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HEALTH AND SAFETY COMMISSION

Update on initiatives HSE is undertaking as part of the Better Regulation Agenda

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Cleared by Board Member: on 25 June 2007

Cleared by DCE / CE: on 29 June 2007/ 2 July 2007

Issue

1. To update the Health and Safety Commission on better regulation initiatives, in particular the Hampton Implementation Review and the new Impact Assessment process. The Better Regulation Executive (BRE) is also consulting on the draft Compliance Code and the Regulatory Enforcement Sanctions Bill (see HSC/07/50 and HSC/07/54, respectively)

Timing

2. Routine.

Recommendation

3. The HSC is invited to note:
 - the process for HSE's Hampton Implementation Review and consider whether you would like to nominate Commissioner(s) to speak to the review teams; and
 - the latest developments under the Government's better regulation agenda.

Background

4. In March 2005 the Government published two reports – the Better Regulation Task Force's report *Less is more* and the Hampton report *Reducing Administrative Burdens: Effective Inspection and enforcement*. These reports set down the new focus for central Government's better regulation agenda and highlighted its commitment to make regulation and enforcement more risk based and to reduce paperwork and duplication of effort wherever possible.
5. HSE has a good record on better regulation while maintaining and improving levels of protection for workers and others. For example, in the last year we have launched the sensible risk management campaign and we are shortly to publish new risk assessment examples for office cleaners, estate agents and a convenience store; reduced forms by 50%; and increased the membership of the Small Business Trade Association Forum to provide SMEs with a stronger voice in the development of HSC/E policies and initiatives.

Argument

Hampton Implementation Review (HIR)

6. Last year, in the pre-budget report, the Chancellor made a commitment to review externally regulators' progress in implementing the Hampton principles and Macrory characteristics¹ in all their regulatory activities. The Better Regulation Executive (BRE) and National Audit Office (NAO) were asked to create the framework for the assessment and carry out the review.
7. The commitment stated that all the five major regulators (HSE, Food Standards Agency, Financial Services Authority, Environment Agency and Office of Fair Trading) would be assessed by the end of 2007. In the March 2007 Budget Report, HSE volunteered to go first to pilot the process. HSE's review started on 19 June and is expected to end on 10 August (see Annex for timeline).
8. Although the review framework guidance appears very prescriptive, over the last few months HSE officials have worked closely with BRE and NAO officials in its development. We will continue to work closely during the review to ensure that the teams obtain good evidence and focus on the key areas of HSE's work. The beginning of the review will be an opportunity for us to agree the scope and priorities.
9. The review will be carried out by a high-level team with assistance from a working-level support team. The teams will gather evidence on the regulator's performance and make an assessment against three cross-cutting qualities and six specific areas (see Annex for the review team members and assessment criteria). A report on the assessment will be submitted to HSE for its agreement. We propose to submit the findings of the review and the draft report to the Commission at this stage. After all five regulators have been assessed, there will be a check to ensure the process has been carried out consistently. We expect all reports to be published in early 2008.
10. It is likely that members of the support team and/or review team may attend this Commission meeting and may want to meet individual Commissioners. HSE's Better Regulation Team will be in contact to arrange any individual meetings, in the light of any steer from the Commission.

New Impact Assessment Guidance

11. In Summer 2006, BRE undertook a public consultation on revising regulatory impact assessments (RIAs). The key objectives of the consultation were to ensure that assessments presented costs and benefits information in a more transparent way, and were carried out and updated throughout the policy making cycle.
12. In May 2007, BRE introduced new Impact Assessment (IA) guidance stating that IAs should now be prepared for all new policy initiatives (regulatory and non-regulatory) that are likely to have an impact on business (imposing or reducing costs). IAs should now be used as a tool to help to develop policy and explore options rather than an additional document to support a policy decision.

¹ See information note circulated to Commissioners in December 2006. The final report on the Macrory review of Regulatory Penalties was attached.

13. In addition, a new sign-off (approval) process has been introduced for draft IAs which accompany consultations. It has been agreed that an IA for an HSC consultation/Guidance/ACoP will be signed-off by the Chair and an IA for HSE guidance will be signed-off by the Chief Executive (CE). HSE's Chief Economist will provide written assurance to the Chair/CE that she has been involved in the process from the start, and that the analysis is adequate. We will review this process again following the planned merger of HSC and HSE. The Minister will continue to sign-off final IAs linked to legislation.

Simplification plan

14. In November, HSC/E, together with other government departments, will be required to publish its 2007 simplification plan (we will be submitting a draft for the Commission's agreement at the October meeting). This year's plan will need to demonstrate the progress that has been achieved on the initiatives in the 2006 plan. It should also include new simplification projects to show how HSE will deliver the full 25% administrative burden reduction to which the then Prime Minister committed us in 2005.

