

**Taking Stock,
Moving Forward:**

Shaping a Strategy
for Better Local
Regulation
2010-2013

LBRO
Better Local Regulation



Foreword: The Regulatory Challenges of a Changing World

'Regulation' is no longer a dirty word. The causes and experience of recession have taught us that good regulation is critical to prosperity and protection for communities, citizens and businesses alike. The perceived regulatory failures associated with the crisis in financial markets have ignited intense debate over the nature and role of regulation. While a consensus is emerging which identifies better regulation as the correct direction of travel, global economic circumstances necessitate we take bold steps along this path.

The UK has taken a lead in the cause of better local regulation, creating the Local Better Regulation Office to focus on improving the regulation of business at local level and ensuring that the multi-level regulatory system works as a cohesive whole. Local regulators have a strong direct relationship with businesses, especially small and micro businesses, and many businesses value their local knowledge, advice and guidance.

The appetite and enthusiasm we have witnessed in regulatory services to embrace change and focus on the needs of citizens and business is very positive. However, given the immense pressures facing local authorities as we move from recession to recovery, incremental progress is not enough to deliver the transformational change that businesses and consumers expect. A cultural shift is needed across the regulatory system to embrace innovation and drive business growth; local authorities, national regulators and Government itself all need to play their part.

Better regulation needs better regulations. Poorly designed regulations should be challenged and eradicated. Risk-based regulation focuses on the outcomes that people need – safer food, more secure communities, healthier workplaces and fairer trading – rather than prescribing processes to be followed. Local authorities should be recognised by their local businesses as trusted providers of support as well as effective regulators. Citizens should be equipped with the information, opportunity and choice they need to make informed decisions and allow alternative approaches to regulatory interventions to be pursued.

We are pleased to present this discussion document. It is our vision for better local regulation in a changing regulatory world, using the experiences and insights gained through our programme delivery and stakeholder engagement. We value your views and will use them to shape our thinking and future programme of work. We thank all our stakeholders who have been involved in the development of our thinking and activity, and particularly thank our colleagues at the Better Regulation Executive for their continued help and support.



Clive Grace
Chair
LBRO



Graham Russell
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December 2009

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Introduction

In the current economic climate, businesses must remain competitive. This will help Britain to grow out of recession and into recovery, putting in place the conditions for future economic success. New measures have been introduced to strengthen the management of regulation in these changed conditions, including careful consideration of the introduction of new regulations and assessing the benefits and costs of regulation¹.

Local regulatory services have an important part to play in better regulation. Their role is especially important in supporting business prosperity during these difficult economic conditions by providing accessible authoritative advice to businesses and minimising the burdens of regulation, while maintaining and improving essential protection for consumers. Yet public services are also facing the difficult repercussions of global recession, and the Local Better Regulation Office (LBRO) is committed to supporting the local regulatory system to promote business growth and ensure prosperity and protection for all.

The purpose of this document is to review our strategic objectives following our early work, and to consider, with our stakeholders and partners, how to focus our objectives to the emerging needs for better local regulation.

Our initial analysis of the local regulatory system² identified three strategic objectives to focus our activity and deliver our statutory mission. These three interconnected objectives were to support the improvement of local authority regulatory services, deliver consistency through Primary Authority and enhance the local regulatory system.

Drawing on our experience and our developing research and evidence base, we now propose to restate them as follows:

- Actively support sustainable, sector-led service improvement in local authority regulatory services.
- Deliver Primary Authority and other risk-based solutions to ensure greater consistency.
- Enhance the regulatory environment by simplifying the system and providing evidence-based advice to Government.

Each objective is discussed in turn, describing our progress to date and our focus for the future. This is based on our view of the defining characteristics of better local regulation – a systemic and risk-based approach to regulation that supports outcome-focused services and effective relationships between the state, business, and citizens. These characteristics, discussed on page 22, build on the strong foundations laid by the Hampton Review to deliver transformational change.

Background and Context

LBRO was set up to drive the wider regulatory reform agenda at local level, to support and incentivise improvement in local authority regulatory services of environmental health, fire safety, licensing and trading standards. Efficient and effective local authority regulatory services contribute to economic prosperity and community wellbeing, while helping to reduce unnecessary regulatory burdens on well-run, compliant businesses.

The Hampton Review noted that local authority regulatory services carry out the majority of inspections of local businesses and interventions that are not risk-based and targeted can prove onerous. There is not a single solution to achieve regulatory compliance and businesses want choice in how they comply. Some businesses prefer principles-based regulations that allow them scope to comply with the regulatory outcome in the most appropriate way. Many small businesses prefer a rules-based regulatory approach, and welcome inspection visits by local regulators as a means of obtaining free advice on how to achieve compliance. In seeking to improve regulatory compliance and outcomes, regulators should understand the factors that drive businesses choices, including the perceived ease of achieving compliance.

Local regulatory services have a critical role to play in meeting the needs of local communities, delivering tailored and responsive services. Yet the effectiveness of these relationships – with businesses and citizens – is hampered by the complexity of the local regulatory system, involving many different parts and players.

Mission and powers

Our mission is to secure the effective delivery of local authority regulatory services in accordance with the five principles of better regulation:

- targeted;
- proportionate;
- consistent;
- transparent; and
- accountable.

These provide the basis for a risk-based approach to enforcement by regulators and a new relationship between regulatory services and business.

We act as a catalyst for change, working within the wider regulatory system to support sustainable, sector-led improvement in local authority regulatory services. We facilitate improvement by working across regulatory silos and improving communication between national regulators and local authorities. To achieve this we have been entrusted with a range of statutory powers:

- Operate the Primary Authority scheme.
- Advise ministers on local regulation.
- Issue guidance to local authorities.
- Prepare national enforcement priorities for England and Wales.
- Encourage innovation and good practice.
- Develop formal partnerships with national regulators.

Energy and focus

In our programmes, engagement and thinking, we seek to work with energy and focus, to deliver genuine impact, mindful of our core values: outcome-focused, evidence-based, creative, challenging and supportive.

LBRO works with a wide range of stakeholders, including:

- **beneficiaries** of better local regulation – businesses, consumers, workers and the environment;
- **customers** of LBRO products and services – local authority regulatory services: environmental health, fire safety, licensing and trading standards; and
- **partners** with whom LBRO works to achieve its outcomes – national regulators, regulatory departments, and professional and representative bodies.

Accountability

The Chair of LBRO is accountable to the Secretary of State through the sponsor, the Better Regulation Executive within the Department for Business, Innovation and Skills (BIS). LBRO also works closely with the Welsh Assembly Government and with the other devolved administrations. LBRO operates as an executive non-departmental public body (NDPB), in accordance with a management statement and financial memorandum agreed with the sponsor department. LBRO is governed by a nine member Board and has an executive staff of around 25, with diverse experience across business, consumer, local authority, public and third sectors at both Board and executive level.

