that compliance can be achieved as quickly and cost-effectively as possible³³. The need for this support is at its highest when a business is at a key point in its development such as start up or expansion³⁴, but where regulatory certainty is lacking, businesses may be reluctant to innovate or develop new product lines³⁵. In the agricultural sector, 94 per cent of businesses surveyed reported that they had to seek help to understand regulations or guidance, adding additional costs to running their businesses³⁶.

The burdens of compliance often fall disproportionately on the smallest businesses, with SMEs incurring £9.3 billion of internal costs a year – the equivalent of an average of 34 hours per month per company³⁷. Many of these costs result from the use of external agents, such as accountants or consultants, to ensure that SMEs feel confident about compliance decisions³⁸. Despite generally high levels of awareness of advice sources available, particularly amongst longer established businesses, usage remains considerably lower³⁹. Businesses therefore feel that there are a number of areas in which changes could be made to maximise the value and increase the uptake of local regulatory support.

Understanding what requirements need to be met

“[The volume of regulation] is more than a single human can possibly cope with.”

“It’s the fog. It’s the fog of uncertainty and the killer of business is uncertainty.”

North West SMEs, Evidence from the Anderson Review

The Federation of Small Businesses (FSB) stresses that SMEs and micro-businesses face the same level of regulation as larger businesses but often do not have the resources or in-house expertise to monitor changing legal requirements or actively seek regulatory advice. This can leave them feeling overwhelmed and can result in poor compliance and unnecessary enforcement action⁴⁰ or over-compliance that imposes unnecessary costs⁴¹. Consequently, businesses often feel aggrieved that their willingness to comply – demonstrated by their compliance in other regulatory areas – might not be taken into account⁴². In some instances, for example in the food sector, the change in regulatory responsibility from local to national regulator as a business expands may also lead to extended compliance requirements, potentially acting as a disincentive to SME growth where in-house regulatory support is not available⁴³.

Therefore, as Sarah Anderson noted in her 2009 review, clear and easy to understand advice is particularly important for smaller businesses⁴⁴. In most SMEs, regulation is inevitably one of a wider range of operational responsibilities and managers often feel that local officers should proactively highlight any changes to requirements in their business sector⁴⁵. Many businesses welcome email alerts that signpost them to sources of advice and guidance, and face to face updates at local events or seminars organised by local regulators⁴⁶.

Understanding what to do to meet requirements

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

Report, Centre for Regional Economic Development

Guidance

Given the move towards a more principles-based approach⁴⁷, businesses, and SMEs in particular, are becoming increasingly reliant on the provision of regulatory guidance to protect against regulatory risk. Many businesses perceive that guidance is becoming increasingly risk-averse, potentially putting smaller businesses that lack the resources to tailor compliance solutions at a competitive disadvantage⁴⁸. As the volume and complexity of both mandatory and voluntary guidance grow, businesses are concerned that it is becoming more difficult to differentiate between the two and that voluntary guidance, for example on pricing, can sometimes be treated as mandatory in practice⁴⁹. Despite becoming increasingly involved in its production, businesses feel that guidance remains regulator-driven and so the end product is still not written in a business-friendly way and can take managers days to interpret.

However, it has been noted that the production of good guidance in a specific regulatory area, such as the sale of knives and weapons, can have noticeable impact on the number of requests for advice⁵⁰. Where tailored guidance or advisory leaflets are produced by local authorities, businesses would welcome increased sharing of best practice to keep duplication and inconsistency of interpretation to a minimum⁵¹. Public sector guidance should be developed in true collaboration with the business community to ensure that it is written in a way that can be quickly and easily assimilated and can help managers get it right first time. To avoid excessive or unnecessary costs being imposed, guidance should clearly state the minimum legal requirements and have a status that is widely recognised by regulators. Businesses are also supportive of such guidance being legally defensible, if accurately followed, wherever possible⁵².

Some business organisations saw value in a ‘twin-track’ approach⁵³. This would provide principles-based guidance to businesses with sufficient in-house resources to design their own routes to compliance, and rules-based guidance to businesses without this internal expertise. The second route would entail a clear and unambiguous definition of the necessary requirements.

Advice

When it comes to advice, preferences are largely similar; businesses welcome relevant, current and reliable information⁵⁴. The key challenge here is the fine line between tailoring and gold plating. As noted in Anderson, businesses welcome advice that is tailored to the individual context⁵⁵ but the fine line between prescriptive advice and gold plating is seen as a challenge. In some instances, businesses report frustration that they are told what needs fixing but they are not directed to a supplier or a service that could provide the relevant specification. For many smaller businesses or those expanding into new markets, the interaction with the regulators can add value over and above regulatory guidance by clearly specifying what is needed in the individual business context⁵⁶. However, businesses are also keen to note that, when advice is issued, minimum requirements are clearly distinguished from best practice to avoid unnecessary costs being incurred⁵⁷.

