



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Primary Authority: A Guide for Officials

WITHDRAWN

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WITHDRAWN

1 About this guide

From September 2014 new rules apply to any new Government legislation which is to be enforced by local authorities. In order to obtain ministerial clearance from the Reducing Regulation Committee¹ (RRC), departments developing such legislation will need to demonstrate, at consultation stage and onwards, that they have considered whether their regulation should be included within Primary Authority, and give a rationale for any exclusion.

This guide is designed to help Government policy makers, lawyers and analysts through this process. The following sections explain:

- What Primary Authority is and how it works;
- How Primary Authority benefits policy makers, businesses and local authority regulators; and
- How Primary Authority can be included in policy development, impact assessments and the legislative process.

Each section of this guide has a named contact in case you need further help and advice.

¹ The Reducing Regulation Committee (RRC) is a sub-committee of the Economic Affairs Committee and is chaired by the Secretary of State for Business, Innovation and Skills.

2 An introduction to Primary Authority

Local authorities can differ in how they interpret and enforce the law. Primary Authority drives greater consistency and certainty for businesses that are regulated by local authorities.

Primary Authority enables a business to form a legally recognised partnership with one local authority (the 'primary authority') to get assured advice about how they can comply most efficiently with regulation. This advice, known as Primary Authority Advice, must then be taken into account by other local authorities when dealing with that business e.g. when carrying out inspections or addressing non-compliance.

Primary Authority partnerships can cover a wide range of legislation, including environmental health and trading standards legislation, or specific functions such as food safety and fire safety. A list of categories of regulation in scope of Primary Authority can be found at: <https://primaryauthorityregister.info/par/images/documents/pa-categories.pdf>

Primary Authority is a statutory scheme established by the Regulatory Enforcement and Sanctions Act 2008 (RESA). Primary Authority is administered by the Better Regulation Delivery Office ('BRDO') – a unit which sits within the Department for Business, Innovation and Skills. BRDO fulfils statutory functions on behalf of the Secretary of State such as nomination and revocation of partnerships and provision of the web-based Primary Authority Register that supports its operation.

More information about the scheme is available at: <https://primaryauthorityregister.info/par/index.php/home>

Is Primary Authority relevant to my policy area?

If your policy is enforced through local authorities² – environmental health officers or fire and rescue services, for example – then, in most cases, it will be appropriate for inclusion within scope of Primary Authority. Exceptions to this include policies where regulatory decisions are made based on considerations which are very specific to a local area, such as planning.

If you have any queries regarding whether your policy area is suitable for inclusion in the scheme please contact Fiona Couper, BRDO fiona.couper@bis.gsi.gov.uk

What are the benefits of including your policy within scope of Primary Authority?

Key benefits for your policy, your department and effective implementation:

- ✓ **Reduced business costs**
- ✓ **Easier for business to comply with the law**
- ✓ **Consistent, risk-based enforcement**
- ✓ **Improved business confidence**
- ✓ **Can contribute to a department's One-in, Two-out commitments**

² Local authorities are widely defined by RESA and include, for example, county councils, district councils, fire and rescue authorities and port health authorities.

For businesses

A primary authority provides a business or group of businesses with robust, bespoke regulatory advice on which they can rely. Primary Authority Advice:

- Makes it easier for businesses to comply with the law;
- Significantly reduces the costs of compliance without reducing regulatory protections; and
- Enables businesses to invest with confidence in products, practices and procedures, knowing that the resources they devote to compliance are recognised.

For local authorities

Primary Authority allows for targeted use of local authority resources by ensuring that the demands of public protection are met without increasing the cost of regulation; this is particularly important at a time of budgetary restraint. Reducing local regulatory burden strengthens the local economy, allowing for greater business rates income, and encourages more investment in the local area as businesses feel better able to plan for the future.