Vision and Outcomes

Our vision is for better local regulation which delivers prosperity and protection for all.

For businesses:

The local regulatory system is simpler and the interpretation and enforcement of regulations are consistent across the UK. Relationships with local regulators are positive and productive, allowing businesses a greater say in local regulation, both directly and through their representative bodies. There is improved access to reliable, accessible advice about regulatory issues, giving businesses confidence to invest and grow. Burdens on the law-abiding are reduced, due to the curtailment of unnecessary intervention and protection from unfair competition, and rogues are targeted.

For communities:

Citizens are better protected with proper consideration given to the health and safety of employees and local environmental quality. Consumers have the necessary information and opportunities to make informed choices. The voice of consumers influences competitive markets, drives business compliance and achieves better regulatory outcomes. Information about consumer rights is accessible and simple to understand, while fairer outcomes for consumers contribute to wider financial stability.

For local authority regulatory services:

Local regulators are able to evidence their impact in local communities, contributing to local and national priorities through partnerships and delivery mechanisms at the appropriate level. Collaboration across services and between authorities is delivering coordinated and consistent services across boundaries. Risk is the basis for all decisions taken, supporting effective and efficient service provision, and there is a partnership approach to working with businesses. Time and cost savings result from streamlined procedures and the adoption of common frameworks.

For national regulators and other partners:

National priorities are delivered through the active engagement of national and local regulators in a cohesive system. Clear relationships exist with local authority regulatory services, while open communication channels enable changes in priorities to be well signalled and managed, achieving both flexibility and assurance. The messages sent to local authorities are consistent, allowing them to focus resources in a way that meets community and national needs and assists with the creation of prosperity.

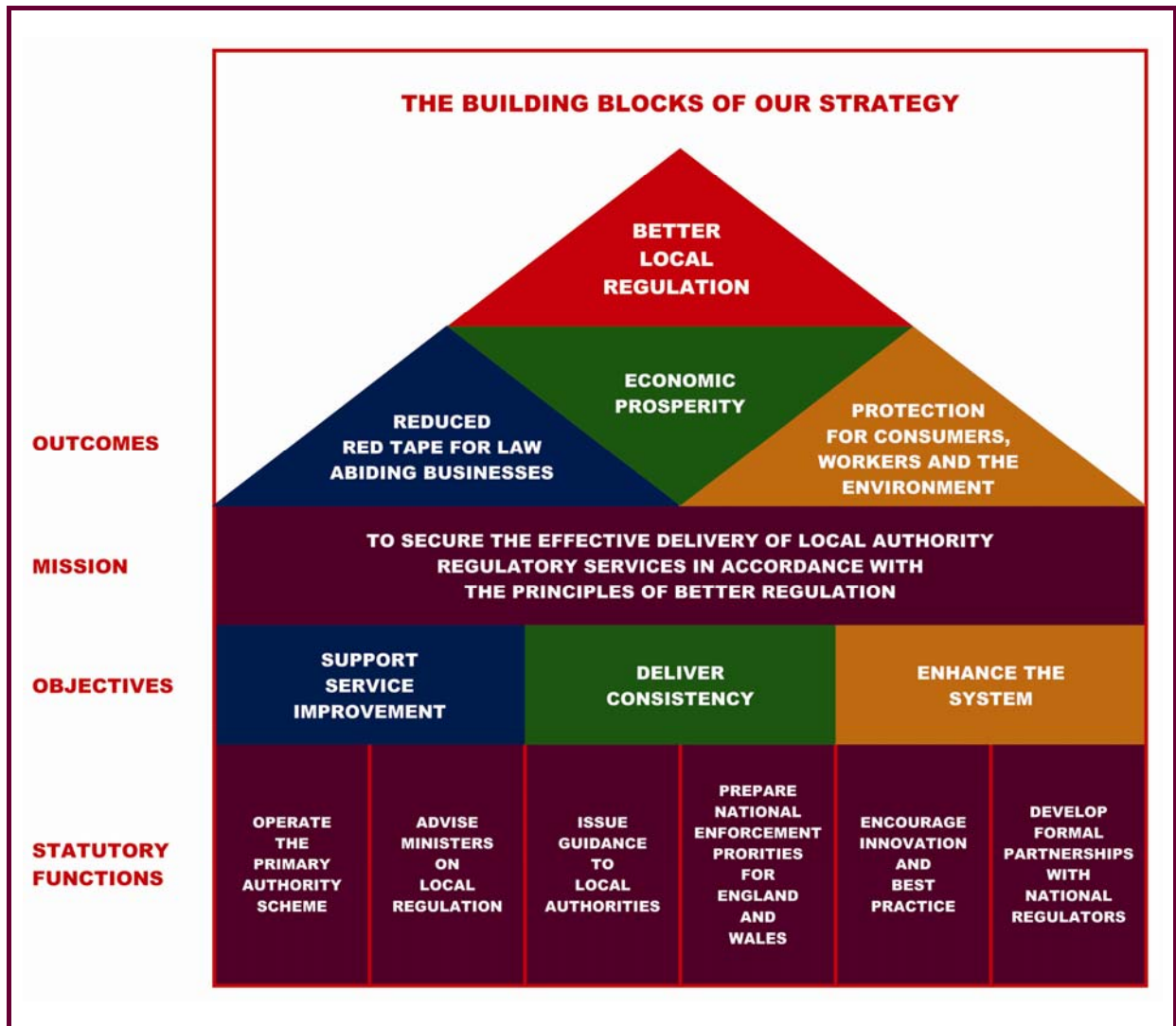


Figure 1: The building blocks of our strategy

Strategic Objective 1: Actively support sustainable, sector led improvement in local authority regulatory services

This objective is focused on working with local authorities and local government bodies to support improved local authority regulatory services for the benefit of businesses, consumers and citizens.

Why this matters: Regulatory services promote economic prosperity and protect from harm and fraud. They help to ensure that the air is clean, food is fit to eat, workplaces are safe and companies trade fairly. These are key aspects of our individual and collective wellbeing. The potential economic, social and environmental impact of regulatory activity means that effective regulatory services are a vital asset in shaping local places.

What we've done: Over the last two years, LBRO has worked directly with local authority regulatory services and the local government sector on a number of projects, research and best practice initiatives. Across the UK, 199 local authorities are engaged with LBRO to improve service delivery, deliver cultural change and embed better local regulation.

- **Defining excellence**

Improvement is difficult to measure without a common agreement on the characteristics of excellent service delivery. Local authority regulatory services currently report data on their activities and performance to a number of bodies, using a wide range of measures. To reduce this burden and support sustainable improvement, LBRO convened a coalition of partners across the regulatory system, to develop a single excellence framework for local authority regulatory services.

The excellence framework has been developed as a sector-led improvement tool building on the work of the Local Authorities Coordinators of Regulatory Services (LACoRS) and the Beacon award-winning authorities Westminster City Council and Coventry City Council. It has resulted in common agreement between local authorities, national regulators, government departments and the professional bodies about effective regulatory services that deliver better outcomes for businesses, consumers, workers and the environment.

