

Title: Primary Authority – system for defining scope of partnerships IA No: RPC Reference No: RPC-4102(1)-BEIS Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)			
	Date: 01/06/2017			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Other			
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Summary: Intervention and Options				RPC Opinion: Awaiting Scrutiny

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£-0.53m	£-0.53m	£0.1m	Not in scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?
 Primary Authority, introduced in 2009, is making it easier for businesses to understand and follow regulation by partnering with a local authority, thereby enabling them to invest and grow. For administrative purposes the scope of a partnership is currently defined on the basis of an increasing number of functional categories such as 'Food Safety & Hygiene or 'Fair Trading'. This system is not sustainable given the increasing legislative scope of Primary Authority, increasing devolution and the expansion of Primary Authority with 250,000 businesses expected to be in partnerships by 2020. A different and less burdensome approach is needed.

What are the policy objectives and the intended effects?
 The objective is to replace the current system for defining the scope of Primary Authority partnerships using administrative categories with one that is sustainable and will cope with the anticipated increase in the number of businesses participating in Primary Authority, is clear and simple for businesses, and reduces administrative burdens.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Two options have been considered: (1) Do nothing and continue with the categories approach; and (2) introduce a new approach whereby the scope of a partnership will, by default, extend to all the regulatory functions within scope of Primary Authority that the particular local authority is responsible for. Option 2 will be administratively less burdensome, will bring simplicity for the majority of businesses, particularly small businesses, and is more sustainable for the future. It is the preferred option.

Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: 10/2021						
Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope?			Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible
 SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: -0.53

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0.015	0.1	0.5

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

The ongoing monetised costs for businesses are the cost of familiarisation with the new approach of defining partnerships and the costs of increased volume of enforcing authority calls to primary authorities. The familiarisation costs impact on businesses with an existing direct partnership in year one, plus all new businesses signing up to a direct partnership in future years. In addition there is a small transition cost for existing partnerships for administrative changes.

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

No non-monetised costs have been identified.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0	0	0

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

The administration of Primary Authority must be simplified to accommodate the expansion of the scheme and the system for defining partnerships must be more sustainable than the current approach. For most businesses and local authorities the new approach should be administratively less burdensome but we do not have data or evidence that could be used to monetise this benefit.

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

See above.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

We have assumed that there will only be a negligible impact on businesses in coordinated partnerships as the number of coordinators will be small. However, as a total of 250,000 co-ordinated partners are expected to be in Primary Authority by 2020 the aggregate effect may be significant. Therefore we have considered this as a sensitivity test.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0.1	Benefits: 0	Net: -0.1	
			0.5

INTRODUCTION

1. Primary Authority, established in 2009, is a statutory scheme in which a local authority ('a primary authority') can partner with a business, or with a group of businesses, in order to take on responsibility for providing regulatory advice and guidance to it. This advice and guidance then guides the way in which that business is regulated by all other local authorities ('enforcing authorities').
2. The statutory basis for the scheme is provided by the Regulatory Enforcement and Sanctions Act 2008 (as amended) and associated secondary legislation. The scope extends to regulatory services provided by local authorities, principally environmental health, licensing, trading standards and fire safety services. UK businesses regulated by more than one local authority or businesses in a co-ordinated group that are collectively regulated by more than one local authority may participate in Primary Authority. The scheme is administered by the Regulatory Delivery Directorate (RD) within the Department for Business, Energy and Industrial Strategy and its practical operation is underpinned by statutory guidance.
3. The scheme offers businesses the opportunity to form a legally recognised partnership with one local authority – the primary authority (PA). The PA can provide robust and reliable advice to the business which other local authorities (enforcing authorities) must take into account when carrying out inspections or dealing with non-compliance. Primary authorities are entitled to recover costs from the business for the costs they incur through administering a partnership. A partnership can take one of two forms: direct or co-ordinated. A 'direct partnership' is between a single business and a local authority. A 'co-ordinated partnership' is one between a group of businesses sharing the same regulatory approach with a local authority and which is usually facilitated by a trade association or franchisor.
4. Currently, the regulatory scope of a partnership is defined within the Regulatory Enforcement and Sanctions Act 2008 in terms of 'relevant functions' which are listed in Section 4(3) and Schedule 3 of the Act. For administrative purposes, the many regulatory functions within the scope of Primary Authority have been grouped into categories such as 'Food Safety & Hygiene', 'Health, Safety and Welfare', 'Fair Trading', and 'Fire Safety'. There are currently 22 categories. A description of each, of these along with its geographic applicability is provided in the 'List of Primary Authority Categories' available on the Primary Authority Register (the IT system that supports operation of the scheme). These administrative categories are used to define the scope of a partnership when it is established. A business is able to partner with different local authorities for the different categories, but can only be partnered with one authority for any given category.
5. The Enterprise Act 2016 included measures to amend the Regulatory Enforcement and Sanctions Act 2008 and the resulting changes to the scheme will be implemented from 1 October 2017. The changes enable many more small businesses and pre-start-up enterprises to participate in Primary Authority. The number of business in partnerships is expected to increase from 17,000 to 250,000 by 2020. The Impact Assessment for the changes made by the Enterprise Act was independently verified by the Regulatory Policy Committee as delivering a regulatory saving of £25.77m per year.

