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## HEALTH AND SAFETY COMMISSION

### Introduction of a statutory code of practice for regulators - how HSC/E's policies already ensure compliance

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#### Issue

1. Publication of a short statement and table showing how HSC/E's high-level policies ensure we are already working in line with the Regulators' Compliance Code.

#### Timing

2. Routine. We intend that the statement is published at the end of March – prior to the Code coming into force on 6 April 2008.

#### Recommendation

3. That the Commission:
  - notes that HSE's regulatory work already meets the requirements in the published Compliance Code, (copy attached at Annex 1 and available on the Better Regulation Executive (BRE) website<sup>1</sup>); and
  - agrees the short explanatory statement and table at Annex 2, for publication on HSE's website.

#### Background

4. The background to the development of the Compliance Code is set out in HSC/07/50 (17 July 2007), which noted that:
  - existing HSC/E arrangements (ie the policies and principles underpinning regulatory activities) already meet the requirements in the draft Code or have a reasonable regulatory need not to, as permitted by paragraph 2.5 of the Code; and

<sup>1</sup> <http://bre.berr.gov.uk/regulation/reform/enforcement%5Fconcordat/>

- HSE would prepare a public statement on how HSC/E complies, in time for the Code coming into force in April 2008.
5. HSC therefore responded positively to the BRE consultation on the proposed Code in August 2007. Following the consultation, HSE has continued to engage with BRE to influence developments where necessary.

### **Argument**

6. The Code aims to encourage regulators to achieve their objectives while implementing the Hampton principles of inspection and enforcement. It applies only at the level of policies and principles, and not at the regulatory decision-making level – ie not to individual enforcement decisions. Earlier concerns about the Code have been resolved by working closely with BRE at official level. As now published, the Code is consistent with HSE's and local authorities' enforcement of health and safety law, in accordance with the Commission's Enforcement Policy Statement (EPS).
7. The proposed statement (Annex 2) will provide reassurance that HSC/E already has effective regulatory policies and enforcement approaches in place intended to motivate a high level of compliance with health and safety law without imposing unnecessary burdens on business. Local authorities will be expecting that HSC/E as a national regulator will ensure that guidance to regulated entities, risk methodologies, impact assessments etc will have regard to the code. This is already the case and will continue to be so.

### **Consultation**

8. Within HSE – policy and operations groups and Legal Advisers Office. In addition, HSE has shared this paper and the statement with the Local Authorities Coordinators of Regulatory Services (LACORS).

### **Presentation**

9. The statement is primarily for HSE staff, local authorities and interested stakeholders, rather than the general public, and will ensure operational inspectors are reassured that no change is necessary to the way they work. But the form of the statement – short overview with detailed annex – makes it suitable for a wide range of potential audiences, including should there be any media, parliamentary or Ministerial interest. There is currently no press interest in the Code, but this may change with publication of the Hampton Implementation Review report – which we anticipate will be early March.
10. The statement should reinforce the perception of HSC/E as a modern, independent regulator with a clear focus on ensuring harm is reduced. Its language draws on wording used in the Hampton Implementation Review initial findings and, once the report is finalised and published, the statement will mention this explicitly.

### **Costs and Benefits**

11. There are no new costs or benefits arising from this paper. Following public consultation, BRE has assessed the total cost of introducing the Code to be £227.7

- £354.2M (over a 10 year period), incurred by national regulators and local authorities in areas where they are not already compliant, eg re-wording policies, improving advisory services etc. The total benefits (to business and regulators) are estimated to be £195M - £665M.

### **Financial/Resource Implications for HSE**

12. There are no new implications arising from this paper. Around £75,000 in staff costs have been incurred since 2005, inputting to development of the Code and its consequences.

### **Environmental Implications**

13. None.

### **Other Implications**

14. The Code would apply directly to **local authorities** in England, but not in Scotland and Wales. However, it would apply to the guidance on enforcement activities that HSC gives to local authorities throughout Great Britain – most notably, the Enforcement Policy Statement. Therefore, the Code should support HSC/E and LA partnership efforts to ensure continued consistency of approach in health and safety regulation.
15. LACORS is also in the process of preparing guidance for local authorities identifying what action local regulators need to take to have regard to the code. LACORS' view is that local authorities already fulfil many of the Code's requirements predominantly because of the systems put in place by national regulators and sponsoring departments.

### **Action**

16. To agree publication of the statement at Annex 2.