EXPLANATORY MEMORANDUM TO

THE LEGISLATIVE AND REGULATORY REFORM (REGULATORY FUNCTIONS) (AMENDMENT) ORDER 2009

2009 No. 0000

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty

2. Purpose of the instrument

2.1. This Order amends the Legislative and Regulatory Reform (Regulatory Functions) Order 2007[1], which specifies regulatory functions to which the duty to have regard to a code of practice and the principles of good regulation apply. This Order specifies additional regulatory functions, namely those exercisable by:

- statutory regulators, including those that deal primarily with public sector matters in England but only when such functions affect businesses and third sector organisations;
- Ministers of the Crown; and
- local authorities in Scotland, Northern Ireland and Wales in relation to certain matters reserved to the UK Parliament

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

Regulatory Principles

4.1. Section 21 of the Legislative and Regulatory Reform Act 2006 ("the Act") sets out the Principles of Good Regulation. These principles are that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and should be targeted only at cases in which action is needed. Anyone exercising regulatory functions specified in an order is required, under section 21(1) of the Act, to have regard to the principles in carrying out those functions.

Code of Practice for Regulators

4.2. Section 22 of the Act provides a Minister of the Crown with a power to issue a Code of Practice in relation to the exercise of regulatory functions. Any person whose regulatory functions are specified in an order must have regard to the Code of Practice when determining any general policy or principles or setting standards or giving guidance in relation to the exercise of any of these functions.

[1] S.I. 2007/3544

4.3. The Minister laid the final draft of the code of practice ("the Regulators' Compliance Code") along with the draft Order ("the Listing Order") before Parliament on 16 October 2007. Parliament approved the draft instruments in November 2007, and the Minister issued the Regulators' Compliance Code and made the Legislative and Regulatory Reform Code of Practice (Appointed Day) Order 2007[2] in December 17 2007, appointing 6 April 2008 as the date the Compliance Code and the Listing Order should come into force.

Regulatory functions

4.4. The duties in sections 21 and 22 of the Act only apply to the exercise of regulatory functions specified by order made under section 24 of the Act. This is the second use of the power under section 24.

5. **Territorial Extent and Application**

5.1. This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1. Lord Carter, Minister for Communications, Technology and Broadcasting, has made the following statement regarding Human Rights:

> "In my view the provisions of the Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2009 are compatible with the Convention Rights".

7. **Policy background**

7.1. The policy behind the Regulators' Compliance Code ("the Code") and the Principles of Good Regulation ("the Principles") is set out in some detail in the Explanatory Memorandum that accompanied the Listing Order[3]. Essentially, the aim of the Code and the Principles is to embed a risk-based and targeted approach to regulatory enforcement among regulators. The expectation is that this will enable regulators to become more efficient and effective in their work, while reducing unnecessary burdens on low risk and compliant businesses.

7.2. Since April 2008, many regulators have been under a statutory duty to have regard to the Code and the Principles when they carry out specified functions. However, some regulators with relevant regulatory functions, including local authorities in Scotland, Northern Ireland and Wales, were omitted from the Listing Order.

7.3. To increase regulatory consistency and spread the benefits of the Code and the Principles across the country, the Government believes that their application should be extended, where appropriate, to regulators to which they do not currently apply. To this end, the Government proposes to extend the coverage of the Code and the Principles to the functions of:

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[2] S.I. 2007/3548

[3] This is available at: http://www.opsi.gov.uk/si/si2007/em/uksiem_20073544_en.pdf

- local authorities in Scotland, Northern Ireland and Wales, where these functions concern matters which are reserved to the UK Parliament[4];
- public sector regulators in England, where the exercise of these functions is aimed at businesses or third sector organisations[5]; and;
- other relevant regulatory functions, including those relating to enforcement of money laundering regulations.

8. **Consultation Outcome**

8.1. The Act imposes a duty to consult relevant stakeholders. On 14 November 2008, the Government launched a 13-week public consultation on extending the coverage of the Code and the Principles to the additional regulatory functions listed in the consultation document[6].

8.2. Approximately 120 interested parties were consulted, including the regulators whose functions are specified in the draft instruments as well as the businesses and other organisations affected by the exercise of these functions. In addition to the formal consultation, two stakeholder events to discuss the proposals with interested organisations were held: one workshop for the national regulators whose functions we proposed to include in the order; and another specifically for those with monitoring or enforcement role in relation to anti-money laundering regulations. Meetings with representatives of local authorities in the devolved administrations were also held.

8.3. 43 responses were received: 10 from local authority groups, 13 from national regulators; 8 from businesses, and 12 from professional bodies.

8.4. The consultation highlighted that there was overwhelming support for extending the coverage of the Code and Principles to local authorities in the devolved administrations, although some respondents felt that the extension should go further, covering both reserved and devolved functions rather than just reserved ones, as proposed.

