

HEALTH AND SAFETY COMMISSION AND LOCAL GOVERNMENT PANEL

MEETING 9 MAY 2006

HSE's WORK WITH THE LOCAL BETTER REGULATION OFFICE

A Paper by HSE Director of the Strategic Enabling Programme for the HSE/LA partnership

Cleared by Jonathan Rees (HSE) on 18 April 2006

Issue

1 This paper describes how HSE is developing its relationship with the Local Better Regulation Office (LBRO). The establishment of LBRO was announced by the Chancellor in the pre-budget statement in November, to carry forward aspects of the Hampton Report on regulatory work by Local Authorities (LAs).

2 LBRO's development presents some risks to HSC/E's developing partnership with LAs, but the progress we have made suggests that positive engagement with LBRO offers opportunities to influence and share our vision for partnership working between central and local government.

Recommendation

3 That the LGP/HSC meeting notes the positive relationship HSE is developing with the LBRO, and HSE's intention to be proactive in contributing to the LBRO's work, as it moves towards statutory status in 2009.

Background

4 Purpose: The LBRO's own "vision" document sets out its purpose and aims – as in Annex 1. In short, it aims to reduce the regulatory burden on business "through promoting intelligence-led, risk-based enforcement".

5 Scope: The core of LBRO scope is stated as the work currently done by Trading Standards and Environmental Health. Proposed geographical scope includes England, Scotland, Wales and Northern Ireland, but DTI is still discussing this with the devolved administrations. It is not clear what other regulatory services delivered by LAs may be brought within scope (Planning, Fire Safety, Petroleum Licensing etc). Neither is it yet clear to what extent an interest in say the relative priority of regulatory activity in LA enforcement may bring the scope of LBRO interest into the activities of the national regulator's direct managed delivery (e.g. HSE and EA).

6 Governance: LBRO development is in the direct control of a Board consisting of HMT, Better Regulation Executive and DTI. There is a Steering Group consisting of core stakeholders; Giles Denham represents HSE at the Group. HSE had good working relationships with predecessor bodies (principally the Consumer and Trading Standards

Agency team in DTI and LABREG in BRE) and these have been carried over into LBRO. At the most senior levels HSE meets formally with other regulators interested in LBRO at the Thematic Regulators Council (Chair Jonathan Rees) and in the tripartite meetings of Chief Executives of HSE, EA and FSA.

7 Timescale: LBRO aims to be a statutory body in 2009 but will “shadow run” up to then. In the late winter/early spring 2006 the LBRO team in DTI has been seeking to bed in governance arrangements and open up stakeholder engagement on the principal issues.

Argument: key issues and HSE’s approach

8 On **scope**, HSE welcomes the opportunities for more coordinated and focused local delivery arising from LBRO’s overview of TS and EH services. HSE is conscious of the link between LA delivery of regulatory services and the delivery of directly managed services by central government. HSE will work closely with LBRO to mirror developments in LA best practice in its own approach wherever this is appropriate but sees a direct LBRO input into the management of the thematic regulators as beyond the remit stated by the Chancellor and counter to the Hampton report.

9 Problems of **inconsistency** in LA regulatory delivery: LAs complain in particular of a requirement to deliver a very long list of unprioritised activities and of no coordination of priorities between departments and regulators. Early thinking has been to focus on the Central Local Partnership framework, and to suggest four thematic priorities based on the shared priorities for central and local government agreed by the Central Local Partnerships Committee. These are:

- Creating safer and cohesive communities
- Promoting economic vitality of localities
- Promoting healthier communities
- Transforming our local environment

10 LACORS strongly supports this approach to consistency with other government priorities for LAs. HSE was the first regulator to offer outcome-related objectives for LAs, linked to these themes – other regimes are largely based in activity with no transparent relationship to risk. HSE therefore welcomes the attempt to bring consistency by joining up a framework for regulatory priorities and supports the use of the Central Local Partnership to do this. It will present a significant challenge to attempt to join up the regulatory philosophy across each regime but HSE is committed to working with the other regulators to find relevant common ground.

11 Hampton’s analysis was that the current **performance management** framework does not appropriately motivate LAs, especially in the consistent application of national standards. Greater emphasis has been given to other LA services via the CPA scoring and performance assessment and this may have resulted in a shift in resources away from regulatory services to these other areas. HSWA gives LAs the duty to make “adequate arrangements”. The minister can intervene if this duty is not met but what would constitute failure in this respect has not been defined in either guidance or the courts. During the LASP period H&S motivation has come mostly through close support and acclaim for good engagement. HSE therefore aims to promote to LBRO its experience of working in

partnership with LAs to improve delivery, and welcomes the opportunity to work with LBRO on clear mechanisms and appropriate guidance.