Use of a variety of communication channels

“As a small business you have to be your own VAT, personnel, health and safety, environment and legal compliance manager. I don’t have time to make sense of complicated new technical legislation and guidance. When the law changes I need help and support to enable me to do what is needed so I can get on with running my business.”

Warren Butler, T. J. Butlers, Electrical Retailer, North Wales

When supporting compliance at a local level, statistics suggest that regulators should bear the regulatory resources of the business in mind, which might impact upon the channels that the business feels comfortable using. Larger and longer established businesses or those with someone employed specifically to deal with compliance are more likely to use the full range of sources of help with compliance, including local authority services and Government websites⁵⁸. Those with no one employed specifically to deal with compliance, typically the smallest businesses, are more likely to pay to receive external sources of advice⁵⁹. There is much support for the Anderson findings in relation to the value of Trade Association membership here. The Provision Trade Federation and the Institute of Directors see much value in increased contact between local authorities and trade associations, particularly in relation to sector-specific advice or product testing.

Business feedback largely indicates that face-to-face support is preferred over online advice: the Forum of Private Business states that it is twice as useful for its members. For the smallest businesses, this interaction was of particular value in helping to put complex requirements into context and enabling businesses to ask questions. Although businesses do express support for a Government-funded online advice service, businesses feel that there are too many websites and that using them is too time consuming as advice still lacks context⁶⁰. Although recent encounters with such websites have been more positive, initial willingness to use the service is often reduced by negative past experiences.

Diversity

Business organisations and trade associations are keen to state that the smallest, rural or BME businesses may require the use of a wider range of communication channels. In longer standing BME businesses, knowledge is often passed down through family networks and so the communication of regulatory changes appears to be more important for this group, which may be more disengaged from mainstream support and have a low awareness or low estimation of the advice services available⁶¹.

Magazines, newsletters or face to face contact through branches or community events are seen to be helpful methods of communication, particularly for some BME or rural businesses, which may not have access to the internet or an email address⁶². Language issues may also present issues for some businesses when using phone or printed materials and so translation or interpretation services are welcomed wherever possible.

In short, businesses welcome an approach that is focused on enabling enterprise by providing effective guidance and advice in the first instance. Guidance should be accessible, practical and legally defensible, with a 'twin track' structure to support preferences for both rules and principles-based approaches. Regulatory advice needs to be tailored to meet businesses' needs and clearly distinguish between minimum requirements and best practice.



4. Trusting Relationships

Working together for better results



“Our members are very nervous about throwing open their doors to local council officers. There’s a lot of history to enforcement relations and members have very serious concerns as to what the true motives of the visitors might be. This shows both the size of the relationship gap to be filled and the importance of overcoming it.”

“The last few years we have more cooperation...coaching and improvement rather than hitting with a stick...with you rather than against you.”

Participant, Better Regulation in Food Project

The maintenance of an ongoing relationship with regulators is very or fairly important to 74 per cent of businesses but only 50 per cent currently feel that regulators understand their needs⁶³.

Although the business community welcomes the Government’s commitment to a change in regulatory culture in Whitehall, it is keen to stress that measures to implement these changes at local level should also be a key part of the package to improve the regulatory environment⁶⁴. Many organisations, including the FSB and IoD, recognised that the creation of a more business-focused culture and a ‘robust and helpful’ relationship between businesses and regulatory services is a key way in which compliance can be achieved more effectively, ultimately improving businesses’ perceptions of regulation. Although it is accepted that in some areas relationships can be very good, businesses identified a number of areas in which further progress could be made.

Constructing a customer service culture

“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.”

Participant, Better Regulation in Food Project

Although the majority of businesses are working to achieve the same outcome as regulators – regulatory compliance – this fact is often overlooked due to differing cultures, reinforced by media myths⁶⁵. Regulators can consequently be painted as adversaries and this reduces business willingness to engage openly. This perception can be reaffirmed by the use of approaches, such as test purchasing of age restricted products, that are seen to undermine the relationship of trust, ‘catching businesses out’ rather than providing feedback and supporting them into compliance⁶⁶.

This further reduces business confidence to discuss areas of uncertainty with regulators, even when the visit is focused on advice. For micro-businesses in particular, this can exacerbate the feeling that they have no one ‘on their side’ and that ‘compliance is too hard’.