15. In May, HSE's Better Regulation Team (BRT) started a new round of discussions with policy colleagues to ensure we have the most up-to-date information on the projects in the plan. In addition, HSE has been considering additional initiatives to be included in the 2007 plan. The key additional initiatives being considered are:

- Manual Handling Regulations - the requirement to label loads.
- The Health and Safety at Work Act - the requirement for a written health and safety policy statement.
- Workplace (Health, Safety and Welfare) Regulations - the requirement to put up drinking water signs.

These regulatory requirements have three of the highest administrative burden estimates of those not already in the 2006 plan.

16. The central government focus on the 25% target reduction poses some challenges for the HSC/E 2007 plan. These include:

Reaching the target – the existing simplification plan would deliver less than the 25% administrative burdens target reduction. At present, we expect the 2007 plan to include initiatives to deliver the full 25% on the basis that we can achieve some reduction in the burden associated with the landlord's gas safety check (HSE's second highest admin burden cost).

Quantification – demonstrating reductions in administrative burdens is challenging because a number of HSE's initiatives depend on culture change. In some cases, it may prove difficult to quantify the reduction associated with a specific initiative, but we are working with the policy teams to find a way to do this.

NAO's examination of administrative burdens reduction

17. In the 2005 Budget, the Chancellor stated that the performance of departments in reducing the administrative cost to business of regulations should be independently monitored. The NAO is therefore undertaking an annual examination of departments' progress; 2007 is the first year. The NAO has focused on the four departments/agencies whose legislation imposes the highest costs: Communities and Local Government (CLG), the Department of Trade and

Industry (DTI), HM Revenue and Customs (HMRC) and the Health and Safety Executive (HSE).

18. To evaluate the success of reducing the administrative burden the NAO will track perceptions of regulatory burdens by conducting an annual survey of businesses. These surveys will allow NAO to: evaluate whether reductions in the administrative burdens baseline figure have a significant affect on the perception of the burden on business; measure the impact of Government initiatives; and test the robustness of departmental claims. The NAO report is due to be published in July.

Consultation

19. HSE is working closely with BRE (and NAO) on all the initiatives outlined above and, where appropriate, consulting with relevant stakeholders both within and outside of government. In addition we are working closely with other regulators to identify mutual interests and common concerns to maximise our influence on BRE.

Presentation

20. There are no specific presentational issues for this paper. Presentational issues for the report on the HIR and publication of the 2007 simplification plan will be addressed in the relevant papers to the Commission in the Autumn.

Costs and Benefits

21. There are no specific costs and benefits associated with the items in this update paper. Impact Assessments will be produced for individual simplification plan initiatives.

Financial/Resource implications for HSE

22. The resource involved in supporting the review teams in gathering evidence and facilitating meetings is estimated at 5 days Band 1, 5 days Band 2, 10 days Band 3 and 10 days Band 4 (total cost £12,750). This does not include the cost of senior management, policy officials and inspectors time in taking part in meetings and visits. It is not possible to quantify at this time.
23. It is difficult to quantify the costs of the changes to IAs as this is essentially an extension of good practice in policy development. However, based on the number of RIAs over the past 12 months (about 14), we believe that the increase in scope could result in 40% more IAs (about 6). A best guestimate figure, at this stage, could be additional economist support of 0.4 Band 1, 1 Band 2 and 1 Band 4 (£200k). In cross-Whitehall discussion we understand, that other departments have been applying this wide scope for some time.
24. The resource implications for initiatives in the simplification plan have already been accounted for in the 2006 plan. These will be revised for the 2007 plan and addressed in the paper to the Commission in October.

Other implications

25. None

Action / Next Steps

26. The Commission is invited to:
 - to consider whether it would like to nominate Commissioner(s) to speak to the

Hampton Implementation Review team; and

- note the change of emphasis on the use of Impact Assessments and the key challenges facing HSC/E in preparing the 2007 Simplification Plan.

Hampton Implementation Review

Timeline for HSE's review (para 8)

w/c 18 June – BRE, NAO and peer reviewers from other regulators meet with HSE to consider scope of the review.

18 June – 27 July – Review team work closely with HSE to gather evidence on how Hampton has been implemented in HSE. Review team may also conduct interviews, group meetings and visits with frontline HSE staff during this phase.

30 July – 10 August – Review team will meet and consider all the evidence. Review team will interview HSE's senior officials to discuss evidence, and then make its findings.

Review Team members (para 10)

John Dodds (Better Regulation Executive)
Ed Humpherson (National Audit Office)
Christina Wade (Office of Fair Trading)
Derek Allen (LACORS)

Assessment Criteria (para 10)

To test regulators against the Hampton principles and Macrory characteristics, BRE and NAO have divided the assessment up into three key cross-cutting Hampton qualities:

- approach to risk;
- transparency and accountability; and
- economic progress –

and particular areas that Hampton focused on:

- data requests;
- inspections;
- sanctions;
- outcomes;
- design of regulations; and
- advice and guidance.