For policy makers

Bringing policies into scope of Primary Authority will ensure that policy implementation and outcomes are delivered in a more coherent and consistent manner. Bringing regulations into scope of Primary Authority can significantly contribute to departments' One-in, Two-out (OITO) targets. For example, the recent extension of Primary Authority to existing regulation of age-restricted sales of alcohol and fire safety was estimated to save businesses £13.6m each year, a major contribution to OITO commitments.

Who is eligible?

Any business, charity, or enterprise that is subject to local authority regulation may be eligible for a partnership. There are two types of partnership – direct and co-ordinated – and these differ only in terms of eligibility criteria (the benefits to business and regulators are similar irrespective of partnership type).

A business that is regulated by multiple local authorities (for example, a multi-site retailer or a business selling goods via the internet) is eligible to apply to form a **direct partnership** with a primary authority.

Multiple businesses can form **co-ordinated partnerships** with a primary authority through a co-ordinator if they are collectively regulated by multiple local authorities and the businesses share an approach to compliance. For example, individual restaurants in a franchise can form co-ordinated partnerships with a primary authority through their franchisor. Trade associations are also often co-ordinators for their member businesses. Co-ordinated partnerships allow many businesses who may not be eligible for a direct partnership - particularly small businesses – to join together to benefit from Primary Authority.

Case Study 1

Care home operator **HC-One** was spending a lot of time and money on reactive management of food safety breaches at its homes and inconsistent requirements and recommendations from different inspections. Food safety is at the centre of its care for vulnerable older people but it was struggling to meet the demands placed upon it.

When HC-One entered into a Primary Authority partnership with Wigan Council, they worked together to develop the centrally led programme 'Catering Safely'. The Primary Authority partnership directs each step from conception to delivery, including compulsory induction training, a pioneering food safety policy and a robust inspection policy. HC-One has saved significant time and projects £1million savings in 2014.

Case Study 2

When the new owner of the Cadbury brand **Mondelez International** wanted to change its packaging it was faced with £250,000 regulatory expenses. Thanks to a Primary Authority partnership with Birmingham City Council, the company was able to cut this cost and reduce unnecessary burdens on its business throughout the UK. The deal cut costs, duplication and provided consistency for Mondelez International and councils.

Why introduce this new requirement for policy clearance?

The legislation in scope of Primary Authority is set out in RESA, and if a piece of legislation is not already covered by RESA then action will be needed to bring it into scope of Primary Authority.

Until now, there has often been a time lag between a regulation coming into force and it being brought into scope of Primary Authority, meaning the benefits of coordinated and consistent enforcement have been delayed. Including Primary Authority earlier in policy making process will reduce the costs for businesses and help them plan for the future. **The relationship between a business and its primary authority is particularly beneficial when a new regulation is introduced as it allows businesses to quickly establish an agreed means of compliance.**

It is therefore important that new or amended local authority enforced regulations are brought into scope of Primary Authority as early as possible. To comply with the decision of the Reducing Regulation Committee in May 2014, departments working on relevant legislation need to demonstrate, at consultation stage and onwards, that they have considered whether their regulation should be included within Primary Authority, and give a rationale for any exclusion.

3 Advice for policy makers

What is in it for policy makers?

Bringing policies in scope of Primary Authority can also benefit policy makers by ensuring that outcomes are delivered in a more coherent, efficient and consistent way. Primary Authority can ensure the consistent enforcement of your policy in a way which meets the Government's Principles of Regulation³. Primary Authority also helps increase compliance with regulatory requirements, and generates savings for business which can contribute significantly to a department's One-in, Two-out (OITO) targets.

Why is Primary Authority a good thing?

Policies enforced by local authorities have been inconsistently applied in the past, even where the intention had been for a nationally consistent regulatory regime. Varying interpretations of legislation by different local authorities have led to situations where a single enactment might be enforced in different ways by different local authorities. This uncertainty and inconsistency can impose a major burden on businesses operating across more than one local authority, or relying on advice from a trade association, or following certain procedures required by their franchisor. Primary Authority allows business to access relevant, reliable advice on compliance in a cost-effective way.

How does Primary Authority work?