8.5. The responses received also highlighted that the majority of the national regulators, whose functions are specified in this instrument, favoured extension as proposed. However, some national regulators initially had concerns. These concerns have now been addressed. For instance:

- The Traffic Commissioners have been assured that the Code and the Principles do not apply to their functions of conducting civil or criminal proceedings;
- The Audit Commission will not be specifically named in the Listing Order but instead the Code and the Principles will apply

[4] Under section 24(3) of the Legislative and Regulatory Reform Act 2006, a Minister of the Crown cannot specify by Order functions relating to matters which are devolved to Scotland; functions relating to matters which are transferred to Northern Ireland; and functions exercisable only in or as regards Wales.

[5] The Compliance Code was drafted with business and third sector organisations in mind, and therefore the Code does not apply to regulatory functions relating to the public sector.

[6] The consultation document is available at: http://www.berr.gov.uk/consultations/page48886.html

to any person (which may include the Audit Commission) appointed by the Tenants Services Authority (TSA) to carry out inspections of private providers of social housing under the Housing and Regeneration Act 2008

8.6. Finally, the consultation demonstrated support for extending the coverage of the Code and the Principles to the function of securing compliance with or enforcement of the anti-money laundering regulations. However, the professional bodies representing accountants objected to the proposals in principles. Meetings were held with them to allay their concerns.

8.7 Further information on the consultation, including the Government's response to the views expressed by respondents can be found at: http://www.berr.gov.uk/whatwedo/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/page44055.html.

9. **Guidance**

9.1. No guidance is issued to accompany this instrument.

10. **Impact**

10.1. An Impact Assessment has been prepared for this instrument and is attached to this memorandum.

11. **Regulating small business**

11.1. The purpose of the instrument is to enable regulator to achieve regulatory outcomes without imposing unnecessary burdens on businesses. The Code specifically requires regulators to give consideration to the circumstances and needs of small businesses. The instrument does not therefore regulate, or impose burdens on, small business.

12. **Monitoring & review**

12.1. A review of the operation of the Code and the Principles will take place in 2011.

13. **Contact**

13.1**.** Olu Fasan at the Better Regulation Executive, Department for Business, Enterprise and Regulatory Reform, tel: 020 7215 0318 or email: olu.fasan@berr.gsi.gov.uk can answer any queries regarding this instrument.

Department for Business, Enterprise and Regulatory Reform
May 2009

Summary: Intervention & Options

Department /Agency:	Title:	
BERR	**Impact Assessment of Extending the Regulators's Compliance Code and the Five Principles of Good Regulation**	
Stage: Final	**Version:** 1	**Date:** 1 June 2009
Related Publications: The Legislative and Regulatory Reform (Regulatory Functions) Order 2007) SI No 3544		

Available to view or download at:

http://www.berr.gov.uk/whatwedo/bre/index.html

Contact for enquiries: Olu Fasan **Telephone:** 020 7215 0318

What is the problem under consideration? Why is government intervention necessary?

The Legislative and Regulatory Reform Act 2006 (LRRA) allows for a Code of Practice to be published by order, to which regulators must have regard when carrying out their regulatory functions. The relevant functions are also specified by order: the original listing order took effect in April 2008, but omitted a number of relevant regulatory functions, and this Impact Assessment accompanies an SI which will extend the Code to functions not included in the initial order.

It will mean a more consistent application of good regulatory practice across a range of regulatory functions.

What are the policy objectives and the intended effects?

The policy objective is the consistent appliation of the principles of good regulation to the work of national and local regulators. The duty to have regard to the Code is intended to ensure that regulators take account of a number of principles in their work; for instance, the use of comprehensive risk assessment to target resources effectively, and to consider the well-being of the economy when undertaking their duties. There will be benefits for businesses and consumers following from more consistent and effective regulation in practice.

What policy options have been considered? Please justify any preferred option.

The Code of Practice is a statutory provision that requires secondary legislation for it to take effect. No alternative approaches have been considered, but the "do nothing" option has however been used as a base case for comparison when setting out the likely costs and benefits throughout this assessment.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

2011 (as part of a wider review three years after the initial implementation of the Code itself).

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Stephen Carter

..... Date: 21 May 2009

Summary: Analysis & Evidence

Policy Option:	Description: **Extension of the Compliance Code and Five Principles of Good Regulation by Statutory Instrument**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off	**Yr**	Local Authorities: £0.2m - £0.9m (annual)
£ 2.8m (midpoint)	3	One-off costs for regulators:£0.1m-£5.5m (midpoint £2.8m)
Average Annual Cost (excluding one-off)		
£ 0.6m (midpoint)		**Total Cost** (PV) **£ 4.9m - £8.0m**

Other **key non-monetised costs** by 'main affected groups'

Negligible one-off costs for business where regulators revise their procedures following from the Code

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yr**	Businesses:£0-£4.3m
£ 0		Local Authorities: £0.2m-£0.9m
Average Annual Benefit		
£ 2.7m (midpoint)		**Total Benefit** (PV) **£ 2.0m-£45.2m**

Other **key non-monetised benefits** by 'main affected groups'

Benefits to business from extension of Code to local authorities outside England.