RATIONALE FOR INTERVENTION

6. Additional administrative categories need to be created in cases where Primary Authority is extended into new regulatory areas and also where regulation is devolved to the Welsh Government because only Welsh local authorities can be primary authorities for Welsh regulation. There has been a small increase in the number of administrative categories since the scheme began in 2009. As Primary Authority is expanded to cover more regulatory areas and as more powers are devolved, new administrative categories would be needed and it is estimated that the number would increase to over 40. This creates an increasingly complex overall picture which would be confusing for partnerships to understand and use.

7. Current experience of administering Primary Authority has shown that the existing categories system is already causing some confusion for local authorities and businesses, for example in deciding which category a particular piece of legislation might fall under, and hence whether it is within the scope of a particular partnership. This is not always obvious.
8. Further, the nature of the category system creates an administrative burden for partnerships. Where there is a desire to extend the scope of a partnership to encompass additional areas of regulation, and therefore additional categories. This requires a submission of a nomination request to the Secretary of State. There is also a delay for the period of time for that request to be processed.
9. Given the expected significant increase in the number of businesses participating in Primary Authority, the case for replacing the categories system is further strengthened. A more sustainable system is required.

POLICY OPTIONS

Do nothing

10. The categorisation system would continue to be the basis for defining partnerships and the number of categories would continue to increase imposing administrative burdens on business, both directly and via cost-recovery by their primary authority.

Introduce a new approach for defining the scope of partnerships

11. The proposed alternative approach is to define the scope on the basis of the 'regulatory functions' of the local authority. Different types of local authority - such as unitary authorities, metropolitan borough councils, county and district councils, and fire authorities – are responsible for different regulatory functions. When a partnership is formed, by default, the scope will extend to all the regulatory functions within scope of Primary Authority that the particular local authority is responsible for. In other words, it will cover the legislation within scope of Primary Authority that the particular local authority enforces.
12. This approach gives the PA the opportunity to provide a comprehensive service to the business or co-ordinator and to enforcing authorities. Businesses will still be able to form multiple partnerships but only where the first partnership does not cover all potential regulatory areas, for example, a fire and rescue authority or a district council. Where a business or co-ordinator already has one or more existing primary authorities, a new partnership will, by default, cover the relevant functions that are not listed as partnership functions of existing primary authorities.
13. Given the expansion of Primary Authority and the expectation that 250,000 businesses will be in partnerships by 2020, the current categories approach is not sustainable. This alternative approach is administratively less burdensome. It will bring simplicity for the majority of businesses, particularly for small businesses, and is more sustainable for the future. This new approach is, therefore, the preferred option.

STAKEHOLDER CONSULTATION

14. Stakeholder views on the proposed alternative approach were sought through a public consultation on 'Unlocking the Potential of Primary Authority: implementing the Enterprise Act 2016' which took place between 13 February and 7 April 2017.
15. In response, stakeholders acknowledged the issues with the categories system and its administration and sustainability. Some welcomed the proposal and considered that the changes are a common sense approach to resolving these issues. The majority, however, considered that while it may make central administration of the scheme easier, it may create more problems.
16. The key concerns raised were that business choice would be limited and that the approach gives competitive advantage to unitary authorities. Those in existing partnerships expressed concern about the potential for administrative and cost burdens that may result from having to terminate existing arrangements and initiate new partnerships. In terms of setting up new partnerships,

stakeholders generally found the proposed approach confusing and complicated and considered that greater clarity and guidance was needed on how the process will work in practice including in relation to transitional arrangements.

