

Draft for MEMORANDUM OF UNDERSTANDING

Between:

LBRO, DETI, TRADING STANDARDS SERVICE AND DISTRICT COUNCILS in NI

1. INTRODUCTION

- 1.1 The intent of the Regulatory Enforcement and Sanctions (RES) Act is to ensure high standards of regulatory activity and to minimise the burdens imposed on those businesses motivated to achieve high standards of compliance. The extent to which the Act will apply directly in Northern Ireland is limited by the exclusion of those matters which have been transferred from Westminster to the NI Assembly.
- 1.2 The regulatory functions specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 are those local authority functions in GB which must be exercised having regard to the Principles of Better Regulation. These currently include environmental health, trading standards, licensing and fire safety.
- 1.3 Regulators in Northern Ireland have recognised that to promote economic prosperity and to support the development of the business community, (and consequently benefit both communities and the environment), standards of enforcement and regulatory practice within Northern Ireland must be consistent with those exercised in GB and, having met the requirements of all previous guidance to this effect, intend to have regard to the Principles of Better Regulation, LBRO Guidance to Local Authorities in England and Wales and to comply with the standards of the Regulators Compliance Code.
- 1.4 The purpose of this Memorandum of Understanding is to set out the principles of an agreement between Local Councils, the Trading Standards Service and the Department of Enterprise Trade and Investment which will ensure that those objectives are met and provide an assurance to the business community of that commitment.

2. SCOPE

- 2.1 Part 1 of the RES Act sets out LBRO's functions and applies to local authorities in England and Wales.
- 2.2 Part 2 of the Act establishes the Primary Authority scheme which aims to promote consistency in the way that multi-site businesses are regulated by local authorities. This part will apply to Northern Ireland in respect of non-transferred matters.
- 2.3 Part 3 of the Act makes provision for regulatory sanctions and only applies in Northern Ireland in respect of non-transferred matters
- 2.4 Part 4 refers to regulatory burdens. This part applies to Northern Ireland only in respect of non-transferred matters.
- 2.5 To ensure parity of enforcement practice between Northern Ireland and GB it is therefore necessary that this MOU establishes an agreed policy for standards and practices in respect of matters that are included within the RES Act, but fall within the category of legislation that is "transferred", i.e. under the control of the Northern Ireland Assembly.

3 IMPLEMENTATION PRINCIPLES

(In the paragraphs in this section, “Regulators in Northern Ireland”, will be assumed to include the Trading Standards Service, the Environmental Health Service across the 26 District Councils and will include the full normal range of those functions and any associated licensing regulation carried out by those services in Northern Ireland).

3.1 LBRO Guidance. Regulators in Northern Ireland agree to recognise and have regard to any guidance issued by LBRO in England and Wales wherever adoption of that guidance might impact upon or contribute to, the quality and consistency of enforcement in Northern Ireland and to the development of consistent practice when compared with equivalent functions in GB. This consideration currently applies to the Enforcement Concordat under which regulators adopted the principles of transparency, consistency, proportionality and targeting as those that exemplify good practice and will be extended to the new Regulators Compliance Code.

3.2 Priorities for Enforcement, Regulators in Northern Ireland will consider LBRO published enforcement priorities when allocating resources to functions. NI Regulators will also seek to contribute to discussion of, and decisions upon, those LBRO priorities.

3.3 Risk Assessment. Regulators will have regard to advice and guidance from appropriate national agencies and from LBRO when adopting and maintaining systems for risk assessment of businesses subject to regulation.

3.4 Burdens on Businesses. Northern Ireland regulators will develop strategies to minimise burdens on businesses imposed by regulatory mechanisms. These strategies will be informed by consultation with businesses, with Government Departments, other regulators and with LBRO to ensure appropriate alignment of strategies and their implementation with those elsewhere.

3.5 Primary Authorities. Regulators will work with local authorities in GB and with all other regulatory bodies in Northern Ireland to give effect to the general principles of the Primary Authority scheme. To this end, regulators acting as primary authorities within Northern Ireland will provide advice and information to other regulators on standards of compliance of businesses within their area of concern. Regulators will also seek similar information from other Primary Authorities when considering enforcement action against a business having a head office or decision-making centre in another area. For this to be taken forward protocols and guidance will need to be developed.