Key Assumptions/Sensitivities/Risks

Scale of reductions in administrative burdens following from implementation of the Code.

Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£ -6.0m to £40.3m**	**NET BENEFIT** (NPV Best estimate) **£ 17.1m (midpoint)**

What is the geographic coverage of the policy/option?	UK wide
On what date will the policy be implemented?	1 Oct 2009
Which organisation(s) will enforce the policy?	n/a
What is the total annual cost of enforcement for these	£ 0
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per	£ 0

What is the value of changes in greenhouse gas emissions?			£ 0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase -	
Increase £ 0	Decreas £ 0	**Net**	**£** 0	

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Introduction

Policy background:

1. The Compliance Code has had statutory effect since April 2008, fulfilling the Government's commitment in Budget 2006 to put the recommendations of the Hampton Report on regulatory inspection and enforcement ("the Hampton Principles") onto a statutory footing. The Government also made a commitment to put the five Principles of Good Regulation (proportionality, accountability, transparency, consistency, and targeting) onto a statutory footing, as recommended by the Better Regulation Commission.

2. The Legislative and Regulatory Reform Act 2006 ("the 2006 Act") allowed for Principles of Good Regulation and the Hampton enforcement principles to be placed on a statutory basis. Section 21 of the Act lists the five Principles and places a duty on any regulator whose functions are specified by order to have regard to them when exercising the specified functions. Section 22 allows a Minister to issue a Code of Practice ("the Compliance Code") in relation to the exercise of regulatory functions and places a duty on any regulator whose functions are specified by order to have regard to the Code when exercising the specified functions.

3. The aim of these twin statutory duties is to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators to which the duties to have regard the instruments apply. This will enable them to become more efficient and effective in their work while at the same time removing or reducing unnecessary burdens on low risk and compliant businesses.

4. The Legislative and Regulatory Reform (Regulatory Functions) Order 2007 ("the Listing Order"), lists the regulatory functions to which the statutory duties apply. The Compliance Code and the Listing Order came into force in April 2008. Thus, since April 2008, 56 national regulators and all the local authorities in England have been under a statutory duty to have regard to the Principles of Good Regulation and the best practice standards set out in the Compliance Code when they carry out specified functions.

5. In order to spread the benefits of the Code and the five Principles across the UK and to as many regulators and regulated entities as possible, the Government is now extending the coverage of the Compliance Code and the five Principles to additional regulators to which they do not currently apply. The new regulatory functions that we intend to bring under the scope of the Code and the Principles of Good Regulation are:

- some business-facing functions of public sector regulators;
- functions of some national regulators that were omitted from the original Listing Order; and
- reserved functions of local authorities in Scotland, Northern Ireland and Wales, where these relate to environmental health, trading standards, licensing, and fire and safety.

6. This Impact Assessment builds upon the Impact Assessment published in October 2007 in the "*Government Response to the Consultation on the Draft Regulators' Compliance Code and the Application of the Principles of Good Regulation*"[7], and issues raised by consultees in response to a consultation on extension published in November 2008, *Extending the Scope of Application of the Regulators' Compliance Code and the Principles of Good Regulation*. 8 As with that original Impact Assessment, the starting point for the assessment of many of the benefits which will result from this extension of the Compliance Code and the five principles of good regulation is the Government's estimate of administrative burdens in 2005. This exercise assessed the administrative costs of information obligations (IOs) imposed on businesses, charities and the voluntary sector in England as a result of central government, and European or other international regulation. The Administrative Burdens Measurement Exercise (ABME) was carried out using the Standard Cost Model (SCM) methodology (see Annex A for further details of how the methodology was used).

7. This Impact Assessment is divided into three main parts reflecting the different categories of new regulators or regulatory functions affected by the proposal to extend the coverage of the Compliance Code and the Principles of Good Regulation. Given the different issues involved, the Impact Assessment assesses the costs and benefits of three separate components of the proposals:

    - Part 1 focuses on public sector regulators;
    - Part 2 covers other national regulators omitted from the original Listing Order; and
    - Part 3 focuses on local authorities in Scotland, Northern Ireland and Wales.

8. A version of this Impact Assessment, which accompanies the statutory instrument giving effect to the extension, was issued alongside the Government's consultation on proposals to extend the statutory scope of the Compliance Code and the Principles of Good Regulation. Consultees were specifically asked for their views on the validity of the estimates and assumptions set out in the draft. 11 specific responses to the relevant questions in the consultation were given on the Impact Assessment; of these, four felt that the assumptions were realistic and reasonable. Some other consultees did not answer the questions specifically, but had a number of comments, and the Impact Assessment has been revised on various points to reflect some of their comments.

9. The most significant change reflects the fact that many regulators argued in their responses that they were already regulating in the spirit of the Compliance Code and that the relevant costs and benefits should therefore be revised downwards. We are not in a

[7] http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/page44055.html

[8] http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/page44055.html

position to comment on the likely impacts for individual regulators, but have, for the purposes of this final impact assessment, assumed a range of the relevant costs and benefits ranging from zero to a maximum. The maximum is broadly in line with the figures presented in the assessment which was subject to consultation.