The key elements of excellence in the framework are leadership, people, strategy, partnerships and resources and these elements provide a focus for our work on supporting improvement in regulatory services.

There are 46 local authorities are currently piloting the excellence framework, leading to targeted improvement plans, and by March 2010, 60 authorities will have completed self-assessment and improvement plans and undergone peer challenge.

- **Business focus**

A national survey of business perceptions in England and Wales, carried out by Ipsos MORI for LBRO, found that just over seven out of ten businesses felt that local authority-enforced regulations can be as big or a bigger burden than tax and employment law.³ The single biggest concern for business was that local regulators do not know enough about the businesses they regulate.

Based on the notion that you cannot regulate what you do not understand, LBRO launched Trading Places, enabling local regulators to undertake short placements to improve understanding of the business environment. We are committed to providing 750 placement opportunities for regulators each year, making Trading Places the largest business exchange activity in UK public administration.

Trading Places has been endorsed by business organisations – the Confederation of British Industry, British Retail Consortium, Federation of Small Businesses and British Chambers of Commerce – and the scheme was commended by the parliamentary Regulatory Reform Committee in its recent report *Themes and Trends in Regulatory Reform*. It is also endorsed by the professional bodies Trading Standards Institute and the Chartered Institute of Environmental Health, and accredited for continuous personal and professional development schemes.

With tailored placements to reflect different business sectors and size, there are currently 104 businesses and 15 trade associations engaged in developing and offering placements and 216 local regulators have undertaken or registered for placements to improve their understanding.

- **Leadership development**

Leadership is essential in driving cultural change that focuses on achieving better outcomes. Working with the professional and representative bodies, LBRO has commissioned research into leadership development that will deliver tailored support for aspiring regulatory leaders.

In addition, we have sponsored individuals to complete the LACoRS / KBA leadership programme, equipping regulatory managers from 33 local authorities with the skills and knowledge to lead change in their services.

- **Collaboration and shared working**

The creation of nine new unitary local authorities⁴ in 2009 held particular significance for the delivery of regulatory services, as in two-tier areas, responsibilities for trading standards and fire safety lie with upper-tier authorities, while environmental health and most licensing services are delivered at district level. Reorganisation and the creation of the new unitary authorities presented an opportunity to rethink service provision and focus on the needs of businesses and consumers.

LBRO has worked closely with the new authorities, providing expertise and practical tools to support the development of joined-up services and embed the better regulation principles into all aspects of service provision. To assist with planning, including the development of organisational structures and service plans, LBRO brought the authorities together to benefit from collective learning and prepare for implementation.

As the new unitaries have become more established, the group of authorities has taken responsibility for its own development, utilising and testing better regulation tools developed by LBRO and acting as centres of good practice in regulatory services. Specific work streams have included developing a coordinated, multi-disciplinary approach to inspections, reducing burdens on business, improving intelligence to target interventions and providing a single access point to all local businesses for advice and information.

The experiences of the unitary authorities are providing valuable lessons for collaborative working in two-tier areas and shared working across professional and geographical boundaries.

- **Supporting business towards recovery**

The economic downturn is affecting businesses and local communities across the UK, and its impact will continue to be felt as we move towards recovery and growth. Regulatory services, as the visible face of local authorities in the business community, have an important role to play in supporting businesses during difficult times.

Recognising this role for local regulators, LBRO issued advice and guidance to 433 local authorities on measures to support businesses, especially small and medium enterprises (SMEs), during recession and in preparing for recovery. As 56 per cent of businesses who meet someone from their local authority meet a local regulator, the guidance emphasises that these officers can provide support through their face-to-face contact, signposting to a wide range of business support and advice.

The guidance was supported by the professional bodies, Consumer Focus, the national regulators Food Standards Agency, Health and Safety Executive and Office of Fair Trading and the business groups British Chambers of Commerce, British Retail Consortium, Confederation of British Industry, and the Federation of Small Businesses.

Refocusing for the future:

Through our work to date, the lessons we have learned have refocused our activity for the future.

LBRO is committed to continuing to work with the sector to support improvement in local authority regulatory services. Sector-led approaches enable local authorities to take ownership and responsibility for their own improvement and collectively to take responsibility to raise standards across the sector and actively support those that need additional support. Taking this forward, we will work with the sector to target our work with local authorities on working directly with those that need help most, tailoring solutions using the tools we have developed in conjunction with the sector.

Local authority regulatory services are facing genuine capacity challenges. The delivery of regulatory services currently accounts for only 1% of total local authority expenditure⁵ and the next few years will mean increasingly difficult financial decisions for local authorities seeking to deliver better outcomes. LBRO has published research into the barriers and opportunities for shared working in regulatory services and provided funding for regional working across the English regions and Wales. However, without sufficient impetus for change within the wider regulatory system to promote greater coordination and collaboration, a strategic approach to shared working across regulatory services cannot be achieved.

LBRO will work with authorities to support the efficient and effective use of regulatory resources. We will promote tools we have developed to measure the outcomes and impact of local regulatory activity. We will continue to support local authorities to learn from the experiences of others, including the experiences of the new unitary authorities in sharing services and lessons learnt from the Retail Enforcement Pilot.

Strategic Objective 2: Deliver Primary Authority and other risk-based solutions to ensure greater consistency

Regulations are becoming increasingly principles-based, rather than specific in their requirements. This creates a more flexible approach to regulation, but increases the opportunity for inconsistency. Many businesses perceive inconsistency to be a significant problem for them, undermining the credibility of local regulators, detracting from the job of improving compliance⁶.

This objective focuses on addressing inconsistency. Our approach to risk-based regulation – assessing risk in a strategic and systematic way – is discussed further on page 19. Primary Authority and other risk-based approaches improve consistency for the benefit of businesses and consumers while maintaining the innovative, responsive and tailored provision that local regulatory services deliver to their local communities.

Why this matters: The complex delivery of local regulation can create unintended consequences that impact on consumers, businesses and regulators. For some issues, the proper protection of consumers and workers – regardless of their location within the UK – requires consistent local regulation. This means applying legislation in a similar way in similar circumstances. Consistency also supports the creation of a level commercial playing field, giving businesses more confidence to invest and grow.

Flexibility to adapt to local circumstances is both necessary and appropriate to create strong and vibrant communities. However, inconsistent interpretation is not justifiable. Although local authorities should aim to apply legislation in a similar way in similar circumstances, businesses have reported that this is not always the case. Their concerns included contradictory advice, wasted resources and duplicated efforts, complicated by the lack of an effective means of resolving disputes when councils disagree.