A primary authority acts as the main point of contact between its partner business and the local authorities which regulate it. Primary authorities may issue **Primary Authority Advice** upon which businesses can rely. If an enforcing authority proposes enforcement action which the primary authority deems to be inconsistent with the advice, the primary authority may 'block' the enforcement action.

This consistency in regulation and enforcement increases businesses' operational certainty, reduces the burdens associated with regulation, and increases compliance by giving businesses clear instructions on how to meet a regulatory requirement in a cost-effective way.

³ **The Government's Principles of Regulation** are:

"The Government will regulate to achieve its policy objectives only:

- (i) having demonstrated that satisfactory outcomes cannot be achieved by alternative, self-regulatory, or non-regulatory approaches
- (ii) where analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative, self-regulatory or non-regulatory approaches
- (iii) where the regulation and the enforcement framework can be implemented in a fashion which is demonstrably proportionate; accountable; consistent; transparent and targeted.

There will be a general presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made.

The Government will adopt a One-in, One-out approach [now a One-in, Two-out approach]"

Primary authorities may also, where appropriate, devise **inspection plans** for businesses. An inspection plan sets out national priorities for inspection of the business in question. For example, if a business is known to have a good record of compliance in one aspect of Food Hygiene Regulations, but has issues in another area, the inspection plan can focus inspection activity on the weaker area. Inspection plans help both enforcing authorities and businesses to manage compliance issues. They also provide useful information about the business for inspectors, thereby making the inspection process quicker and easier for the inspector and the business.

Primary authorities co-ordinate intelligence on businesses' compliance efforts, and develop proportionate responses to issues as they arise. A primary authority may securely share information on enforcement and compliance with other local authorities regulating its partner business, helping to build a clear picture of the business' compliance to inform regulatory activity.

How will this affect my policy process?

Where a piece of legislation is not yet in scope of Primary Authority then an amendment to Schedule 3 of RESA is required to bring it into scope. For regulations being brought in by primary legislation or by an Order subject to the affirmative resolution procedure, all that is required is a line in the legislation specifying the appropriate amendment. This means that including your policy within scope of Primary Authority from the outset is easier than bringing it in after its enactment. However, if you do have a piece of legislation which is already in force, then it can be brought into scope of Primary Authority by Order subject to the affirmative procedure.

Primary Authority will also need to be factored in to your Impact Assessment – please see section 5 for guidance for analysts.

Cabinet Committee clearance to amend RESA should be sought at the same time as clearance for the rest of the policy.

If the regulation you are proposing specifies particular enforcement actions, then amendment to the Co-ordination of Regulatory Enforcement Order (CORE) may also be required so that the enforcement action in the legislation you are making will be regarded as an enforcement action for the purposes of Primary Authority.

Devolution

Primary Authority applies to specified functions in England and Wales. This can include devolved matters in Wales. In Scotland and Northern Ireland, only reserved matters can be specified. A table containing more detail on the geographic scope of the different Primary Authority categories can be found at:

<https://primaryauthorityregister.info/par/images/documents/pa-categories.pdf>.

Primary Authority is jointly-owned between the UK and Welsh Governments. For legislation affecting Wales, Welsh Government consent to amending RESA must be sought. The Welsh Government must also consent to amendments to CORE. BRDO has a presence in Wales and will lead on these aspects if required. In addition to policy support, BRDO will expedite your policy process by providing the appropriate support to lawyers and analysts.