PART 1: Extension of the Code and the Five Principles to cover certain functions of public sector regulators

Introduction

10. Public sector regulators were omitted from the original Compliance Code Listing Order. However, there are some examples where the regulatory functions of 'public sector' regulators impact upon private businesses (e.g. child-minders are regulated by Ofsted and social care providers are regulated by the Care Quality Commission).

11. In order to provide further consistency for businesses who are subject to regulation, the Government believes there is a strong case for including public sector regulators within the remit of the Code where their functions impact on bodies in the private or third sectors. We believe that the Code should apply where a body's regulatory activities:

    - fall upon private sector organisations operating in the marketplace;
    - largely consider issues of compliance with regulations or standards.

12. The main bodies involved are:

    - Ofsted
    - The Information Centre for Health & Social Care
    - The Postgraduate Medical Education & Training Board
    - The Care Quality Commission
    - The General Social Care Council
    - The Criminal Records Bureau; and
    - The Audit Commission

Estimating costs and benefits

13. Applying the methodology used in the October 2007 Impact Assessment, we have identified the following administrative burdens, related to public sector regulators, which will be included within the scope of the Code as a result of the extension.[9]

Social care	£402.8m
Education and childcare	£115.9m
Total	£518.7m

[9]The figures here are taken from the Government's Administrative Burdens Measurement Exercise conducted in May 2005. The background to the exercise, including the Standard Cost Model methodology on which it was based, is set out in Annex A. The Audit Commission's responsibilities for regulating social housing were covered in the original Impact Assessment due to the inclusion of the Housing Corporation. They are not therefore covered here.

14. For consistency with figures used later in this Impact Assessment, we have uprated these (and subsequent) 2005/06 figures to 2007 figures, using the GDP deflator.[10] This gives the following figures in 2007 prices:

Social care	£425.3m
Education and childcare	£122.4m
Total	£547.7m

15. The Hampton Review estimated that full adherence to a risk-based approach to inspection would lead to a 33% reduction in the number of inspections across the regulatory landscape from 2005 levels. Evidence from simplification initiatives across government has suggested that this estimate is challenging but achievable: for instance, since the Hampton Report, the Environment Agency's risk-based assessments have led to a 20% reduction in the number of inspections. This figure is set to increase as their risk-based system is extended across their regulatory regime.

16. Hampton also estimated that application of his principles to forms and paperwork would result in a 25% reduction in the burden of data requirements across the regulatory landscape. Evidence from simplification initiatives across government suggests that this estimate is realistic:

- the Health and Safety Executive (HSE) conducted a fundamental review of its forms and identified 54% to be removed by the end of 2006 . Savings to business from the removal of these forms are estimated at £250,000 a year;
- the Civil Aviation Authority's (CAA) Safety Regulation Group initiated a project to review all internal and external forms. 25% of forms (100 out of 400) were found to be redundant and were withdrawn;
- the Environment Agency has carried out a review of all external forms and associated guidance. An example from the review is the agricultural waste management licensing exemption which was reviewed and a new form developed in consultation with farmers. This reduced the form in length by 93% (75 pages to 5).

Impacts on Business and the Third Sector

Annual benefits:

17. Assuming reductions of 20% for inspections and 25% for data requirements, the figure for full Hampton Compliance savings associated with these IOs is around £144m (see Table below).

Data Requirements	£122.4m	25% - £30.6m	£399.7m	25% - £99.9m	25% - £130.5m
Inspections	£0.26m	20% - £0.055m	£25.7m	20% - £5.1m	20% - £5.2m
	£122.4m	£30.6m	£425.3m	£105.0m	£135.6m

[10] Treasury guidance gives the following index for uprating prices over this period: 100/94.697.

18. However, as the Code is only one of a range of better regulation initiatives, and because the duty is purely "to have regard to" the Code, rather than a binding requirement to comply with it in all cases. it is expected that the application of the Code will deliver less than this total potential benefit of full Hampton compliance.

19. The Impact Assessment for the introduction of the Code stated that a plausible assumption would be 10% of the total achievable burden reduction predicted by Hampton would be delivered by the code. For the additional administrative burdens being brought into scope here, this gives us a figure of up to £13.6m. The October 2007 Impact Assessment accompanying the original Compliance Code statutory instruments, assumed the mid-point of a range from zero to this figure – effectively 5% of total savings from full Hampton Compliance. Given the fact that government is now a further year into its administrative burdens reduction programme, for this Impact Assessment, we assume a more conservative **3%**. Therefore, the annual benefits to business from the inclusion of the additional regulatory functions of public sector regulators are estimated to be **£4.1m** from fewer data requirements and inspections.