Primary Authority has been introduced to address these issues. Primary Authority ensures that any company trading across council boundaries is guaranteed access to robust and reliable advice about its regulatory responsibilities. Advice is provided through the creation of partnerships with local regulators, allowing primary authorities to liaise with other councils to ensure that inspection and enforcement action taken anywhere in the UK reflects the advice given. Inspection plans written by primary authorities help other local authorities direct local inspection resources to where they will have the most impact.

By helping to ensure consistency, it creates greater confidence for businesses and regulators – and the communities they both serve – and it is estimated that business could save £48 million per year⁷.

What we've done: In relation to Primary Authority, LBRO's role is to register partnerships, issue guidance and resolve disputes. Using the principles set out in the Regulatory Enforcement and Sanctions Act, we worked with 13 major retailers and pilot local authorities to test and refine the operating framework. This informed our draft guidance on the scheme that we issued for consultation, setting out the structure of how we proposed it would operate.

To help local authorities prepare for their legal responsibilities under the Act, we held 13 regional roadshows, including information on conducting inspections, accessing the secure database, taking enforcement actions and initiating our determinations process. Most local authorities – 93 per cent – participated in LBRO's seminars, and 95 per cent of local authorities now state that they fully understood their role as enforcing authorities. From commencement, all UK local authorities have had access to a single IT database to improve consistency and impact. Working with the Better Regulation Executive (BRE), we have developed the legislative framework and statutory instruments for Primary Authority through the Parliamentary process.

From commencement in April 2009 to December 2009, 75 partnerships in 18 businesses were established covering over 14,500 premises nationwide. This includes major businesses such as B&Q, Iceland and Boots. In addition, over 350 businesses are currently engaged in seeking primary authority agreements, and we are working with the Health and Safety Executive to support the transfer of up to 88 businesses currently registered under the Health and Safety Lead Authority to Primary Authority.

- **Tackling national threats**

Evidence gathered by LBRO, including our study into the problem of 'national threats', has highlighted the need for different solutions to address risk across the regulatory system. In some instances, the current system of local regulation does not sufficiently deal with threats or risks with a national dimension. Regulatory threats such as the spread of animal disease or food-borne illness can only be effectively controlled through the collaborative effort of all regulatory bodies due to the mobile or transmittable nature of the threat. The critical role of effective controls was highlighted through the *E.coli* outbreak in South Wales and avian influenza outbreaks. These risks can only be effectively controlled by local authorities working together to form a protective shield and ensuring that regulatory controls are in place in every locality.

In some circumstances, local authorities can be inhibited from providing a sufficient level of activity due to a mismatch between who incurs the costs and who receives the benefits of regulatory activity. Local authority regulatory services tailor service delivery to meet local needs and circumstances, often with little incentive to consider national threats.

For example, our research reveals that there is a genuine risk of insufficient regulation in situations such as regulation at ports and internet trading⁸. Unsafe consumer goods represent a national threat, whereby unsafe toys, electrical goods and fireworks are imported into the UK from outside the European Union. At the point of entry, local trading standards services have regulatory powers for market surveillance activities.

We have demonstrated that the negative impact on consumers, businesses and public services of unsafe imported goods is £155 million per annum and that every pound invested in monitoring the safety of imported goods arriving into UK ports produces £35 benefit.⁹ However, enforcement activity by trading standards services is currently funded by the small number of local authorities responsible for ports and other entry points. The threat to consumer safety arises where locally funded services are not able to carry out their work optimally to reduce the risk to consumers in all local authorities.

Our analysis of the problem of national threats provided advice to the Consumer White Paper published in July 2009 and secured pilot funding for additional enforcement at UK ports and dedicated funding to support effective enforcement of internet trading.

Refocusing for the future:

Our developing evidence base shows that Primary Authority is not simply a means of addressing historical issues. It is also a key tool in delivering the transformational change expected by businesses and consumers.

Sometimes businesses are unclear of how to comply with regulations. This occurs most often for smaller businesses, or those supplying innovative products and services. In contrast, many businesses know exactly how they plan to comply with regulations. What they need is to confirm compliance at a single point in the local regulatory system. Primary authorities are providing detailed, tailored advice to business in both these situations and this advice comes with the assurance that it will be respected by all local regulators. Some large businesses are now looking at how the assurance provided by Primary Authority can extend to the reduction of risk in their supply chains.

Often it is the cost of demonstrating compliance that proves the major irritant to business, and Primary Authority acts to drive down this cost. Primary authorities can confirm compliance, signal this to all local authorities, and supply the relevant documentation to them electronically. This avoids repeated information requests and repeated checks of the business. The primary authority can also assist other local authorities in more accurately assessing the level of risk posed by a business, reducing the need for inspection.

Primary authorities receive detailed feedback from all local authorities on the compliance of the business. This information is collated by the primary authority and provides the business with a valuable insight into its level of compliance.

Primary Authority is a necessary part of aligning the costs and benefits of regulation. Unless costs and benefits are aligned, local authorities are inhibited from supplying effective regulation in some sectors. To address this mismatch, we will develop innovative solutions through advice to Government, and work with partners and local authorities.

The Anderson Review of guidance to business emphasised the need for clearer, consistent and more accessible guidance, particularly for small and medium-sized businesses. While access to paid advice is readily available, the costs of this advice, and the costs associated with non-compliance, are more difficult for smaller enterprises to bear. In addition, the rise of third-party advice provided to businesses, especially in relation to health and safety, can remove the distinction between regulatory requirements and best practice advice.

We are taking forward recommendations made by the Anderson Review and the Health and Safety Review carried out by the Better Regulation Executive. Working with BRE, LACoRS and the Health and Safety Executive, we will explore the provision of comprehensive sector-specific advice to business to reduce risk, increase compliance and give greater assurance to consumers. Alongside regulatory advice, research is underway on the incentives for compliance in SMEs to inform more effective delivery of tailored and targeted business advice for small and micro enterprises.

Strategic Objective 3: Enhance the regulatory environment by simplifying the system and providing evidence-based advice to Government

Our third objective focuses on providing evidence-based advice to ministers to inform and support better decisions through the regulatory policy chain and simplifying the wider system in which local authority regulatory services operate. This includes focusing on the relationships with national regulators and central government, the role of professional and representative bodies and the impact of the system on the effective delivery of local regulation.

Why this matters: In 2008, we published the first comprehensive map of the local regulatory landscape, showing for the first time how the many contributing, overlapping and sometimes contradictory players fit together. It is a system that involves more than 12 national regulators and government departments and over 400 local authorities delivering nearly 200 pieces of legislation¹⁰. Our map of the regulatory environment showed some of the inefficiencies generated by the complexity of the wider regulatory system, and gave clear evidence that a systemic approach was needed to drive improvement in local delivery.

The system needs simplification so that it can function more efficiently and more effectively, and allow scarce resources to be directed at appropriate regulatory interventions for the benefit of businesses and citizens. A holistic approach is needed to consider the policy chain from the design of regulations to effective implementation by local and national regulators.

