



## Belfast City Council

<b>Report to:</b>	Health and Environmental Services Committee
<b>Subject:</b>	<b>Memorandum of Understanding on Better Regulation</b>
<b>Date:</b>	4th February, 2009
<b>Reporting Officer:</b>	Mrs. Suzanne Wylie, Head of Environmental Health, Ext 3281
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### Relevant Background Information

The Government has over the last 10 years been committed to reform the regulatory regime in the UK. In 1998 the Cabinet Office published "The Enforcement Concordat" which set out principles of good enforcement. The Council recognised the importance of the Better Regulation Agenda and formally adopted the Enforcement Concordat in 2003. These good enforcement principles have formed the basis of the enforcement policies subsequently agreed by Council and have consequently influenced how the Department plans and implements its regulatory functions.

More recently, the Government has renewed its focus on how to reduce costs imposed on businesses by regulators and how to make regulation more effective and efficient. Following the Hampton Report into regulatory practices and the Macrory Report into the effectiveness of regulatory sanctions, the Government gave a commitment to enact the recommendations made in these reports into UK law.

In 2007 the Department for Business, Enterprise and Regulatory Reform (BERR) published The Regulators Compliance Code, a statutory code for English local authorities introducing new requirements to be used alongside the Enforcement Concordat. The actions required by the Code reflect the principles of better regulation which state that the regulatory activities, specifically those activities related to environmental health, trading standards, licensing and fire safety, should be consistent, accountable, transparent, targeted and proportionate to risk (see Appendix C).

Furthermore in 2008 the Local Better Regulation Office (LBRO) was established to work with the above regulators to improve standards (see Appendix B) and the Regulation Enforcement Sanctions Act was passed to reduce inconsistency of enforcement. The Act also introduced the Primary Authority Principle giving businesses access to a special legal relationship with a single council that would be responsible for providing specialist advice and liaising with other authorities over inspection regimes and any enforcement action.

The scope of both the Act and the compliance code is limited in the Northern Ireland context as they exclude legislation which is transferred to devolved administrations. In Northern Ireland this means Councils, with the exception of matters under the Consumer Protection Act 1987 (safety of goods), are not legally obliged to observe the requirements or LBRO guidance. It also means that businesses in NI have no legal right of access to a Primary Authority.

However irrespective of these limitations, the Health and Environmental Services Department is committed to delivering the highest possible standards of regulation in respect of both its environmental health and licensing functions. It has made and continues to make improvements to reduce the burdens on business whilst targeting the worst offenders and effectively protecting the public. These include:

- Providing a confidential business advice service to help small businesses understand their responsibilities;
- Improving the application of risk assessment for planning regulatory interventions to target the highest risk premises;
- Combining inspections across different functions where appropriate into a single visit;
- Reducing the numbers of inspections and visits where businesses are broadly compliant;
- Promoting compliance through seminars, advice, resource packs and one to one consultations;
- Developing ongoing communication arrangements between inspectors and organisations representing groups of businesses as well as the provision of training, customer panels, etc.
- Introducing Scores on the Doors as an incentive to improve compliance with food hygiene legislation;
- Taking formal action where merited in line with the principles of good enforcement and consistent with our published enforcement policies.

However, notwithstanding the above, it is recognised that in order to help deliver better regulation and to maximise the contribution good regulation can make to economic prosperity, councils across Northern Ireland would benefit from:

- A formal relationship with LBRO;
- The ability to participate in the Primary Authority Scheme, as suggested in the Council response made on the BERR consultation exercise on this scheme in November 2008; and
- The formal adoption of The Regulators Compliance Code.

### **Key Issues**

The Northern Ireland Chief Environmental Health Officers' Group (CEHOG) has been negotiating with LBRO and the Department of Trade and Investment in Northern Ireland (DETI) to secure a voluntary agreement between these organisations and Councils. Councils signing up to the agreement will follow the principles and guidance produced by LBRO and will have regard to practices that are established in GB affecting the work of regulators who are bound by the Regulatory Enforcement Sanctions Act and the Regulators Compliance Code.

CEHOG has drafted a Memorandum of Understanding/Statement of Intent that sets out a proposed relationship between local councils in Northern Ireland, DETI and LBRO

and BERR in GB. The principles of this draft document have been agreed by all of these parties, however further negotiations are still to be had with the professional liaison group representing the licensing function in Northern Ireland. In addition there will also be a need to produce a protocol or guidance on the practical arrangements for working with Primary Authorities. A copy of the draft MOU is attached at Appendix A.

All district councils are now being asked to consider adopting the draft document as a policy. Subsequent to agreement across councils and with the licensing group, and to formalise the agreement at a Northern Ireland level, it has been suggested that the document should be signed by the DETI Minister and possibly the Chair of NI Local Government Association before being signed in GB by the Chair of LBRO and a senior representative of BERR.

### **Resource Implications**

#### Financial

None

#### Human Resources

None

#### Asset and Other Implications

No implications

### **Recommendation**

The Committee is requested to agree in principle to the adoption of the draft Memorandum of Understanding/Statement of Intent that will establish the relationship between the Council and LBRO in GB in regulatory matters not otherwise covered by the Regulatory Enforcement & Sanctions Act of 2008.

### **Key to Abbreviations**

LBRO - Local Better Regulation Office  
DETI - Department of Trade Enterprise & Investment (Northern Ireland)  
BERR - Department for Business, Enterprise & Regulatory Reform  
MOU – Memorandum of Understanding

### **Documents Attached**

The following supporting documents are contained in the Appendices to this report:

Appendix A - Draft Memorandum of Understanding/Statement of Intent

Appendix B - LBRO publication: "Better Local Regulation: For Business, Consumers, Workers and the Environment"

Appendix C – LBRO publication: "Applying the Regulators' Compliance Code and Enforcement Concordat"

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