Businesses therefore express support for a ‘progressive partnership’ between regulators and the regulated: a customer-focused relationship whose primary goal is compliance rather than enforcement. To break down the ‘fear factor’ that may discourage businesses from using local officers as sources of free advice, many business organisations advocate a clearer distinction between advisory and enforcement visits. Although some argue that this could be done through the use of different officers, the majority feel that the establishment of a rapport with a single officer was more valuable. Therefore, an upfront introduction, explaining the ‘what, why and how’ of the visit, is seen as sufficient to avoid uncertainty and build business confidence⁶⁷. The business could then make full use of the regulator’s expertise without being concerned that it would fall subject to unwarranted targeting for enforcement action. Businesses also feel that this would help facilitate open and honest dialogue between the regulator and the regulated, reducing the risk of misunderstandings resulting in unintentional non-compliance and unnecessary costs⁶⁸.

“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.”

“Communication is key to these things working...positive or negative.”

Participants, Better Regulation in Food Project

Understanding is key

Businesses see the development of officers’ understanding of day to day commercial challenges as critical when seeking to support compliance more effectively⁶⁹. Where this understanding is present, businesses feel more confident that regulators are able to make proportionate and judgement-based decisions⁷⁰. Where it is not, business owners are more likely to feel more dissatisfied with the regulatory system as a whole⁷¹. However, the level of understanding and wider success of the relationship was seen to be largely dependent on the level of training of the individual officer or the wider cultural influence of the local authority⁷².

In terms of changing culture ‘at source’, businesses advocate that qualification training for regulatory officers should include business placements and modules on commercial awareness. This would give all new officers first-hand experience of the challenges businesses face⁷³. Others advocated that services should aim to recruit officers with business experience, perhaps including a local business leader on the recruitment panel for key posts⁷⁴. This would then be supported by ongoing practical business training, through schemes such as Trading Places or industry-led training courses, and through regulatory officers’ ongoing continuing professional development (CPD) systems⁷⁵. The incorporation of ‘softer skills’ in officers’ professional standards is also seen to be of value to alter officers’ perceptions of business, make them more aware of the impact of their interventions, and underpin better judgement-based decisions⁷⁶.

Some business organisations argue that there is need for a feedback mechanism, so that there is a comprehensive overview of business experiences of interactions with regulatory services⁷⁷. Businesses report that they often feel uncomfortable feeding comments back to their local authorities directly and consequently they don’t feedback, or when they do, information is passed on to their trade associations. This means that there is currently no overall picture of issues encountered and no way of comprehensively addressing the cultural shift required.

A feedback form could be left with businesses after each visit, which would then be sent to an independent organisation. This would enable businesses to provide ongoing insight into what does and doesn't work for them in terms of interaction with local regulatory officers and allow the organisation to provide support where needed to address the issues identified.

In short, businesses welcome a strengthened relationship with local regulators. Such 'progressive partnerships' should be founded on mutual trust and understanding and aim to achieve compliance in a way that is cost and time effective for both parties.



5. Targeting the Rogues

The aim of enforcement

“No business gets everything right all the time. Where we fail despite our best efforts we would hope that we are not treated as if our non-compliance was deliberate. The full force of the law should be robustly targeted at people who deliberately flout the law.”

Regulatory Affairs Manager, Wilkinson Hardware Stores Ltd

When it comes to enforcement, businesses’ and regulators’ aims and objectives are not as far apart as some might think. Businesses want an efficient and effective regime with a greater number of compliant businesses and available resources targeted on rogues, whose deliberate non-compliance constitutes unfair competition to responsible businesses and damages consumer confidence in the sector as a whole. Although there is widespread support for an approach where the focus is on achieving compliance rather than enforcing against non-compliance, effective punishments are also advocated for repeat offenders and those choosing not to comply in order to gain a competitive advantage.

Targeting

The Forum of Private Business indicates that in terms of effective enforcement, regulators could consider businesses to fall into broadly four categories:

1. Compliant (pro-active)	<ul style="list-style-type: none">• Good understanding of requirements that apply to the business context.• Pro-active about finding out about regulatory changes.
2. Partially compliant (pro-active)	<ul style="list-style-type: none">• Some understanding of regulatory requirements that apply to the business.• Pro-active – lower level of available resources and a limit on potential to invest in compliance.• Responsive to officer advice and guidance.
3. Partially compliant (reactive)	<ul style="list-style-type: none">• Some understanding of regulatory requirements that apply to the business.• Reactive – won’t actively invest in compliance.• Responsive to officer advice and guidance.
4. Non-compliant (non-reactive)	<ul style="list-style-type: none">• Varying levels of understanding about regulatory requirements.• Actively avoids compliance• Doesn’t respond to advice and support from local officers.