Policy contact: Fiona Couper, BRDO fiona.couper@bis.gsi.gov.uk

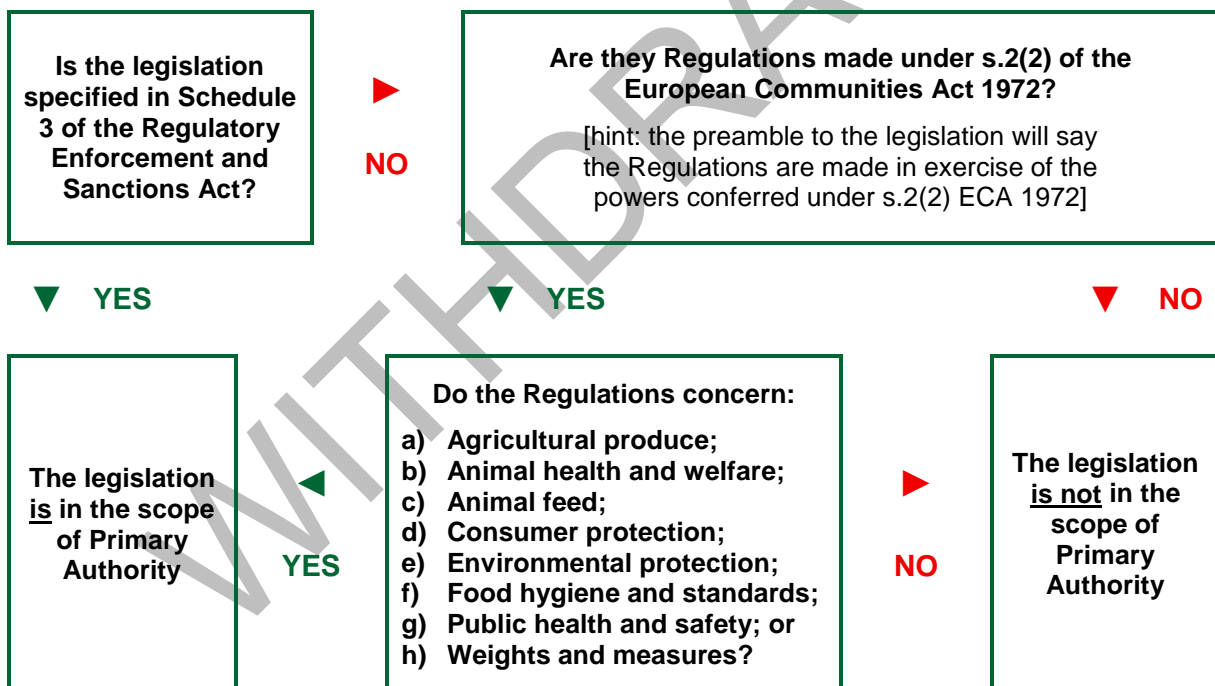
4 Advice for lawyers

Your policy colleagues are required to consider the application of Primary Authority during the policy making process. If it is determined that the policy area should be, but is not currently, within scope of Primary Authority then your policy colleagues will instruct for an amendment to Primary Authority legislation. The relevant legislation is the Regulatory Enforcement and Sanctions Act 2008 (RESA) and the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009 (CORE).

Is it already in scope?

The scope of Primary Authority is established by reference to “relevant functions” (as defined by section 4(1) RESA) under “relevant enactments”. These enactments are specified in RESA in section 4 and Schedule 3. Generally speaking, Schedule 3 lists primary legislation within scope of the scheme. Secondary legislation made under Schedule 3 enactments are also within scope of the scheme by virtue of section 4(2)(a). Section 4(3) lists categories of secondary legislation made under section 2(2) of the European Communities Act 1972 which are automatically included within the scheme.

The following flow chart will help to determine whether the legislation being made is already in scope of Primary Authority and therefore whether amendment of RESA is required.



Policy or enforcement actions not already in scope of Primary Authority

If the legislation being proposed is not already included within the scope of Primary Authority then amendment to Schedule 3 of RESA is required to bring it into scope.

Section 4(4) enables the Secretary of State to amend by order the list of enactments in Schedule 3 and the list of matters in section 4(3), subject to affirmative resolution procedure in Parliament⁴. Under section 4(6), where such amendments include matters relating to local authorities which are Welsh ministerial matters, this will be subject to the consent of the Welsh ministers.

When adding enactments to Schedule 3 the key consideration is whether the whole Act is to be included or whether only some relevant functions need to be specified.