Better regulation also requires better *regulations*. In supporting policy makers to select the most appropriate regulatory tool, LBRO provides:

- evidence and advice regarding the levers that can be used to ensure markets work effectively;
- insight into business and consumer behaviour, particularly advice on the sensitivity of businesses to enforcement, sanctions, reputational damage, and financial damage; and
- understanding of attitudes to regulatory compliance.

Outcome-focused regulations support business prosperity and ensure effective protection for consumers, workers and the environment. By working with those impacted by regulations to get it right first time, the burdens on business of changing regulatory requirements are reduced¹¹.

What we've done: To address inter-dependencies across the system, LBRO is harnessing the power of a coalition of national regulators, government departments and professional and representative bodies, building consensus and delivering the necessary conditions that will promote effective and efficient delivery of local authority regulatory services. The work of the coalition is informed by business and local authority regulatory services representatives. Our work with the national regulators is underpinned through memoranda of understanding.

• **Creating better regulations**

Businesses and local regulators¹² both express frustration with ineffective and poorly designed regulations. In the local regulatory system, the policy delivery chain from design to implementation of regulations can be lengthy and complicated, with regulatory responsibility being either delegated to local level or a shared responsibility between regulatory services and national regulators, while European directives provide an additional layer of complexity.

Given this complexity, it is important that both the enforcement and enforceability of regulations are considered at the earliest stage. LBRO supports Government to make timely and informed policy through our statutory role to provide advice to ministers on issues regarding local regulation.

Our unique position in the regulatory landscape allows us to gather 'on the ground' intelligence and conduct research to understand business views and inform the design of regulatory initiatives, including the creation and review of regulations and advice on alternatives to regulation. LBRO has established regular dialogue with sector-representative bodies, national multi-site businesses, trade associations and small and medium-sized enterprises and works through a network approach, ensuring wide engagement with the business community.

This understanding of business needs has actively influenced recent Government policy reviews, including the Anderson review of guidance and recommendations regarding sector-specific business advice and professional competency of regulatory officers.

Our commitment to evidence-based policy has provided the basis of our advice to Government in creating better regulations. Research conducted over the last two years includes the analysis of:

- consumer detriment resulting from unsafe imported goods;
- the lessons learned from the Retail Enforcement Pilot and other joint approaches to inspections;
- the integration of national and local enforcement priorities;
- business perceptions of local regulation;
- approaches to reducing alcohol-related harm; and
- the impacts and outcomes of local authority regulatory services.

This evidence base has underpinned recommendations in the recently published Consumer White Paper and its commitment to tackle unsafe goods at points of entry. Our representations concerning the impact on business of the forthcoming change in VAT rates are reflected in Government proposals. Our best practice research into alcohol licensing has informed Government thinking on proposed mandatory codes of practice for alcohol sales¹³ by highlighting approaches used by local authorities to engage business in designing effective interventions. This demonstrated how existing legislation can be used to effectively reduce underage sales of alcohol by working positively with businesses.

- **Common approaches**

Our early analysis of the regulatory system shaped our priorities for immediate attention. Working with our world-class coalition partners, we are developing common frameworks which promote the best elements of current practice and remove duplication, focusing on risk assessment, priorities, data sharing, professional competency and sanctioning.

Working on behalf of the coalition, CIFPA has identified that central bodies currently make 139 separate requests¹⁴ for information from local authority regulatory services each year, drawing the equivalent of 171 full-time officers¹⁵ away from front-line duties and costing local authorities across England and Wales in the order of £6 million annually. In addition, national bodies currently require local authority regulatory services to refer to 10 different risk assessment frameworks in planning their activities and there is no common approach used to assess the professional competency of local regulatory officers. We are working with partners and local authorities to rationalise data and information returns made by regulatory services to reduce the data burden, freeing expertise and capacity to focus on risk-based and targeted regulatory interventions.

Refocusing for the future:

We will continue our modular approach to developing a world-class local regulatory services system, developing common approaches to risk-assessment and assessing the professional competency of regulatory officers to reduce burdens on local authorities. We will also explore potential approaches to establishing a national enforcement actions database. In conjunction with the world-class coalition, we will assess the need for further modules on a risk and cost basis, tackling the remaining key issues in the wider regulatory system. Common approaches will provide assurance to businesses that regulatory interventions are targeted, coordinated and risk-based.

The complexity of local regulatory delivery means that regulatory policy must be effectively designed, and the enforceability of regulations considered at the earliest opportunity. We will continue to work with the BRE to provide independent expertise and advice to Government on local regulatory delivery, ensuring that appropriate alternatives to regulation are considered in policy development and regulation design.

A broad range of sanctioning powers is critical to the development of a modern regulatory system. LBRO will advise ministers on the use of civil sanctioning powers by local authorities, as set out in the Regulatory Enforcement and Sanctions Act.¹⁶ Parliament is clear that access to new sanctioning powers should only be available to regulators compliant with the principles of better regulation, enforcing in a way that is transparent, accountable, proportionate, consistent and targeted only at cases where action is needed.

We will work with the Office of Fair Trading and the Department of Business, Innovation and Skills to pilot the use of civil sanctions in trading standards services, taking forward the recommendations of the recent Consumer White Paper. LBRO will advise on the selection of pilot authorities based on local authority compliance with the principles of better regulation using the sector-led excellence framework tool. This will be supported by existing datasets, including indicators of business satisfaction with local authority regulatory services. We will evaluate the pilot and compile lessons learned to inform the process to award Macrory sanctioning powers to local authorities.

The Characteristics of a Better Local Regulatory Environment: Learning from Hampton

Through our work to date, including extensive stakeholder engagement, commissioning research, and identifying best practice, we have identified a series of key characteristics defining better local regulation in a changing regulatory world.

The Hampton Review provided strong foundations for delivering better regulation at a local level. We have produced a series of discussion papers to stimulate debate on the new regulatory environment emerging in difficult economic circumstances. These characteristics, a systemic risk-based approach to regulation that supports outcome-focused services and effective relationships between the state, business, and citizens, build on the strong foundations laid by Hampton to deliver transformational change.

New relationships: Hampton focused on the relationship between regulators and business, but improving compliance and outcomes needs recognition of the role of the consumer and citizen. Better regulation requires effective relationships between the state, business and citizens, and not just between the state and business. These relationships include:

- Harnessing the power of consumers and citizens through **co-production of compliance** – see figure 2 – allowing regulated organisations and the intended beneficiaries of regulation to contribute alongside the regulator to produce better regulatory compliance and outcomes.
- A **new relationship between regulators and the regulated**, building appropriate trust and understanding to create a relationship that delivers tangible benefits for companies, a level commercial playing field and effective protection for consumers, workers and the environment.
- Developing **relationships to provide businesses with reliable and assured advice**. Primary Authority provides businesses with the opportunity to develop one relationship with a local authority for a single source of authoritative regulatory advice that draws on a detailed understanding of their operations.
- Forming **effective partnerships at the local level**, including through Local Strategic Partnerships or Local Service Boards, which recognise the role of businesses in shaping localities and contributing to better outcomes for communities.