Table 1 – Compliance categories

Businesses in category one typically invest heavily in compliance and wish to see this investment recognised. They feel that it is not cost or time effective to pursue enforcement action against them unless there is a strong case in the public interest, as they have a strong internal focus on managing compliance and are willing to work with regulators to rectify problems⁷⁸. Businesses therefore welcome available capacity being focused on moving businesses in categories 2-4 up the scale. If businesses are non-compliant due to a lack of understanding, enforcement action is unlikely to deliver effective outcomes. Businesses therefore welcome an approach where advice and guidance is offered before formal enforcement action for minor non-compliance, especially for first offences. This gives the business a fair chance to become compliant without immediate recourse to sanctions of penalties⁷⁹. In addition, available enforcement capacity can be focused on category four, where the regulator needs to affect behavioural change. Businesses currently feel that regulators treat the four groups equally when it comes to enforcement and would welcome a weight shift to allow their shrinking resources to be used as effectively as possible⁸⁰.

Proportionate sanctions

Businesses stress that it is important that sanctions are proportionate to the issue identified and understand that different penalties can have varying impact on different businesses. A larger business may be able to absorb small financial penalties as overheads and these may therefore have limited impact on ongoing compliance decisions. In contrast, a smaller business may not have the means to pay a fine that would be large enough to deter future lawbreaking. When businesses see sanctions as disproportionately severe, such as the removal of a licence, they may not effectively increase the level of deterrent as businesses know that it is unlikely that they will be used⁸¹. Businesses urge regulators to bear in mind the hidden costs of 'secondary sanctions', such as the impact of an enforcement action on a business' interaction with external agencies⁸².

Organisations representing smaller businesses generally welcome flexible and proportionate sanctions that do not hamper the growth potential of SMEs nor limit the role that they can play in economic recovery⁸³. Larger business organisations were more cautious of an increasingly flexible approach, due to concerns that inconsistent application would prevent a level playing field and foster a 'parking ticket' mentality, hindering the regulatory relationship⁸⁴. To guard against this risk, they support the clarification of how measures should be used. Their application by local authorities should distinguish businesses that want to be compliant from those that don't, and be focused on rogue traders, where there is a need to change behaviour.

Prosecution

In relation to prosecutions, businesses are clear that these should be targeted on areas of highest risk and should only be taken forward when there is a clear case in the public interest⁸⁵. Sometimes a considerable period of time passes between the non-compliance being identified and court action being taken and businesses feel that this undermines the credibility of the enforcement action. In practical terms, staff turnover also makes it difficult for them to defend the case⁸⁶. Smaller businesses did recognise prosecution as a deterrent to non-compliance, as a significant action may be able to shut a business down.

However, research indicates that formal enforcement activity against SMEs often does not result in sustained improvements, as the non-compliance often results from a lack of clarity about how requirements connect to regulatory outcomes⁸⁷. Larger companies are particularly concerned about the reputational implications of court action, which impacts upon their brands.

Consistency

“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.”

Report, Centre for Regional Economic Development

Inter and intra-authority inconsistency is found by both small and large businesses to be confusing and expensive⁸⁸. Businesses state that regulatory approaches and activities in response to similar instances of non-compliance can vary greatly, with some regulators issuing advice and guidance in the first instance, some serving improvement notices and others sending long informal letters⁸⁹. They therefore suggest that greater consistency of enforcement is key to delivering credible local regulatory enforcement. Some business organisations feel that the use of a single database may help reduce inconsistency⁹⁰. Many Primary Authority businesses hope that the primary authority scheme will help address these issues and report that experiences to date have been positive⁹¹.

Some organisations advocate an approach that is more judgement-based, avoiding businesses being penalised for complying with the legislation in a way that is not suggested in the guidance, as this is seen to restrict their ability to take calculated and mitigated risks⁹². To improve the situation at source, businesses welcome regulations that are written in a way that actively promotes compliance by highlighting the positive business outcomes and reducing the need for enforcement action. This may include ensuring that legislation is consistent in relation to a particular product area, such as age-restricted sales, or allowing for increased recognition of personal responsibility, in relation to regulatory areas in which desired outcomes are dependent on the positive behaviour of a third party, such as health and safety⁹³.

Transparency and communication

Businesses report that, where non-compliance is identified, engagement and communication with the business are critical when delivering better outcomes for both regulator and the regulated. Businesses are positive about services whose enforcement policies are available, clear and embedded across the authority and that take a flexible approach toward engaging local businesses. Where non-compliance is identified, businesses welcome a ‘no surprises’ approach, whereby regulators provide clear explanations of regulatory breaches identified and the enforcement sanctions that could be faced⁹⁴. This enables positive communication with the regulatory officer in the first instance, avoiding the impact of assumptions about non-compliance and giving the business the opportunity to explain the issue and put it right. This contact should take place with the appropriate part of the business, avoiding the delays caused by correspondence being sent to a given manager, when the issue is outside his or her remit.

In short, businesses want proportionate and consistent enforcement, which is targeted at non-compliant businesses, ensuring a fairer playing field for the businesses that do invest in compliance.