If the change in policy is already covered by the scope of the scheme then it will be necessary to consider whether any proposed enforcement action under the legislation is enforcement action to which section 28 of RESA applies. Section 28 imposes an obligation on local authorities to notify the relevant primary authority before they take enforcement action against a business. It also allows the primary authority to take action where the proposed enforcement action is inconsistent with advice or guidance it has issued in respect of that business.

Section 28(5) of RESA defines an enforcement action. It is supplemented by the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009 (CORE) which specifies actions which are or are not to be regarded as an enforcement action for the purposes of Part 2 of RESA. If legislation is in scope of Primary Authority but enforcement action under it does not fall within the definition of an enforcement action in CORE, then it is 'technically' within scope of Primary Authority but the powers to coordinate regulatory enforcement in Part 2 of RESA are not exercisable. It will therefore be necessary for policy colleagues to consider whether it would be appropriate to make an amendment to CORE to encapsulate the proposed enforcement action.

Section 28(6) RESA gives the power to the Secretary of State to specify action which is or is not to be regarded as enforcement action by order with the consent of the Welsh Ministers. Amendment to CORE must therefore be made by statutory instrument subject to the negative resolution procedure⁵.

If amendment is required to section 4(3) or Schedule 3 RESA and to CORE then both affirmative and negative resolution statutory instruments will be needed. If your change in policy will involve the passing of primary legislation, then it is worth considering making the necessary amendments to RESA and CORE within that legislation.

⁴ Section 20(3) RESA

⁵ Section 34 RESA

Devolution

It is also necessary to consider the position with the Devolved Administrations. The scheme applies to specified functions in England and Wales. For legislation affecting Wales, Welsh Government consent to amending Schedule 3 of RESA must be sought⁶. The Welsh Government must also consent to amendments to CORE⁷.

Primary Authority only applies in Scotland and Northern Ireland in relation to reserved matters. If the regulatory area is devolved then no further action is required. However if the policy area is reserved then amendment may be required to The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009 which is separate from CORE.

Going forward

During this process we can support you and answer any questions you have in relation to Primary Authority. BRDO can support you when you begin thinking about drafting and throughout the legislative process – please contact us for advice. When you have drafted any amendments to Primary Authority legislation, please send them to Aoife Egar in BIS Legal for approval.

Legal contact: Aoife Egar, BIS Legal Aoife.Egar@bis.gsi.gov.uk

⁶ Section 4(6) and 4(8) set out circumstances in which Welsh ministerial consent is required
⁷ Section 28(6) of RESA

5 Advice for analysts

This section provides advice to analysts on how to include Primary Authority in impact assessments. An impact assessment is usually required for making legislative changes in order to work through the benefits, costs and risks of the proposal. This is usually submitted as part of a package for clearance and any subsequent parliamentary process. One of the main benefits Primary Authority brings to central departments is a reduction in the 'IN' cost of a new policy for One-in, Two-out (OITO) purposes; we have provided a tool to calculate the benefits of Primary Authority to facilitate this process.

The material in this section is designed to help you produce an IA and undertake the analysis by providing key data and estimations that have been used throughout the development of the scheme since 2007. Details about the policy intentions of Primary Authority are in the 'Advice to policy makers' section of this guide. If you have questions about when and how to undertake an impact assessment, please refer to the [Better Regulation Executive's guidance](#) and [HMT's Green Book](#).

Previous impact assessments

Below are links to previous impact assessments that have been completed for Primary Authority. These may help to provide background to the policy. The most recent impact assessments are examples of the current methodology and the text in these may be useful in filling out your own impact assessment.