ASSESSMENT OF IMPACT ON BUSINESS

17. The new approach where the default will be for a partnership to cover all the regulatory functions of the local authority is expected to be administratively less burdensome. It should be more straightforward for most new businesses joining Primary Authority. The majority of businesses already in partnerships have simple arrangements and the move to the new approach will not change these significantly. The partnership can continue to focus on agreed activities but is future proofed so that advice can be given on other areas if there is a need. For those in more complicated partnership arrangements, where a business has more than one existing primary authority, BEIS is committed to working with them to agree and implement bespoke arrangements where necessary.
18. In response to the comments made by stakeholders and to provide greater clarity for local authorities and businesses, the Statutory Guidance that sets out the detail of Primary Authority, has been revised to include an explanation of how the approach works. It explains that when the partnership is established, the PA and businesses or co-ordinator can agree which areas to focus on. It also makes provision for agreeing bespoke arrangements for partnerships where the default approach is not able to meet their needs for particular reasons.
19. The expected impact on business will derive from three activities:
 - businesses familiarising themselves with the change;
 - a greater volume of enforcement authority calls to primary authorities with the cost being passed on to businesses in partnerships through cost recovery;
 - the administrative requirement for the PA and businesses to change their Primary Authority agreements to reflect the change of scope.
20. In terms of which businesses are affected by the change, it will only have a significant familiarisation and administrative impact on businesses with a direct partnership and the co-ordinators of co-ordinated partnerships.
21. Between 2009, when the scheme started and now, direct partnerships have grown to 2,176, or at an average rate of 310 new partnerships per annum. This trend is expected to continue.
22. Co-ordinators of co-ordinated partnerships are less common, and it is anticipated that only 30 or so are likely to join the scheme. Business members of co-ordinated partnerships will not need to familiarise themselves with this option and there will be no administrative burden for them as the co-ordinator will establish partnerships.
23. There is potentially a negligible impact on co-ordinated partnerships that will apply per business resulting from the primary authority recovering the costs of enforcing authorities notifying them of planned enforcement activity against businesses under a co-ordinated partnership. Three co-ordinators of co-ordinated partnerships, contacted by RD, expect the number of calls to remain the same or diminish. However, as a total of 250,000 co-ordinated partners are expected to be in Primary Authority by 2020, with the vast majority of those (180,000) joining in 2018 the aggregate effect may be significant. We have considered this as a sensitivity test.
24. In assessing impact, a number of generic assumptions have been made. These are as follows:

#	Description	Value
A	Mean hourly wage of corporate managers and directors (ASHE 2016)	£26.59
B	Non-wage labour costs (Eurostat)	20.2%
C	Hourly labour costs, business (A * 1+B)	£31.96
D	Mean hourly wage of regulatory professionals (ASHE 2016)	£21.37
E	Hourly labour costs, local government (D * 1+B)	£25.69

#	Description	Value
F	Cost recovery rate of annual costs of PA scheme (as yet unpublished acl research and PA IA calculations into cost-recovery of on-going administration)	99%
G	Current number of businesses covered by Direct PA relationships (PA admin data)*	1142
H	Current number of partnership coordinators (PA admin data)*	47
I	Current number of businesses covered by PA (PA admin data)	15,855
J	Current number of PA relationships (PA admin data)*	16,963
K	Expected annual increase in direct members and coordinators of PA (straight-line extrapolation of direct partnerships and the 30 additional coordinated partnerships RD expects to join by 2026)	313

*There's a discrepancy in the data here as one holding business may have multiple businesses with separate and/or multiple relationships but a single holding-wide coordinator for the purposes of familiarisation etc.

Familiarisation cost to business -

#	Description	Value
L	Mean staff hours for business to familiarise themselves with change (RD estimate based on timed reading *3 for comprehension)	2 hours
M	Cost per business to familiarise themselves with change (K * C)	£63.92
N	Total cost of familiarisation for all businesses with PA relationship (see below)	£371,133

Year	Businesses affected	Assumption #	Cost
2017/18	1,189	(G + H) * M	£76,004
2018/19-26/27, p.a	313*	M * K	£20,008
Total		-	£256,073

Cost of enforcing authorities (EAs) notifying PAs for previously out-of-scope enforcement work being passed on to business through cost recovery

25. If an EA wishes to take enforcement action against a business with a PA they must first notify the PA. This notification would occur via the Primary Authority Register, but enforcing officers will often call where they are unsure of the scope of the partnership. Anecdotal evidence suggests that where a PA has not issued advice to the business on that subject, the response to these calls is for the EA to follow its own judgement. PAs will not have issued advice for questions that they deem outside the relevant scope of the partnership agreement.
26. To determine the number of calls per business with a direct partnership RD surveyed eight PA officers working in Trading Standards and Environmental Health from a variety of London, English and Welsh councils. Seven of the officers expected that they would never receive calls about previously-out-of-scope issues because they write their partnership agreements to cover all conceivable categories for that business, i.e. the gaps between the scope of the agreement and the PA's regulatory scope would never generate a call, due to the nature of the business. Therefore, the change to a regulatory scope-based approach would not increase the number of calls they receive. One officer speculated that he had received up to 24 calls per annum for 'some' businesses, depending on the size of the business. We have taken 24 calls per annum per direct relationship as a conservative estimate for that council and then averaged them across all responses, to arrive at an answer of three calls per direct partnership per annum. The true number will be much lower.
27. Businesses that fall under a co-ordinated partnership are likely to receive far fewer calls – they tend to be less heavily regulated because they are more likely to be SMEs and in lower-risk sectors. RD spoke to three co-ordinated partnerships to establish how many calls they receive per year across all their businesses. KFC has 800 stores under its co-ordinated PA agreement and receives three to four calls per month. The Nationwide Caterers Association receives two to four calls per month in relation to 4,000 co-ordinated businesses. The National Federation of Meat and