Social care	£425.4m	£105.1m	£3.2m
Education and childcare	£122.4m	£30.6m	£0.92m
Total	£547.7m	£135.7m	**£4.1m**

* Full Hampton Compliance being a reduction in cost of 25% for data requirement related IOs and 20% Inspection related IOs

20. Reflecting the views of consultees, we have used this figure as a maximum of a range in this impact assessment; the minimum benefits will be assumed to be £0. (To avoid double counting, we have not included these possible reductions against the administrative burdens baseline figures in the relevant parts of the cover sheet to this Impact Assessment).

Annual costs:

21. In line with the October 2007 Impact Assessment, there are no obligatory annual costs for business associated with the Code.

Start-up costs:

22. As with the October 2007 Impact Assessment, we assume that the start-up costs to business are **zero**. There may be very minimal administrative costs to businesses due to time spent familiarising themselves with new regulatory enforcement processes that result from the Code. However, a key objective of the Code is to make it easier for businesses to comply with regulation and understand what is required of them, so we expect that the net impact will be beneficial, even in the shorter term.

Impacts on Regulators

Annual benefits

23. We anticipate that the type of regulatory activity that the Code will encourage will lead to improved regulatory outcomes and associated productivity gains. However, for the purposes of this Impact Assessment, we have not attempted to quantify these. The efficiency gains from following the Code will result in the re-direction of resources to areas of greatest needs and to outcome-oriented activities. The benefits, therefore, would come from improved regulatory outcomes.

24. In summary, the purpose of the Code is to effect a shift in resources from routine inspection and other enforcement activity towards advice provision and information campaigns. This means that regulators' existing total resources will be used in a different way. Therefore, the budgets of national regulators and local authorities in scope are **not** expected to change as a result of the introduction of the Code.

Annual Costs:

25. Whilst there are undoubtedly costs to national regulators in moving towards a more advice-oriented service, we assume that the resource savings discussed above from fewer inspections can be re-directed to providing advisory services. Therefore overall, the net burden is **zero**.

Start up costs:

26. In order to comply with the Code, a regulator may have to make changes to its practices in the seven key areas of activity covered by the Code's specific obligations: economic progress, risk assessment, information and guidance, inspections, information requirements, compliance and enforcement actions and accountability. When considering the costs presented in this analysis, it is important to note that where regulators have a legal duty to have regard to the Code, in deciding whether to follow a particular requirement under the Code they can take account of budgetary and other relevant considerations. Most costs in this part of the impact assessment draw on 2007 data; where 2005 prices have been used they have been uprated to the later year for consistency.

27. In order to estimate the start-up costs for regulators, this analysis follows the approach taken in the October 2007 Impact Assessment and uses indicative data from the Environment Agency and the Food Standards Agency. This data has been broken down by area of activity affected by the Code. As we argued in the draft Impact Assessment accompanying the consultation, the figures are likely to be overestimates; it represents the costs for a regulator reviewing all its inspection programmes on the basis of the Code. In fact, many inspection programmes will already meet the standards suggested by the Code, and there may be good reasons why review is inappropriate in some specific cases (for instance, the regulator may be under a statutory duty to inspect according to a cycle based on principles other than risk). For conservatism, we present the figures here as a maximum.

28. **Economic Progress** – the specific obligations of the Code in this area of activity do not require any significant operational/policy changes in most regulators. This section simply requires the regulators to consider certain principles when carrying out their existing activities.

29. **Risk Assessment/Inspections** – in 2007, the Environment Agency estimated that rolling out a risk-based approach to compliance assessment (including inspections) in all of their regulatory regimes would cost **£4.2m** (excluding IT costs). Assuming the costs to new regulators are proportionate to those of the Environment Agency (using numbers of

inspection staff as a comparator) rolling out a risk-based approach across regimes in social care, education and housing could cost some **£3.17m**[11].

30. **Information and Guidance** – providing businesses with information and advice, and reviewing and updating this advice, could be regarded as good practice for regulators. It could therefore be argued that the specific obligations of the Code will not result in any start-up costs for national regulators. However, it is likely that Code implementation will lead national regulators to conduct more comprehensive reviews of their guidance materials and processes than would normally be the case under 'business as usual' conditions.

31. The Impact Assessment for the introduction of the Code included estimates from one national regulator with comparatively little guidance suggesting that a review to diagnose the necessary changes would cost around £100,000, with a further cost of around 2 months of staff time (around £6k of resource) to revise each piece of guidance requiring amendment. Figures provided by the Environment Agency, which is responsible for a wider range of guidance, were consistent with these estimates – the Environment Agency is undertaking a full review of both forms and guidance between 2008 and 2011 and estimated that this will cost £1.3m (roughly £430,000 per annum). Using the Environment Agency's cost estimates allows an estimate to be made for this Impact Assessment of **about £0.9 million.**[12]

32. **Data Requirements** – regularly reviewing and updating forms could be regarded as good practice for regulators, and associated costs could therefore be regarded as 'business as usual' under the Better Regulation Agenda. However, it is likely that Code implementation will lead regulators to conduct more comprehensive reviews of their forms and data-gathering processes than would normally be the case, leading to start-up costs that must be factored into this analysis.

