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Information Paper on the Primary Authority Scheme

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Background

1. Building on the well established voluntary Home Authority Principle and Lead Authority Partnership Schemes (PAS), the Local Better Regulator Office (LBRO) introduced the Primary Authority Scheme in April 2009. Businesses can now form a statutory partnership with a single local authority, which will provide robust and reliable advice that other councils must take into account when carrying out inspections or dealing with non-compliance. The administration of Primary Authority is a statutory responsibility of LBRO. Its role is to register partnerships, issue guidance, approve inspection plans, and resolve disputes.

How does it work in practice?

2. Under PAS one local authority takes responsibility for advising a company on a specific area(s) of regulation for example Health and Safety. The Primary Authority has the power to issue guidance to other local authorities - which they must generally follow - and to veto enforcement action against the company by other local authorities in certain circumstances such as when the proposed enforcement action is inconsistent with any Primary Authority Advice to the business or any Primary Authority Advice to local authorities that it has previously given.

Numbers of Partnerships to date

3. Only three partnerships were established when the Scheme was launched in April. These were: B&Q (Eastleigh); Moto (Central Bedfordshire) and Iceland (Flintshire).

4. The B&Q PAS is confined to health and safety; Iceland includes health and safety but covers a wide range of regulatory functions including product safety but is mainly concerned with food. The Moto Partnership does not include health and safety (but does include explosives licensing and product safety).

5. In early July two new partnerships were launched – Boots with Nottinghamshire and the Trading Standards Institute with Essex. Neither of these includes health & safety.

6. LBRO are in discussion with 100 companies which might establish PAS, but it is impossible to say how many of these will come to fruition. LBRO is committed to having 200 up and running after 3 years.

Payment

7. A significant obstacle with the Scheme has been the unwillingness of businesses to pay the costs of the Primary Authority (for a major national retailer this might be £50-100,000 pa - i.e. the cost of 1 or 2 full time officers). This unwillingness calls into question the claim that

inconsistent enforcement by local authorities places a significant burden on business. If this were so, it would be worth their while to pay for a scheme that offers protection from such problems. We understand that Boots is not being charged by Nottinghamshire.

Next Steps

8. LACORS will continue to support and promote its voluntary Home Authority Principle (HAP) and will be investing in updating the existing HA database, which currently holds information on over 11,000 Home Authorities.

9. Following an approach by LBRO, HSE has agreed to write to all its current @100 Lead Authority Partnership Schemes (LAPS) to see if they want to convert to a Primary Authority, but advising them that HSE will continue to support them as LAPS should they not wish to convert.

10. LACORS and HSE have approached LBRO with a view to creating a joint database of HAP, LAPS and PAS and establishing a joint steering group of officers for all three schemes (although this would not extend to discussing LBRO determinations of disputes under PAS).

11. LBRO has vetoed the idea of a joint database as they do not want to spend PA money on anything other than its own Scheme and has also advised that it does not want to be involved in a steering group, preferring to “focus on working together rather than structures”. LACORS will now follow up with HSE to discuss a joint working group for the continuing HA and LAPS schemes.

ACTION

HELA is asked to note the paper and a verbal update on any additional Primary Authority Schemes will be provided at the meeting.