Food Traders receive one call per month across 1,000 members. These average-out at a rate of 0.019 calls per co-ordinated business per annum. RD asked the partnerships if they expected these calls to increase when the scope of the partnership increased. Anecdotally, the co-ordinators did not believe this would be the case. In fact, one said that he expected the calls to decrease as a result of other changes that are being made to the PA Register which will make administration easier. We have assumed that there will be no increase in calls as a result of the change. However, for the purposes of sensitivity testing, we have considered the impact of the number of calls that co-ordinators receive doubling. This is important due to the large number of businesses that RD expects to join the scheme through co-ordinated partnerships (180,000 in 2018, at least 250,000 by 2020, plateauing thereafter).

#	Description	Value
O	Mean staff hours for PAs to deal with a notification from enforcing authorities (RD estimate)	0.17 (10 mins)
P	Cost per notification to PA (O * E)	£4.28
Q	Cost recovered per notification from business (P*F)	£4.24
R	Expected number of notifications per annum per business (direct) (24/8)	3
S	Expected number of notifications per annum per business (coordinated) (9*12/5800)	0.019
T	Percentage of PA businesses who don't have a comprehensive agreement (RD analysis)	89%
U	Total cost of PAs dealing with notification from enforcing authorities for all businesses with PA relationship (see below)	£2.1m

Cost of the change on direct partnerships -

Year	Businesses affected	Assumption #	Cost
2017/18	1,455	Businesses*Q*R*T	£18,048
2018/19	1,768		£21,576
2019/20	2,081		£25,104
2020/21	2,394		£28,632
2021/22	2,707		£32,160
2022/23	3,020		£35,688
2023/24	3,333		£39,216
2024/25	3,646		£42,744
2025/26	3,959		£46,272
2026/27	4,272		£49,800
Total			

Cost of doubling calls regarding coordinated partnerships (sensitivity testing only) –

Year	Businesses affected	Assumption #	Cost
2017/18	14,787	Businesses*Q*S*T	£1,034
2018/19	194,787		£13,627
2019/20	222,394		£15,559
2020/21	250,000		£17,490
2021/22	250,000		£17,490
2022/23	250,000		£17,490
2023/24	250,000		£17,490
2024/25	250,000		£17,490
2025/26	250,000		£17,490

Year	Businesses affected	Assumption #	Cost
2026/27	250,000		£17,490
Total			£172,202

Administrative requirement for primary authorities and businesses to change their PA agreements to reflect the change of scope

28. As a result of the regulatory change all partnership agreements will be automatically reissued, re-written for the new regulatory scope-based system. As long as there is no clash, a business will not experience any impact from the change, beyond familiarisation. However, there are a small number of businesses that have clashes that may require some amount of re-negotiation. In lieu of a better estimate we have assumed resolving these clashes will cost as much as establishing a new partnership. This is almost certainly a conservative estimate because in most cases the clashes can be resolved simply.

#	Description	Value
V	Mean staff hours for a business to establish a PA agreement (acl research and PA3 IA)	10.2
W	Mean staff hours for a local authority to establish a PA agreement (acl research and PA3 IA)	17.9
X	Direct cost to business due to change (V *C)	£326.00
Y	Cost to business due to LA cost-recovering (W *E *F)	£455.19
Z	Number of businesses affected by clashes	20
AA	Total cost of change for all businesses with PA relationship (Y*(W+X))	£15,623

Total costs –

	Familiarisation	Additional calls	Changes	Total
Costs to business 2017	£76,004	£18,048	£15,623.98	£109,676
Costs to business 2018	£20,008	£21,576		£41,584
Costs to business 2019	£20,008	£25,104		£45,112
Costs to business 2020	£20,008	£28,632		£48,640
Costs to business 2021	£20,008	£32,160		£52,168
Costs to business 2022	£20,008	£35,688		£55,696
Costs to business 2023	£20,008	£39,216		£59,224
Costs to business 2024	£20,008	£42,744		£62,751
Costs to business 2025	£20,008	£46,272		£66,279
Costs to business 2026	£20,008	£49,800		£69,807

BIT status/score

29. This change constitutes a Qualifying Regulatory Provision and is a small IN. Though membership of Primary Authority is a permissive change these changes will impose a cost on existing and future members.

30. The Business NPV is -£0.53m, with an EANDCB of £0.1m and a BIT score of £0.5m.