6. Defining the Agenda

Challenges and opportunities



“The fall-out of the recession will create a number of challenges to the delivery of regulatory services, but is in no way clichéd to say that it will also present opportunities.”

David Frost, Director General, British Chamber of Commerce

A new environment requires a new approach. To lift burdens and drive growth on the ground, business is eager to stress that the local regulatory agenda cannot stand in isolation. Regulation is seen in totality by businesses and therefore the government must drive forward change at both national and local level, ensuring that the agenda is part of wider efforts to improve the business environment and promote enterprise⁹⁵.

As the views in this document suggest, the business needs expressed in the Hampton review in 2005 remain valid and relevant⁹⁶. There is still strong support for a risk-based approach underpinned by the principles of better regulation⁹⁷. Businesses feel that regulators’ efforts should be focused on promoting compliance through the provisions of accessible and authoritative advice and targeting enforcement action on purposefully non-compliant businesses or where there is a clear case for public protection.

The changing context – business hopes and concerns

However, the changed economic and political environment has brought the importance of a number of wider issues to the fore. The credit crisis followed by a deep-set recession has led to widespread private sector job losses. The coalition government has since embarked upon a programme of cuts to reduce national debt and secure economic recovery. For many local authorities, this will mean playing their part by finding new ways to deliver effective and efficient public services in the face of significant budget cuts. Given that regulatory services account for just 1 per cent of local authority spending, even a proportionate reduction of budget may have disproportionate implications.

On the one hand, some businesses are concerned that the drop in levels of resource will force regulators to scale back to their statutory enforcement remit, reducing their pro-active support work at a time when lifting barriers to private growth is critical. This may limit the local authority’s ability to act in a way that improves the economic well-being of the area and its inhabitants. On the other hand, some businesses remain hopeful that the financial pressures will promote innovation and encourage local services to adopt new approaches. To ensure their effectiveness, businesses encourage regulators to design them with the two key elements of Government policy in mind: efficiency and localism.

Driving efficiency through culture change

Businesses recognise that cost cutting, efficiency drives and redundancies will be at the forefront of local authority leaders' minds. Having themselves been faced with a similar need to reduce costs throughout the recession, they are eager to see that a reduction of local authority capacity does not limit their ability to invest in improving the business environment, at a time when businesses need the most support⁹⁸.

Research on private sector experience of the recession identified that changing culture from conservatism to innovation was a considerable challenge but a key lesson learnt was the importance of 'getting close to the customer'⁹⁹. Private sector companies recognised that a continual dialogue with their customers helped them see their organisations from the eye of the end user and identify where they can add the most value¹⁰⁰.

This supports the view that promoting regulators' understanding of business is a key element of helping services weather the financial storm. This will help regulators to design approaches with business needs in mind, focused on achieving longer term compliance, minimising burdens imposed and maximising the value of their work. Businesses see a shift towards advice before enforcement as key and the Confederation of British Industry therefore feels that that this change should be reflected in a revised statutory duty to secure compliance. Such a move would allow for the more effective and efficient targeting of regulatory resources and provide solid foundations for a strengthened relationship between regulators and the regulated.

"A key change in keeping with the Hampton principles would be to give enforcers a statutory duty to secure compliance with regulation rather than a duty to enforce."

Report, Confederation of British Industry

Living localism

In many ways, business organisations are supportive of a local approach towards regulation. Small businesses in particular prefer to receive information face to face from a local, single source and so their relationship with a regulator that understands the demographics and context of the local community is important¹⁰¹. However, business leaders are eager to see the role of businesses and their employees as part of local communities increasingly recognised in the emerging agenda and stress that they will need to play a central role in new structures to define every area's economic future¹⁰².

The formulation of local enterprise partnerships (LEPs) is one such structure, designed to give businesses a greater role in shaping local economies and communities. Regulation will naturally be an area examined by many partnerships, given their focus on barriers to economic growth and the creation of positive local business environments. Some businesses are hopeful that participation in such structures will help to embed a business-focused culture at local level and encourage all business facing services to compete in supporting local economic growth. However, the Confederation of British Industry has some reservations here and has emphasised that LEPs should not become too fragmented to offer adequate strategic direction, stressing that it must be ensured such structures remain genuinely business led and focused on sustainable economic growth¹⁰³.

Localism also faces a number of wider challenges. Greater accountability and transparency need to underpin the commitment to the decentralisation of power and the creation of the Big Society. Accountability to business is an important strand that is not always reflected in the culture of public services and businesses are not always recognised as key members of communities. Changes to the collection of business rates and decision making structures in local authorities do not provide business with a strong voice in local democracy. Mechanisms for local accountability will be an issue for local discretion; however, it is vital that the business voice is heard locally and nationally.