Developing successful new relationships between business, citizens and the state is discussed further in the foreword to the pamphlet *Better Local Regulation – New Approaches to Securing Compliance*, published in November 2009. The pamphlet, including articles from the Confederation of British Industry, National Audit Office and the Local Government Association, can be found at www.lbro.org.uk/publications-information.html.

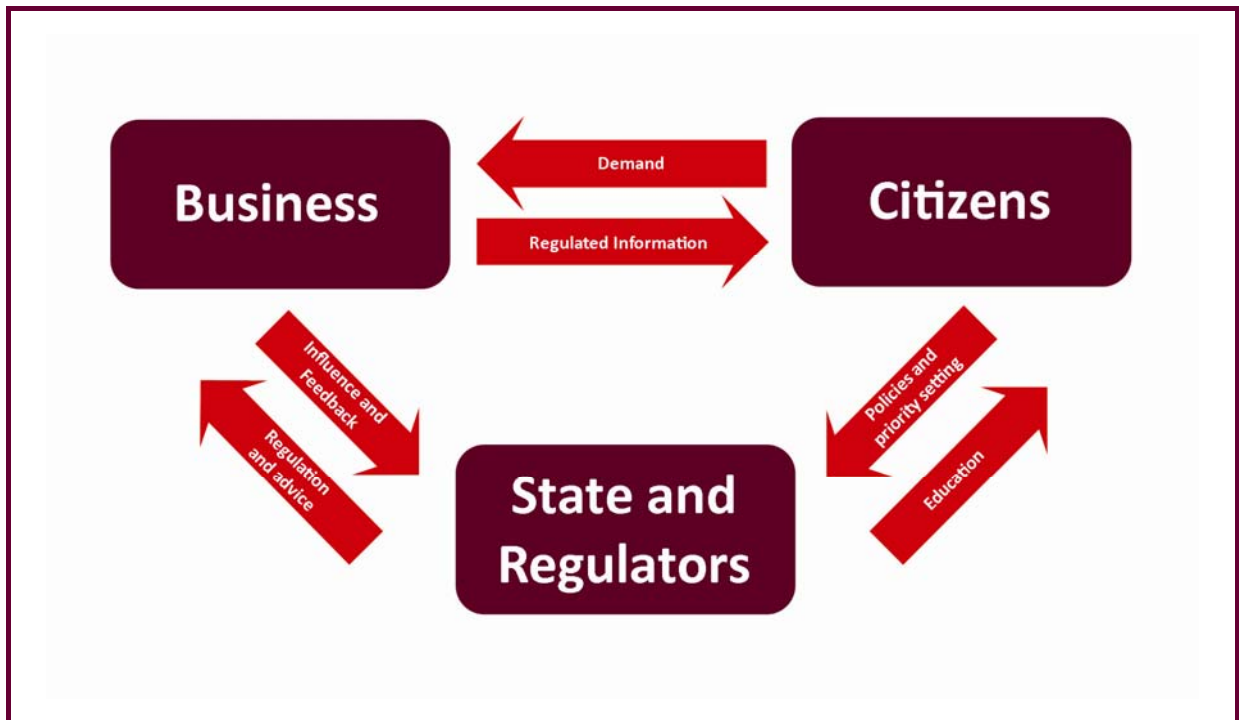


Figure 2: Model of co-production between businesses, citizens and the state

Outcome-focused services: Achieving better outcomes for citizens and communities has increasingly defined the delivery of public services in recent years. Regulatory activity is not an end in itself; regulatory interventions should focus on securing compliance and contributing to wider local and national outcomes.

A clear sense of purpose that is focused on citizen needs, including the needs of business, allows regulatory services to demonstrate their contribution to some of the most challenging policy agendas facing local communities and the nation, including financial inclusion, climate change, social cohesion and economic prosperity. The potential economic, social and environmental impact of regulatory activity makes these services an invaluable part of the 'toolkit' available to elected members.

LBRO has examined the impact and outcomes of local authority regulatory services and the contribution of these services to complex cross-cutting agendas. We have published a practical toolkit for local authorities that measures the impact and outcomes of regulatory activity to support an outcome-focused approach in service planning and service delivery. A simplified example of the wider impacts that can be identified is shown in figure 3. A copy of the toolkit and accompanying research report can be found at www.lbpro.org.uk/publications-external-research.html.