33. The Code Impact Assessment estimate of the impact was based on work completed by the Food Standards Agency which reviewed its forms in-house, at an estimated one-off cost of £50,000 (around £2,000 to review each of the 25 forms directed at businesses). In 2007 prices, this is equivalent to £53,000. Scaling the Food Standard Agency's estimated costs allows us to establish an indicative estimate of the costs of reviewing forms and data collection for the regulators being added to the scope of the Code, around **£938,000**.[13]

34. **Compliance and Enforcement actions** – following a recommendation in the Hampton Report, Professor Richard Macrory reviewed the scope for an expanded suite of civil sanctions for use by regulators in seeking to ensure compliance by businesses. He recommended that a range of sanctions should be introduced, and proposed some principles for sanctioning.[14] The costs and benefits to regulators of complying with the Macrory Penalties Principles and using an expanded sanctions toolkit were covered in the Impact Assessment for the Regulatory Enforcement and Sanctions Act, which gave

[11] In 2003/04, the total number of EA enforcement staff was 2417. We have estimated the number of inspection staff relating to the regulatory activities being added to the scope of the code to be 1827 and have scaled on this basis – i.e. 1827/2417 x 4.2m

[12] In 2003/04, the total number of EA enforcement staff was 2417. We have estimated the number of inspection staff relating to the regulatory activities being added to the scope of the code to be 1827 and have scaled on this basis – i.e. 1827/2417 x 1.3m

[13] The Food Standards Agency imposes a total data burden related IOs on business (2005 figures). £494.1m data requirement IOs are being brought into scope this time. The scaled up figure is therefore derived by multiplying the Agency's estimate by 494.1/27.8.

[14] "Regulatory Justice: Making Sanctions Effective", available at http://www.berr.gov.uk/files/file44593.pdf .

statutory effect to many of his recommendations.[15] Following the principles and using the expanded toolkit is expected to provide a net benefit to regulators, resulting from reduced reliance on resource- and time- intensive processes of criminal prosecution.

35. **Accountability** – under this heading, the specific obligations of the Code require regulators to have transparent outcome measures. In many cases, national regulators will have these types of measure in place and incur no additional costs. Where a national regulator does not have these types of measure in place, full adherence to the Code will require the regulator to design such a measure. In practice, these costs may be offset by replacing an existing output-focussed measure, but start-up costs are likely nevertheless. Estimating costs in this area of activity is very difficult, as the extent to which new measures will be required is unclear.

36. The specific obligations of the Code require regulators to have appeals procedures. We anticipate that the vast majority of regulators already have such procedures in place and therefore estimate that associated start-up costs will be minimal. A cost benefit analysis of the new appeals procedures associated with the Macrory expanded sanctions tool kit can also be found in the Impact Assessment for the Regulatory Enforcement and Sanctions Act.

37. Overall the total start-up costs to public sector regulators attributable to the Code are estimated at around **£5.1 million** (see table below).

Risk Assessment / Inspection	**£3.17m**
Information and Guidance	**£0.98m**
Data Requirements	**£0.94m**
Total	**£5.1m**

38. Reflecting the views of consultees, we have used this figure as a maximum in this impact assessment; the minimum costs will be assumed to be £0.

PART 2: Amendments to include other regulatory functions omitted from the original Listing Order

Introduction

39. This part of the Impact Assessment assesses the impact of extending the application of the Compliance Code and the Principles of Good Regulation to a handful of new regulators not currently covered by them. Again, the Impact Assessment draws closely on the assumptions and estimates of costs and benefits drawn up and consulted upon in relation to the original Impact Assessment for the Compliance Code.

40. The national regulators affected by the extension of the application of the Compliance Code and the five Principles are the following:

- British Hallmarking Council
- The Coal Authority
- Office of Tenants and Social Landlords
- Her Majesty's Revenue and Customs (HMRC) – in relation to its enforcement of money laundering regulations only.

[15] http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/sanctions-bills/page44047.html

- Legal Services Board
- Renewable Fuels Agency

41. In addition to these statutory bodies, we are applying the Code to 22 professional bodies with responsibility to monitor compliance by their members with the money laundering regulations.

Impacts on Business and the Third Sector

42. The following section focuses on the estimates of annual costs and benefits of the introduction of the Compliance Code and the Principles of Good Regulation to businesses.

Annual benefits

43. The method applied in this section will be the same as in Part 1.[16] As explained above, we calculated the total administrative burden imposed on businesses and other regulated entities by the relevant regulators affected. For the same reasons set out there, we will attempt to calculate costs and benefits of "full Hampton Compliance" and assume that the Code will result in the delivery of **3%** of these.

44. As the relevant policy areas are of relatively recent introduction, the underlying figures are drawn not from the Government's 2005 Administrative Burdens Measurement Exercise, but from more recent Impact Assessments, reflecting 2007 prices.