Some businesses are concerned that an increased drive towards local decision making may result in increased regulatory inconsistency, if overarching frameworks – such as strong professional standards – are not in place. Given the changing nature of the trading environment, other organisations have argued that regulatory risk needs to be managed at a number of levels. Regulators need to have the right level of information available to them to make more informed and proportionate decisions, be this at local, regional or national level. They argue that if regulation can be conducted at the most appropriate level in the system, capacity can be maximised and business can be assured access to competent and qualified officers¹⁰⁴.

In short, businesses are keen to ensure that shrinking local resources result in innovative approaches with increased focus on business needs, rather than reduced levels of support. Approaches should be designed in close collaboration with local business partners and delivered at a level that balances the benefits of local contact against efficiency, consistency and effective management of risk.



Further Acknowledgements



We are grateful to all organisations engaged whilst collating this document.

Alliance Boots GmbH
Asda Stores Ltd
Association of Convenience Stores (ACS)
Birds Newsagents
British Beer and Pub Association (BBPA)
British Chambers of Commerce (BCC)
British Frozen Food Federation (BFFF)
BHF-BSSA Group (BHF-BSSA Group)
British Holiday and Home Parks Association (BH&HPA)
British Hospitality Association (BHA)
British Meat Processors Association (BMPA)
British Retail Consortium (BRC)
Chartered Institute of Environmental Health (CIEH): Commercial and Industrial Special Interest Group (CISIG)
Confederation of British Industry (CBI)
Direct Selling Association (DSA)
Federation of Small Businesses (FSB)
Food and Drink Federation (FDF)
Forum of Private Businesses (FPB)
Institute of Directors (IoD)
Macbeth's Butchers
Müller Dairy (UK) Limited
National Farmers Union (NFU)
National Federation of Fish Friers (NFFF)
National Federation of Retail Newsagents (NFRN)
Pet Care Trade Association
Provision Trade Federation (PTF)
Radio Electrical and TV Retailers Association (RETRA)
J Sainsbury plc
Sea Fish Industry Authority
Tesco plc
T. J. Butlers Ltd
Total UK Ltd
Trading Standards Institute (TSI): Society of Outside Local Authority Members (SOLAM)
WH Smith plc
Wilkinson Hardware Stores Ltd
Wines and Spirits Trade Association (WSTA)



Glossary



Better Regulation Principles	The five principles were identified by the Better Regulation Task Force in 1997 as the basic tests of whether any regulation is fit for purpose: accountable, consistent, transparent, targeted and proportionate.
Compliance	The extent to which a regulated person or business meets requirements.
Local enterprise partnerships	Locally owned partnerships between local authorities and business to drive economic growth across an economic area.
Primary Authority	This scheme gives businesses the right to form a statutory partnership with a single local authority, providing assured advice for other councils to take into account when conducting inspections or dealing with non-compliance.
Regulator	Meaning local regulator – an environmental health, trading standards, licensing or fire safety officer. Where other regulators are referenced, these will be specified (e.g. national regulator).
Regulatory services	Local authority trading standards, environmental health, licensing and fire safety services.
Risk-based regulation	A framework, under which regulatory decisions at all levels, including deployment of resources, the nature of interactions with business and the application of sanctions, are guided by consideration of the risks posed to regulatory outcomes.
Size of business	Throughout the report, reference is made to different sizes businesses. Although there are various ways in which businesses can be classified, for the purpose of this document the following have been used: Micro-business: up to nine employees Small business: 10 – 49 employees Medium business: 50 – 249 employees Large business: 250+ employees
Test purchasing	An approach used by regulators to check whether businesses will sell an age restricted product to a young person, who is working under regulated conditions with the enforcement service.
Trading Places	This scheme gives council officers insight into how businesses deal with regulation. Short study visits are arranged at UK companies of all sizes, sometimes via trade associations or representative bodies.



Sources



Sarah Anderson CBE ['Anderson'] (2009), *The Anderson Review – The Good Guidance Guide: Taking the Uncertainty out of Regulation*, London: BRE

Better Regulation Executive ['BRE'] (2010) *Lightening the Load: The Regulatory Impact on the UK's Smallest Businesses*, London: BRE.

British Chambers of Commerce ['BCC'] (2010) *The Burdens Barometer 2010*, London: BCC.

British Retail Consortium ['BRC'] (2009) *21st Century High Streets – A vision for our town centres*, London: BRC

British Retail Consortium ['BRC'] (2007) *Consultation on Draft Regulatory Enforcement and Sanctions Bill Implementing the Hampton Vision: BRE response*. Available online: <http://www.bis.gov.uk/files/file44595.zip>

Business Reference Panel ['BRP'] (2010) *Interviews and Discussions in preparing the From the Business End of the Telescope document with Geoff Budd MBE, Dr Adam Marshall (BCC) and Steve Hughes (BCC), Sara Higham (FSB), Rebecca Abbott (BHF-BSSA Group), various representatives (BRC), Matthew Goodman (Forum of Private Business) Alexander Ehmann and Sophie Fernandes (Institute of Directors), Lee Osborne (National Farmers' Union), Nikki Haywood (National Federation of Retail Newsagents), Diana Axby (Provision Trade Federation), Paul Downhill (Home Retail Group), Sukh Gill (Müller Dairy Ltd / Member of the Food and Drink Federation)*, Unpublished Record.