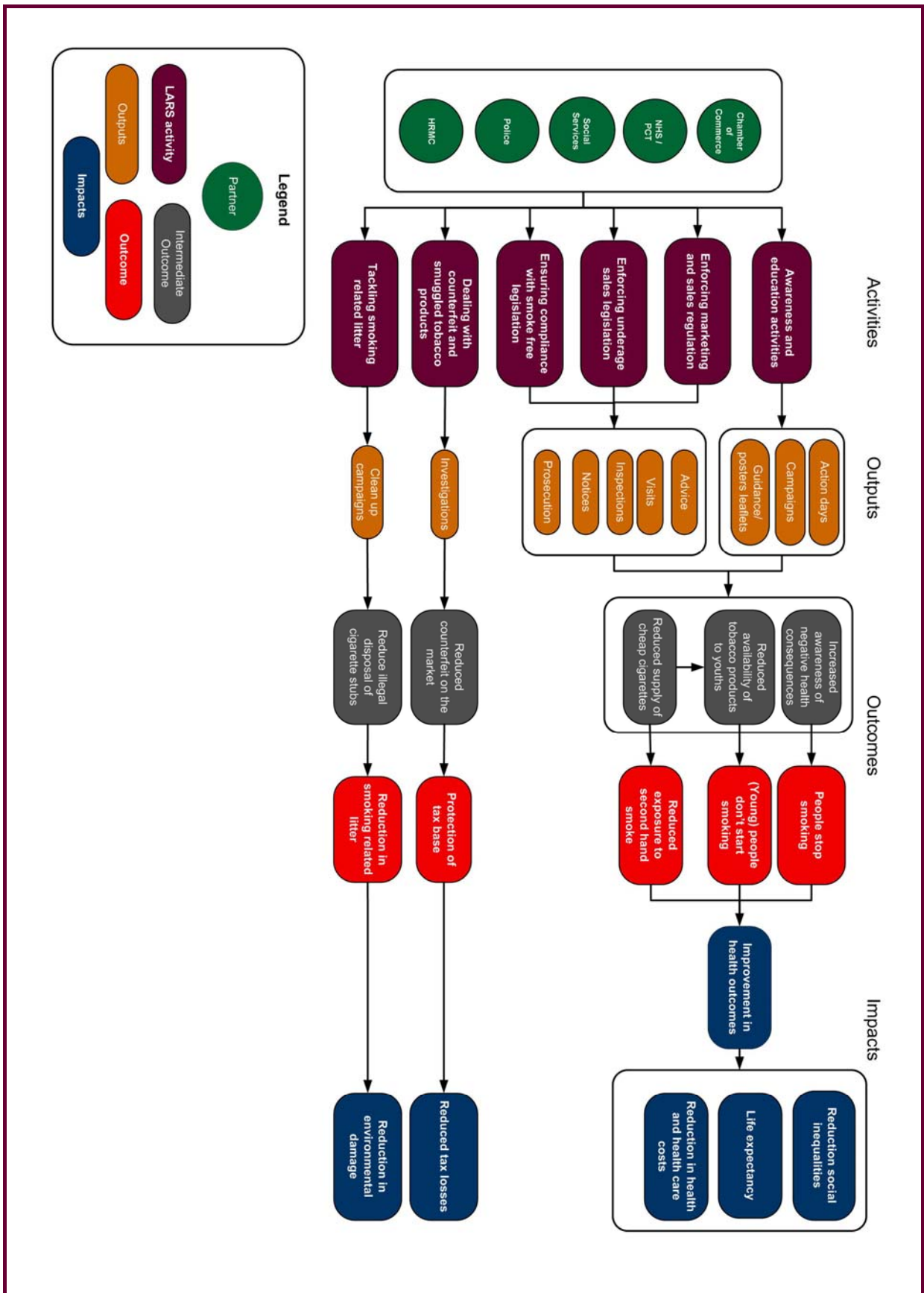


Figure 3: An example of the impact and outcomes of local authority regulatory services

Risk-based regulation: The achievement of Hampton’s ambition to embed comprehensive use of risk assessment across the regulatory lifecycle has been hampered by the myriad of regulatory models and enforcement approaches in operation across the regulatory system.

Risk-based regulation creates a framework from which robust decisions can flow, purposefully using regulatory tools to move from risks to outcomes by focusing on the whole chain of risk and not merely the mechanisms by which regulation is applied. Assessing risk in a strategic, systematic way encompasses a consideration of the key regulatory risks that the primary legislation and regulatory authority are designed to control, and using this to clearly define activities to address those risks.

Regulatory interventions should be targeted, encompassing a broad range of alternatives that focus on making markets work more effectively. The availability of other more flexible and risk-based sanctioning tools, as proposed by the Macrory Review, will support the achievement of better regulatory outcomes by equipping regulatory officers and authorities with tools to ensure a proportionate response to non-compliance linked to key regulatory risks.

Embedding risk-based regulation across the regulatory system in the manner shown in figure 4 is explored further in an article by Kate Cross in the pamphlet *Better Local Regulation – New Approaches to Securing Compliance*, available at www.lbro.org.uk/publications-information.html

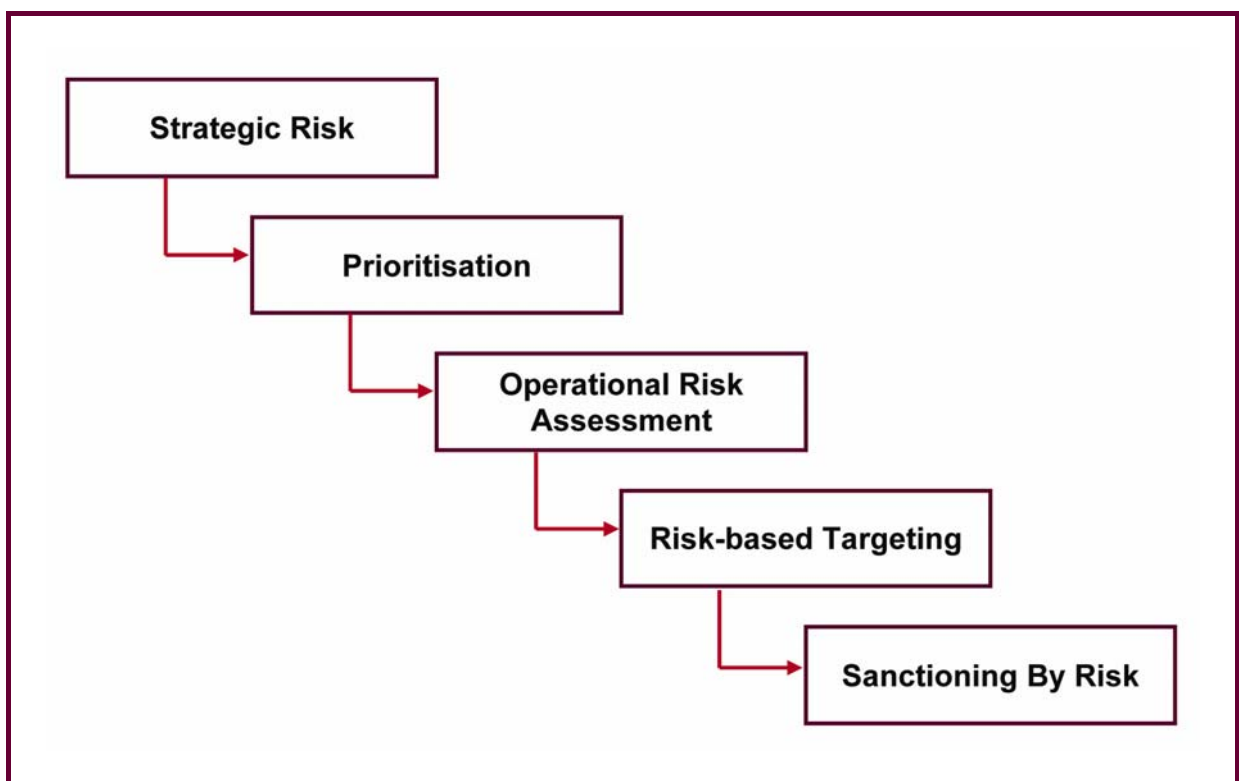


Figure 4: Levels of risk in decision making

Responding to this Document

We welcome comments and hope to spark debate on the future of better local regulation. We will reflect on your views and use them to shape our thinking and future programme of work. We would particularly welcome comments on the following questions:

1. Is our analysis of the wider context of local regulation correct?
2. Is our vision for better local regulation for business, communities, local authority regulatory services and partners compelling and stretching?
3. How far should our emphasis be on improvement in local authority regulatory services and how far on the wider regulatory system in which regulatory services operate?

Feedback is invited until 26/02/2010. Please send responses to:

Email: consultation@lbro.org.uk

Post: Taking Stock, Moving Forward Consultation,
LBRO,
The Axis,
10 Holliday Street,
Birmingham B1 1TG

Telephone enquiries: Kate Cross, Policy Manager – Strategy, on 0121 226 4000.