More recent impact assessments:

- Impact assessment on the extension of Primary Authority to cover the age restricted sales of gambling and sunbed tanning, the Housing Health and Safety Rating System, and Welsh regulations on single use carrier bag charging, October 2013:
http://www.legislation.gov.uk/ukia/2013/139/pdfs/ukia_20130139_en.pdf
- Impact assessment on the extension of the scheme to cover the age restricted sale of alcohol and fire safety regulations, April 2014:
http://www.legislation.gov.uk/ukia/2014/73/pdfs/ukia_20140073_en.pdf

Older impact assessments:

- Impact assessment on implementing the Primary Authority scheme, March 2009:
<http://www.legislation.gov.uk/uksi/2009/670/impacts/2009/64>
- Impact assessment on extending the Primary Authority scheme, April 2011:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31432/11-987-impact-assessment-extending-primary-authority-scheme.pdf
- Impact assessment on extending the Primary Authority scheme, November 2011:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31985/12-864-impact-assessment-extending-primary-authority-scheme.pdf

Costs and benefits of Primary Authority

The costs and benefits of the scheme fall on 3 main groups:

- Businesses who join and are in a primary authority partnership;
- Local authorities who act as a primary authority partner to a business (referred to as 'primary authorities'); and
- Local authorities acting in their role as enforcing authorities.

Business will gain benefits through a reduction in the number of instances of inconsistent advice. Businesses will incur costs through paying the primary authority for the time spent on their business, on a cost recovery basis.

Primary authorities incur costs by spending time issuing advice to businesses they are in a partnership with and liaising with enforcing authorities on their behalf. They benefit by being able to cost recover for this time (although the extent to which they do this is discussed below).

Enforcing authorities incur costs by having to notify primary authorities of any proposed actions they wish to take in respect of a business in a partnership. They gain time by liaising with primary authorities to resolve any issues, reducing the burden for the enforcing officers and businesses.

Analysis for impact assessments

To estimate the impact of a policy being within scope of Primary Authority we estimate:

- The number of additional (i.e. new and expanded) primary authority partnerships; and
- The costs and benefits associated with each new and expanded primary authority partnership.

It is necessary to separate this analysis into two strands – one for direct partnerships and the other for co-ordinated partnerships.

Direct partnerships are those that are set up between an individual business and a primary authority, where the business operates across multiple local authorities.

A *co-ordinated partnership* is set up between a primary authority and a business that shares an approach to compliance with at least one other business, provided that they are collectively regulated by more than one local authority in respect of a relevant function. In this case, a co-ordinator – a trade association, franchisor or one company in a corporate group – facilitates the partnership.

Within these 2 types of partnership we separate them into 2 types, new partnerships and expanded partnerships. New partnerships are newly created partnerships with no previous participation in Primary Authority. Expanded partnerships are where there is already an existing partnership under a different area or areas of regulation, which is expanded to cover a new regulation. It is assumed there are lower costs to expand a partnership than to set up a new partnership.

Monetised costs and benefits

		Costs	Benefits
Business	One-off	Setting up the partnership	n/a
	Ongoing	Maintaining the partnership	Savings from improved consistency of advice that reduces the burden of regulatory enforcement on them
		Charges from the recovery of costs by their primary authority	Savings from the development of inspection plans
Primary Authority	One-off	Setting up the partnership	Cost recovery
	Ongoing	Maintaining partnerships	Cost recovery
		Dealing with enforcing authorities	
Local Authority	Ongoing	Notifications of enforcements to primary authorities	Time saved by increased efficiency due to primary authority
		Contact with primary authorities to resolve compliance issues	Time saved from reduced duplication when businesses develop inspection plans

Non-monetised costs and benefits

A recent qualitative evaluation of Primary Authority⁸ identified additional benefits for businesses that we have not been able to quantify. Benefits for the businesses identified in the evaluation include:

- Primary authority input into staff development – training-based input on regulatory matters at staff inductions, conferences etc;
- Supporting staff;
- Standardising policies, procedures, systems and documentations; and
- Provide businesses with additional data on how they are performing.

It may also be useful to consider non-monetised costs and benefits with stakeholders as part of the wider consultations on the policy.

Using the Primary Authority impact tool

The Primary Authority impact tool is designed to help analysts in calculating the impact of Primary Authority for their impact assessment. The tool uses the same methodology as existing Primary Authority impact assessments and includes both direct partnerships and co-ordinated partnerships. This guide should help you to complete the key assumptions page of the tool. The final costs and benefits will be displayed in the “Total impacts” tab of the spread-sheet. There is also background information on the scheme and the methodology used.