Centre for Regional Economic Development ['CRED'] University of Cumbria (2009) *Review and Assessment of the Methodology of the Retail Enforcement Pilot in a Business Environment*, Birmingham: LBRO

Confederation of British Industry [CBI] (2010), *Speech to East of England annual dinner, Thursday 9th September 2010*. Available online: <http://www.cbi.org.uk/ndbs/content.nsf/802737aed3e3420580256706005390ae/2663e6bbd02e87c88025728300456f90?OpenDocument#3>

Robyn Fairman and Charlotte Yapp [Fairman and Yapp] (2004) *Compliance with Food Safety Legislation in Small and Micro Businesses: Enforcement as an External Motivator*, London: Kings College

Federation of Small Businesses ['FSB'] (2010a) *Changing the Perception of Regulation*, London: FSB.

Federation of Small Businesses ['FSB'] (2010b) *The FSB-ICM 'Voice of Small Business' Annual Survey*, London: FSB

Federation of Small Businesses ['FSB'] (2009) *Regulatory Reform: A Route to Economic Recovery*, London: FSB

Forum of Private Businesses ['FPB'] (2010) *NAO Referendum: 192 Report*, available online: <http://www.fpb.org/images/PDFs/surveys/Referendum%20192%20report.pdf>

Forum of Private Business ['FPB'] (2009) *The Cost of Compliance on Micro, Small and Medium-sized Business Employers*, available online:

<http://www.fpb.org/images/PDFs/referendum/FPB%20Referendum%20188%20report.pdf>

Philip Hampton ['Hampton'] (2005) *The Hampton Review – Reducing Administrative Burdens: Effective Inspection and Enforcement*, London: HM Treasury

Hay Group (2010), *Back from the Brink: Ten Lessons from the Recession to Guide Public Sector Leaders*, Available online:

<http://www.haygroup.com/utility/download.aspx?FileID=7506&CountryID=26&sFolder=uk>

Health and Safety Executive/South West Regulators Forum [HSE/SWERF] (2010) *Better Regulation in Food Project*, London: HSE

Henson and Heasman (1998), *Food Safety Regulation and the Firm: Understanding the Compliance Process*, Food Policy, Volume 23, Issue 1

Institute of Directors ['IOD'] (2010) *IOD Business Manifesto 2010 – Rebuilding the UK's competitiveness*, London: IOD

Local Better Regulation Office ['LBRO'] (2010) *An Independent Retail Review of the Law and Enforcement Practice Surrounding Access to Age Restricted Products*, Birmingham: LBRO

Local Better Regulation Office ['LBRO'] (2010) *Business Perceptions Survey 2010*, Birmingham: LBRO

Richard Macrory ['Macrory'] (2006) *The Macrory Review – Regulatory Justice: Making Sanctions Effective*, London: BRE

National Audit Office ['NAO'] (2010) *Business Perceptions Survey 2010*, London: NAO

National Audit Office ['NAO'] (2009) *Complying with Regulation: Business Perceptions Survey*, London: NAO

Office of Fair Trading ['OFT'] (2010), *Consumer Law and Business Practice – Drivers of Compliance and Non-compliance*, London: OFT

Peter Rogers ['Rogers'] (2007) *The Rogers Review: National Enforcement Priorities for Local Authority Regulatory Services*, Norwich, HMSO

Leandro Sepulveda ['Sepulveda'] (2007) *New BME Business Communities in Britain: Challenges of Diversity for Business Support Policy*, Middlesex: Middlesex University

The Small Business Research Centre ['SBRC'] (2005) *Regulation and Small Firm Performance and Growth: A Review of the Literature*, London: Kingston University