45. Two Impact Assessments are relevant here:

    - The Impact Assessment that accompanied the Money Laundering Regulations 2007[17], under which Her Majesty's Revenue and Customs and the 22 professional bodies have a statutory duty to enforce money laundering laws, estimated that the minimum administrative costs arising from the legislation is £8m for the statutory bodies and £2.5m for the professional bodies: that is, a total of £10.5m for all the firms regulated by them.

    - The Impact Assessment accompanying the Renewable Transport Fuel Obligations Order 2007[18], which the Renewable Fuels Agency enforces, put the administrative costs arising from the legislation at £33m.

    The administrative costs in the two main policy areas therefore total £43.5m.

46. Again, the figure for full Hampton compliance can be arrived at by assuming reductions of 20% for inspections and 25% for data requirements. Unfortunately, the data available does not enable us to divide these new administrative costs into separate obligations relating to inspections and data requirements. For the purpose of this assessment, we

[16] Some of the relevant functions were included in the original Impact Assessment accompanying the Code, which included the British Hallmarking Council, the Coal Authority, the Legal Services Board, and the Office for Tenants and Social Landlords. These bodies were originally considered for inclusion in the original Listing Order and taken into account in the accompanying Impact Assessment. The estimates of business benefits in respect of these regulators were included in the original Impact Assessment for the Code, and are not, therefore, included in this assessment.

[17] The Impact Assessment is available at: http://www.opsi.gov.uk/si/si2007/em/uksiem_20072157_en.pdf (see page 36).

[18] The Impact Assessment is available at: http://www.opsi.gov.uk/si/si2007/em/uksiem_20073072_en.pdf (see page 7)

therefore assume a more cautious 20% saving for "full Hampton compliance". This would provide provides benefits of £8.7m. As before, it is assumed for the purposes of this Impact Assessment that the Code will result in the delivery of **3%** of this total (i.e. approximately 260,000). The relevant calculations are presented in the following table.

Money laundering	£10.5m	£2.1m	£63,000
Renewable Fuel	£ 33m	£6.6m	£198,000
Total	£ 43.5m	£8.7m	**£261,000**

47. Reflecting the views of consultees, we have used this figure as a maximum in this impact assessment; the minimum benefits will be assumed to be £0. (To avoid double counting, we have not included these possible reductions against the administrative burdens baseline figures in the relevant parts of the cover sheet to this Impact Assessment).

Costs to business

48. As with the changes addressed in Part 1 of the Code we believe there will be no annual or start-up costs for business.

Impacts on National Regulators

Annual benefits

49. We anticipate that the type of regulatory activity that the Code will encourage will lead to improved regulatory outcomes and associated productivity gains. However, for the purposes of this Impact Assessment, we have not attempted to quantify these. The efficiency gains from following the Code will result in the re-direction of resources to areas of greatest needs and to outcome-oriented activities. The benefits, therefore, would come from improved regulatory outcomes.

Annual Costs

50. The Code's Impact Assessment predicted net zero annual (ongoing) costs for regulators, based on the efficiency savings that would accrue to them from following the Code: for instance, with the ability to divert resources from more cost-intensive means of securing compliance (like inspections) towards advice-giving. As stated above under the section on public sector regulators, the expectation is that these savings would be re-directed to outcome-focused regulatory activities, such as advice-provision and awareness-raising. Therefore, the overall net burden for the fifty-six regulators already covered by the Code and the five Principles was estimated to be **zero**. Thus, their budgets are not expected to change as result of the introduction of the Code.

51. There is no reason to expect that the situation would be different in relation to these additional regulators. As such, we believe that the net annual costs of implementing the Compliance Code by the new national regulators affected to be **zero**.

Start up costs

52. There will however be some start-up costs for the new regulators not previously covered in the Impact Assessment for the original Listing Order, namely Her Majesty's Revenue and Customs, the 22 professional bodies enforcing the money laundering regulations, and the Renewable Fuels Agency. These are relatively small however (and some, for reasons set out above at Footnote 10, above) were already included in the Impact Assessment that accompanied the Compliance Code.

53. The duties of HMRC and the professional bodies in relation to the money laundering regulations form a relatively small component of their overall primary activities. Additionally, both the HMRC and the professional bodies have made a commitment to a risk-based approach to implementation of the money laundering regulations. The Code will provide a statutory basis for such an approach.

54. Nevertheless, it is necessary, for the purpose of this Impact Assessment, to analyse the possible start-up costs according to the area of activity affected by the Code. We will adopt the same approach as in the previous section.

55. As in Part 1, the estimates adopted for the original Impact Assessment and use information provided by the Environment Agency as a means of making estimates for other regulators.

56. For the consultation Impact Assessment, we set out some assumptions about the likely start-up costs for implementing the Code for HMRC based on the relative scale of HMRC and the professional bodies compared to the Environment Agency. We also asked for additional data which might be used to inform the final calculation. Both assumptions were questioned, but no alternative figures were offered.

57. In the consultation Impact Assessment, we assumed that:

    - HMRC's resources devoted to rolling out a risk-based approach under the Compliance Code equates to 2.5% of the costs for the Environment Agency.