⁸ <https://www.gov.uk/government/publications/primary-authority-evaluation>

Assumptions that need to be changed in the template (these are highlighted with a blue background on the “key assumptions” tab)

Number of existing direct partnerships / number of existing coordinated partnerships

The impact assessment includes a take up rate for partnerships. As a result you need the latest figures on Primary Authority businesses to calculate this. These figures change on a daily basis. The latest figures can be obtained from a member of BRDO.

Number of businesses operating across local authority boundaries

This figure needs to be updated in the tool. It is derived from the Inter-Departmental Business Register (IDBR) and looks at all businesses operating across local authority boundaries in England and Wales. This figure should cover all SIC codes and all legal statuses. If your department does not have access to the IDBR then please speak to the analyst in BRDO.

Number of businesses in scope of new regulation

This figure is derived from the Inter-Departmental Business Register (IDBR) and will depend on the specific area of regulation that you are looking at. It will be necessary to identify the sectors (using SIC codes) that the regulation is likely to impact. The number of businesses in scope will then be the number of businesses operating across local authority boundaries within these sectors.

For example, for age-restricted sales of alcohol the sectors likely to be affected are listed below:

- 46.17 Agents involved in the sale of food, beverages and tobacco*
- 46.34/2 Wholesale of wine, beer, spirits and other alcoholic beverages*
- 47.11 Retail sale in non-specialised stores with food, beverages or tobacco predominating*
- 47.19 Other retail sale in non-specialised stores*
- 47.25 Retail sale of beverages in specialised stores*
- 55.10 Hotels and similar accommodation*
- 55.20 Holidays and other short stay accommodation*
- 55.30 Camping grounds and recreational vehicles*
- 55.90 Other accommodation*
- 56.10/1 Licensed restaurants*
- 56.21 Event catering activities*
- 56.29 Other food service activities*
- 56.30/1 Beverage serving activities - Licensed clubs*
- 56.30/2 Beverage serving activities - Public houses and bars*

Number of eligible coordinators

For the previous impact assessment on fire-safety which covered the majority of business premises, we estimated that there are 3350 co-ordinators (i.e. trade associations, franchises, business groups etc.). This is based on 2420 trade associations (according to the Trade Association Forum) and 929 franchise brands (according to the British Franchise Association).

For other extensions this estimate of the number of coordinators is likely to be a significant overestimate. Where possible, teams should look for ways to estimate the number of trade associations and franchises that their regulation covers.

Business hourly labour cost

This is the mean gross hourly pay of “managers, directors and senior officials” using SOC10. This figure is taken from the latest version of the Annual Survey of Hours and Earnings. This figure then should be up-rated by 17.8% (according to BIS guidance, April 2014) for non-wage labour costs.

Cost-recovery

The main costs to the businesses of the scheme are the costs charged by primary authorities for their time. Their time will cover issuing assured advice to businesses and time liaising with enforcing authorities on their behalf. Primary authorities are allowed to cost recover their time from the businesses. The extent to which primary authorities cost recover for their services is a decision made by the relevant local authority.

The main source of evidence on cost recovery is from RAND Europe⁹. This shows that not all primary authorities fully cost recover. In fact, only 48% of current partnerships recover full costs while 12% do not recover any costs. The remaining 40% recover some costs, which for the purposes of this analysis is assumed to be at a rate of 50%, based on data from the RAND Europe 2011 evaluation. This adds up to the weighted average of 68% cost recovery across all partnerships. This is our central estimate and we use this assumption in all the cost recovery estimations in the analysis of direct partnerships. This assumption will be reviewed following evaluation work (likely to be completed by July 2015).

For co-ordinated partnerships we assume that there will be full cost recovery from all primary authorities due to the time involved, cost and complexity of these partnerships.