End Notes

- 1 NAO (2010)
- 2 BCC: (2010)
- 3 IoD: (2010)
- 4 FSB: (2010b)
- 5 BRC (2009) / BRP: (2010): Geoff Budd M.B.E
- 6 LBRO / NAO: (2010)
- 7 OFT: (2010)
- 8 LBRO/NAO: (2010)
- 9 BRP: (2010): Diana Axby / Alexander Ehmann
- 10 Anderson (2009) / CRED (2009)
- 11 LBRO: (2010)
- 12 BRP: (2010): BRC, various representatives
- 13 BRP: (2010): Sara Higham
- 14 BRP: (2010): Lee Osborne
- 15 BRP: (2010): BRC, various representatives
- 16 BRP: (2010): Rebecca Abbott / Lee Osborne / Nikki Haywood
- 17 FSB: (2009)
- 18 BRP: (2010): Sara Higham
- 19 BRP: (2010): Nikki Haywood
- 20 BRP: (2010): BRC, various representatives
- 21 BRP: (2010): Sara Higham
- 22 BRP: (2010): Lee Osborne
- 23 BRP: (2010): Sara Higham / Rebecca Abbott / Matthew Goodman
- 24 BRP: (2010): Sara Higham / Rebecca Abbott / Alexander Ehmann / Lee Osborne
- 25 BRP: (2010): Sara Higham / Lee Osborne
- 26 CRED: (2009)
- 27 BRP: (2010): Sara Higham
- 28 BRE: (2010)
- 29 FPB: (2009)
- 30 BRP: (2010): Geoff Budd M.B.E
- 31 BRP: (2010): Matthew Goodman / Nikki Haywood
- 32 LBRO: (2010)
- 33 LBRO: (2010)
- 34 SBRC: (2005)
- 35 Henson and Heasman: (1998)
- 36 BRP: (2010): Lee Osborne
- 37 FPB: (2009)
- 38 LBRO: (2010)
- 39 Anderson: (2009)
- 40 BRE: (2010)
- 41 BRP: (2010): Sara Higham
- 42 BRP: (2010): Matthew Goodman
- 43 Discussion with Michael Gibson, Macbeth's Butchers
- 44 Anderson: (2009)
- 45 BRP: (2010): Sara Higham
- 46 BRP: (2010): Sara Higham / HSE/ SWERF (2010)
- 47 BRE (2010)
- 48 BRE (2010) / BRP: (2010): Sukh Gill
- 49 BRP: (2010): Paul Downhill
- 50 BRP: (2010): Rebecca Abbott
- 51 BRP: (2010): Geoff Budd M.B.E
- 52 BRP: (2010): Rebecca Abbott / Alexander Ehmann / Sara Higham
- 53 BRP: (2010): Rebecca Abbott / Sara Higham
- 54 HSE/SWERF: (2010)
- 55 Anderson: (2009)

56 NAO: (2010)
57 BRP: (2010): Sara Higham
58 LBRO: (2009)
59 LBRO: (2009)
60 HSE/SWERF: (2010)
61 Sepulveda (2007)
62 BRP: (2010): Rebecca Abbott / Lee Osborne / Nikki Haywood
63 LBRO: (2009)
64 BRP: (2010): Sara Higham
65 Rogers: (2007)
66 LBRO: (2010)
67 BRP: (2010): Dr Adam Marshall and Steve Hughes / Rebecca Abbott / Sara Higham / Alexander Ehmann
68 BRP: (2010): Sara Higham / CRED (2009)
69 BRP: (2010): Nikki Haywood
70 BRP: (2010): Alexander Ehmann
71 BRP: (2010): Matthew Goodman
72 CRED: (2009)
73 BRP: (2010): Dr Adam Marshall and Steve Hughes / Sara Higham
74 BRP: (2010): Dr Adam Marshall and Steve Hughes
75 BRP: (2010): Lee Osborne / PTF
76 BRP: (2010): Alexander Ehmann
77 FSB: (2010a)
78 BRP: (2010): BRC, various representatives
79 BRP: (2010): Lee Osborne
80 BRP: (2010): Matthew Goodman
81 Richard Macrory: (2006)
82 BRP: (2010): Matthew Goodman
83 BRP: (2010): Sara Higham
84 BRC: (2007)
85 BRP: (2010): BRC, various representatives / NFU
86 BRP: (2010): BRC, various representatives
87 Fairman and Yapp: (2004)
88 BRP: (2010): BRC, various representatives and Paul Downhill/ CRED / FSB / PTF
89 BRP: (2010): BRC, various representatives / CRED
90 BRP: (2010): Lee Osborne
91 BRP: (2010): BRC, various representatives / PTF
92 BRP: (2010): Sukh Gill
93 BRP: (2010): Matthew Goodman / Alexander Ehmann
94 BRP: (2010): Lee Osborne
95 BRP: (2010): Alexander Ehmann
96 Hampton: (2005)
97 BRP: (2010): Sukh Gill / Matthew Goodman / Lee Osborne
98 BRP: (2010): Dr Adam Marshall and Steve Hughes
99 Hay Group: (2010)
100 Hay Group: (2010)
101 BRP: (2010): Sara Higham
102 BRP: (2010): Dr Adam Marshall and Steve Hughes
103 Confederation of British Industry: (2010)
104 BRP: (2010): BRC, various representatives