12 On **resources**, HSE is to appoint a senior member of the LAU team to provide an active and visible point of contact for LBRO, which expects much of the development work to be delivered from departments and regulators. HSE will also continue contributing resource to developing policy in key areas. It will continue to field appropriate experts into projects as needed and will consider seconding staff into the LBRO team if suitable opportunities arise. HSE has particular confidence in its network of Partnership Managers in the regions and devolved administrations and would be happy to work with LBRO to make coordinated use of this resource.

13 On **delivery**, much of the discussion of reform needed in LA regulation assumes a current way of working based in comprehensive proactive inspections carried out to a calendar schedule. HSE's approach of topic inspection targeted within programme-led campaigns is not yet well understood by LBRO. The partnership Programme has however engaged LAs to offer a very significant contribution to Fit3 programmes in 2006-07. HSE has a robust structure linking national policy development and programme management to delivery through operations organised in the regions and reaching into local communities through its partnership with LAs. HSE recognises that it has work to do to improve the lines of communication and coordination through this structure but believes it is a model that can work well to deliver modern regulation. HSE is keen to work with LAs and the other thematic regulators at every level of structure to secure best delivery of regulation.

14 HSE's experience of partnership is that delivery can be greatly improved by learning to organise different activities at different levels of structure and that strict policing of territorial boundaries produces inefficiency. HSE has a good evidence base for the effectiveness of interventions that allow businesses to demonstrate their willingness to learn from advice but recognises that many LA regulators are more comfortable with a model where they compliance-check all business as a matter of routine. HSE is keen to demonstrate and build confidence in the use of more targeted intervention models.

Consultation

15 With LACoRS and HSE senior officials.

Presentation

16 HSE currently has a positive relationship with LBRO and endorsement of this paper by the HSC/LGP would be a consistent further message supporting our constructive approach.

Costs and benefits

17 The costs are those of the opportunity costs of the staff time of LAU and senior officials. The support for HSE's work with LBRO will be an issue included in current work to define the post-LASP arrangements for supporting the LA/HSE partnership. The benefits are largely around the avoidance of outcomes from LBRO which might undermine HSC/HSE's work with LAs, which a more passive stance might occasion.

Financial/resource implications for HSE

18 None beyond the salaries and subsistence of staff involved, which will be set out in the post-LASP review. If a secondment into LBRO is offered, this is likely to be at Band 3, with skills/discipline chosen to complement those of the main point of contact in LAU.

Action

21 The HSC/LGP is invited to note HSE's work with LBRO.

Contact

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ANNEX 1**PURPOSE AND AIMS OF LBRO**

(taken from the LBRO vision statement)

“The LBRO will focus explicitly on reducing the regulatory burden on businesses, large and small, through promoting intelligence-led, risk-based enforcement. It will co-ordinate help and support from local enforcers to make compliance easier for businesses, working to minimise the burdens from form-filling and inspection.

This emphasis on compliance rather than bureaucracy will help bring more businesses, the vast majority of which aim to comply with the law, into regulatory compliance and thus ensure high levels of public and worker protection. It will also enable more targeting of resource at investigating and enforcing against the small minority of businesses who deliberately disregard the law, preventing real damage to the public, workers and other businesses.

LBRO will not be a new regulator, or act as a Home Authority in its own right. It will be a strategic body working in partnership with local authorities and the existing national regulators to deliver a risk-based approach to local authority regulatory services within its scope – which is yet to be determined. Day to day enforcement remains at the local level.

LBRO will:

- Ensure a co-ordinated set of national priorities across trading standards and environmental health services, with sufficient flexibility to allow local priorities as well
- Help build best practice in risk-based delivery of services at the local level, co-ordinating support and guidance for local authorities on regulatory enforcement
- Drive a move from inspection to front-end advice, aiming to reduce burdens on business, thereby delivering Hampton recommendations
- Expand on the success of the Home Authority Principle, establishing a framework to ensure a consistent, risk-based approach to the delivery of trading standards and environmental health services for multi-site businesses
- Drive up performance standards within the wider local government performance framework, helping trading standards and environmental health officers provide a high quality service in accordance with Hampton principles.”