

Health and Safety Executive Board		Paper No: HSE/09/04	
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BERR CONSULTATION ON EXTENDING THE SCOPE OF THE REGULATORS COMPLIANCE CODE AND THE PRINCIPLES OF GOOD REGULATION			

Purpose of the paper

1. The Board are asked to agree HSE's response to the BERR consultation on extending the scope of the Regulators' Compliance Code and the Better Regulation Principles to specific functions of Local Authorities (LA's) in Scotland, Northern Ireland and Wales, as well as certain functions of public sector regulators in England.

Background

2. On 14 November 2008, BERR launched a consultation document setting out their proposals to amend the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (the "Listing Order"). BERR propose to extend the application of the Compliance Code and the Better Regulation Principles to specific functions of LA's in Scotland, Northern Ireland and Wales, as well as to certain functions of regulators who primarily regulate the public sector. The Compliance Code and Principles embed a risk based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators to which they apply. Following the Compliance Code coming into force in April 2008, HSC set out how HSE complies with the Code in Commission paper HSC/07/50.

Argument

3. Although the Legislative and Regulatory Reform Act 2006 allowed the Government to extend the application of the Compliance Code and the Better Regulation Principles to **reserved** functions exercisable by LA's in the devolved administrations, the current Listing Order does not include any such functions. However, many respondents to the consultation on the original Listing Order felt that the Compliance Code and the Better Regulation Principles should apply across the UK. In light of these comments and the benefits that the Code and the Principles can bring to regulators and to those they regulate, BERR propose to extend their application to reserved functions exercisable by local authorities in Scotland, Northern Ireland and Wales. The Scottish Government is being consulted separately on the proposal. In addition, the application of the Compliance Code will be further extended to certain functions of regulators who primarily regulate the public sector fulfilling a commitment made by the Government in the "Next steps on Regulatory Reform" document published in July 2007.

4. Support for the BERR proposal from HSE would be in line with the new HSE Strategy's stated aim of getting stakeholders, local authorities and third party organisations to work together more effectively. In particular :

1. Having a consistent application of the Code and Principles would assist HSE in achieving consistency with application of the Section 18 Standard that seeks to secure a consistent approach to health and safety regulation by our LA partners in England, Scotland and Wales.
2. It would underpin the work that we undertake with other organisations that have similar interests and responsibilities for health and safety in the public sector, such as the Care Quality Commission (formerly the HealthCare Commission NB actually formed by the merger of the HCC, the Commission for Social Care Inspectorate and the Mental Health Act Commission).

Action

5. The Board are asked to endorse the draft letter from the Chair to BERR (Annex 1), supporting BERR's proposal to extend the application of the Compliance Code and the Better Regulation Principles.

Paper clearance

6. Cleared by the SMT by correspondence.

Compliance Code Consultation
Bay 3127
Better Regulation Executive
Department for Business, Enterprise and Regulatory Reform
1 Victoria Street,
London SW1H 0ET

Draft Letter from Chair to BERR Compliance Code Consultation.

I am replying, on behalf of the Health and Safety Executive (HSE), to the BERR consultation paper on extending the scope of the application of the Regulators' Compliance Code and the Better Regulation Principles to specific functions of Local Authorities across the UK, and to certain functions of public sector regulators in England.

HSE is committed to ensuring its approach to regulation is effective and efficient for both ourselves as the regulator, and for those we regulate. To this end we are committed to operate in accordance with the Regulators' Compliance Code.

HSE currently works in partnership with many of the regulators covered in the proposed extension of the Code and Principles and we consider that it would be beneficial if all are working to the same standards.

Any move towards securing increased consistency of approach by regulators across the whole of the UK is therefore welcomed by HSE and we support BERR's proposals.

Throughout the development of the original Compliance Code and the Better Regulation Principles HSE worked closely with BERR and BRE and we look forward to continuing this dialogue in the future.

Judith Hackitt, Chair, Health and safety Executive