For sensitivity analysis, in previous impact assessments, we also looked at those that are uncertain about cost recovery to generate a range of the proportion of primary authorities that are likely to recover costs. In an extreme case where none of the 40% decide to recover costs there would be a total of 48% of primary authorities fully cost recovering. In the other extreme case where all of them chose to cost recover, a maximum of 88% of primary authorities would fully cost recover. Large scale expansion of Primary Authority is likely to alter the behaviour of local authorities; therefore it would also be advisable to carry out sensitivity analysis looking at the impact of fully cost recovery for direct partnerships.

These can be changed in the drop-down menu on the “key assumptions” tab of the template.

Assumptions you might wish to consider amending in the tool (these are highlighted in yellow in the tool)

Number of businesses in a coordinated partnership

Where there is more knowledge of the sector and the coordinators within that sector, it may be possible to refine this range to give more accurate estimates of the number of businesses within trade associations and franchises.

⁹ RAND Europe (2011), Evaluating the Primary Authority scheme:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262948/11-1466-evaluating-pa.pdf

Take-up rate for inspection plans

The current take up rate for inspection plans for businesses in Primary Authority is 3.5%. This has generally been used as the assumption for take up in impact assessments. However, in the case of the Welsh regulation on single use carrier bag charging scheme and the Housing Health and Safety Rating System it was assumed that partnerships would not feature inspection plans. This was based on consultation evidence. It will be worth consulting with businesses and policy colleagues as to whether inspection plans will be taken up in the area of regulation you are looking at. It will also be worth checking the take up rate of inspection plans has not changed substantially – please contact BRDO to confirm.

Reduction in the number of instances of inconsistent advice a year

Data provided by RAND Europe and from consultation responses suggests that Primary Authority has reduced the number of instances of inconsistent advice from 5.5 instances per business per year to 3 on average i.e. a reduction of 2.5 instances per business per year on average.

For some previous regulations however, this figure has been amended. For example, for the Welsh regulation on single use carrier bag charging this figure was amended to 0 – 1 as the impact was expected to be smaller.

Total impacts

The total one off and annual cost and benefits to business, primary authorities and enforcing authorities can be found in the “Total Impacts” tab of the tool. These are the figures that should be used in the BRE impact assessment calculator.

The “Total impacts” tab also presents the impacts to local authorities (i.e. both enforcing and primary authorities). These are the figures that are required for the *New Burdens Assessment* for DCLG.

Although analysis suggests that there may be some costs to local authorities, this is because, according to previous evidence, primary authorities in direct partnerships choose not to fully cost recover from businesses and therefore to incur a cost. Note: it is anticipated that primary authorities are moving towards fuller cost recovery and we assume that primary authorities in coordinated partnerships will fully cost recover (due to the additional cost and complexity of these partnerships).

A local authority becomes a primary authority on a voluntary basis and is free to decide the extent to which to recover costs, if at all. Therefore any one off costs and annual costs on the primary authority are entirely due to decisions made by the local authority and should not be funded at the departmental level.

Impact assessment calculator and One-in Two-out

One-in, Two-out

The extension of the scheme amends existing regulation which aims to simplify the regulatory environment and provides net benefits to business. Given that this is a permissive change, there is reasonable expectation that businesses will join the scheme only if they accrue net benefits. As a result, the monetised direct benefits that are expected to arise from the extension of the scheme should exceed the monetised direct costs expected to accrue to business. Extensions to the scheme are therefore considered to be deregulatory.

Calculating the NPV and EANCB in the BRE impact assessment calculator

The costs and benefits should be entered into the calculator in the usual way.

For previous impact assessments, the low and high estimates of the costs and benefits varied only due to the estimated range for the number of partnerships. As a result the Regulatory Policy Committee advised us that we should calculate the low scenario as low benefits minus low costs (and similarly for the high number of partnerships scenario). This is because we could not have a scenario where there would be low benefits but high costs.

Therefore we amended the “overview” sheet of the impact assessment calculator. The “low” net benefit present value was the “low” benefit minus the “low” cost and the “high” net benefit present value was the “high” benefit minus the “high” cost.

Analysts should consider the correct approach for their impact assessment.

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