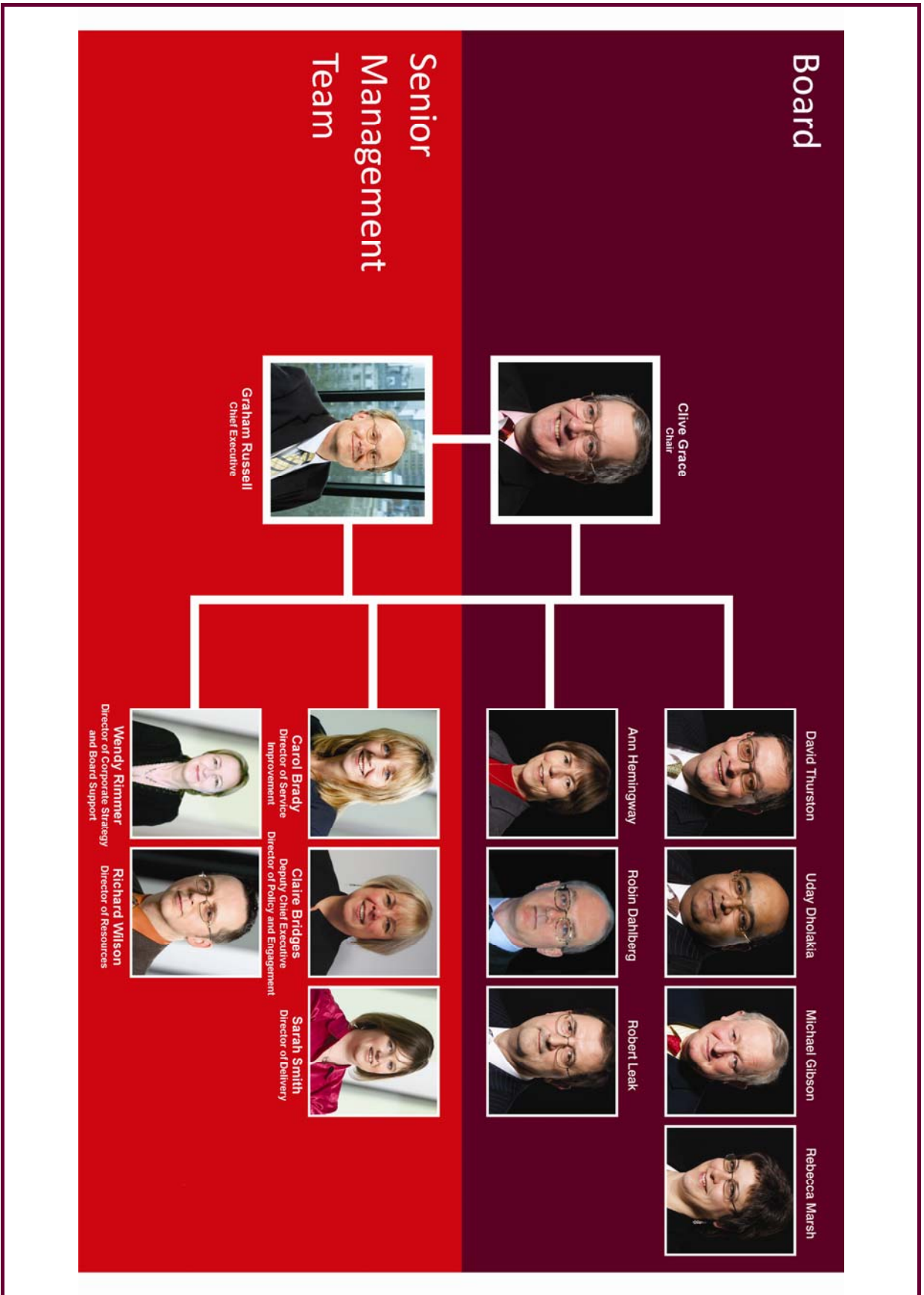


Figure 5: Who we are

References

- ¹ Between January and October 2009 the BRE carried out work with other parts of Government to analyse and highlight the benefits that regulation can deliver, and how 'better regulation' approaches can help improve regulatory outcomes. The report is available at www.berr.gov.uk/whatwedo/bre/benefits/better-benefits/page53245.html
- ² *LBRO Draft Strategy 2008-2011*, published in January 2008, available at www.lbro.org.uk.
- ³ *Survey of Business Perceptions*, published in October 2008, available at www.lbro.org.uk
- ⁴ The nine new unitary authorities are Bedford, Central Bedfordshire, Cornwall, Cheshire East, Cheshire West and Chester, Durham, Northumberland, Shropshire and Wiltshire.
- ⁵ In 2007-08, local authorities in England, Scotland and Wales spent nearly £1.35 billion providing environmental health and trading standards services. This was equivalent to just under one per cent of total local authority expenditure, which was £138 billion. Source: HM Treasury Public Expenditure Statistical Analysis (PESA) 2009, Table 9.17. Excluding Northern Ireland.
- ⁶ *Survey of Business Perceptions*, published in October 2008, available at www.lbro.org.uk
- ⁷ Information from Regulatory Enforcement and Sanctions Act 2008 Impact Assessment
- ⁸ Further information on the nature and scale of regulatory threats can be found in *Addressing National Threats Through Local Service Delivery: LBRO Summary Report*, December 2009, available at www.lbro.org.uk
- ⁹ Research carried out by the Matrix Group on behalf of LBRO.
- ¹⁰ LBRO, *Mapping the Local Authority Regulatory Services Landscape*, November 2008, available at www.lbro.org.uk
- ¹¹ Research carried out by the Centre for Regional Economic Development, University of Cumbria on behalf of LBRO, *Business Experiences of the Retail Enforcement Pilot*, available at www.lbro.org.uk
- ¹² Research carried out by the Centre for Regional Economic Development, University of Cumbria on behalf of LBRO, *Business Experiences of the Retail Enforcement Pilot*, available at www.lbro.org.uk
- ¹³ Home Office, *Safe. Sensible. Social. Selling Alcohol Responsibly: A Consultation on the New Code of Practice for Alcohol Retailers*, available at www.homeoffice.gov.uk/documents/cons-2009-alcohol/cons-2009-alcohol-doc?view=Binary
- ¹⁴ Information taken from LBRO / CIPFA report *Data collections from local authority regulatory services: Data mapping and costing the administrative burden*, September 2009, available at www.lbro.org.uk. Detailed analysis undertaken has shown that 22 central bodies request a total of 59 returns covering the regulatory services of environmental health and trading standards. The 59 forms comprise a total of 15,088 data items. In terms of frequency of the returns the number of actual returns increases from 59 a year to 139 a year.
- ¹⁵ For environmental health services, the estimated administrative cost of £4.8 million equates to 145 full-time equivalent (FTE) officers. For trading standards, the estimated cost of £740,000 equates to 26 FTE officers. Source: LBRO / CIPFA report *Data collections from local authority regulatory services: Data mapping and costing the administrative burden*, September 2009.
- ¹⁶ Part 3 of the Regulatory Enforcement and Sanctions Act provides for use of a wider range of Macrory sanctions as regulators prove their capability to follow better regulation principles.



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