    - the professional bodies do not have the same range of enforcement powers as HMRC and other statutory bodies in respect of the money laundering regulations. Thus, we assumed that their resources devoted to rolling out a risk-based approach in relation to the Code's obligations will equate to less than 1.5% of the costs for the Environment Agency.

58. Consultees did not address the specific assumptions used, but made the following points:

    - HMRC and the professional bodies argued that the costs involved did not take account of the possible costs of legal proceedings based on the statutory implications of the Code;

    - some of the accountancy bodies argued that they already applied the Hampton principles on a voluntary basis (or in response to market pressures and other factors). Review of the sort which formed the main part of the start-up costs set out in the original impact assessment would therefore be unnecessary.

59. The Government does not believe that legal costs should be any different in this sector than for other regulators already subject to the Code as a statutory requirement. One year into the Code's statutory existence, we are not aware of any legal challenges that have been made on this basis. Those professional bodies which are already subject to comparable legal requirements did not question the assumptions used.

60. The Government acknowledges that, in order to be prepared for possible challenge, some form of review of procedures will be necessary. We believe that the potential start-up costs involved in reviewing systems (to give assurance that the legal obligation to "have regard to" the Code has been met) will be necessary.

61. We believe therefore that the original assumptions used in the Impact Assessment – present a fair means of estimating the likely costs.

Economic Progress:

62. This specific obligation merely requires a change in a regulator's approach rather than the setting up of particular structures. Thus, regulators are required to adopt a particular enforcement approach if the benefits justify the costs and it entails the minimum burden compatible with achieving desired objectives.

Risk Assessment / Inspections:

63. The application of the Compliance Code will only affect, as a matter of statutory obligation, relatively small parts of the total work of both HMRC and the professional bodies (unlike the Environment Agency which is under a statutory duty to have regard to the Code in respect of virtually all its regulatory functions).

64. The Environment Agency's inspection costs were estimated at £4.2m (see paragraph 25).[19] Based on the assumption set out in Paragraph 57, we estimate overall costs of £105,000 for HMRC (2.5% of the Environment Agency figure); and £63,000 (1.5%) for the professional bodies.

65. The annual budget of the Renewable Fuels Agency is equivalent to 0.002% of the annual budget of the Environment Agency[20]. We assume the cost of rolling out a risk-based approach for the RFA to be the same proportion of their annual budget as costs for the Environment Agency, and is therefore estimated at £8,500. This brings the total costs for the money laundering and renewable fuels policy areas to some **£176,500**.

66. **Advice and Guidance/data requirements -** providing businesses with advice and guidance is a good practice encouraged by the Code. It could be argued that this requirement will not result in any start-up costs for national regulators. However, it is likely that the implementation of this obligation may lead the regulators affected to review their guidance materials and processes. Figures provided by the Environment Agency, which is responsible for many pieces of guidance shows that it would cost an estimated £1.3m to undertake a full review of its forms and guidance. Again, assuming that costs

[19] These estimates are also based on the calculation that the Environment Agency's costs cover all its activities, while the costs to the HMRC and the professional bodies relate to less than 5% of their overall policy areas and also because these bodies already have a commitment to adopt a risk-based, proportionate approach to enforcing the money laundering legislation.

[20] While the annual budget of the Environment Agency is £1 billion, the annual grant of the RFA is £2 million. Furthermore, while the Environment Agency has a wide range of policy areas, the main policy responsibility of the RFA is the implementation of the Renewable Transport Fuel obligation.

for HMRC are equivalent to 2.5% of those for the Environment Agency and the professional bodies' costs are 1.5% of the Environment Agency's costs, we estimate costs of £32,500 for HMRC and £19,500 for the professional bodies. We assume that that the costs for Renewable Fuels Agency and other bodies would be insignificant. Therefore, the total costs to the regulators of having regard to the Code's standard on the provision of advice and guidance are estimated to be **£52,000**.

67. **Compliance and Enforcement actions** - the costs and benefits to regulators of complying with the Macrory Penalties Principles and using an expanded sanctions toolkit are covered in the Impact Assessment for the Regulatory Enforcement and Sanctions Act 2008. These estimates have not been included in this analysis, but we believe that following the principles should provide a net benefit to regulators.

68. **Accountability -** the specific obligations of the Code require regulators to have transparent outcome measures. We believe many regulators either already have these measures in place or intend to have them in place in any case regardless of the Code, and so should incur no additional costs arising from complying with the Code.

69. The specific obligations of the Code require regulators to have appeals procedures. A cost-benefit analysis of the new appeals procedures associated with the Macrory expanded sanctions toolkit can be found in the Impact Assessment for the Regulatory Enforcement and Sanctions Act.

70. Previous paragraphs show that the total start-up costs to the regulators covered in this part of the Impact Assessment and attributed to the Compliance Code are estimated at around **£228,500**.[21]

71. Reflecting the views of consultees, we have used this figure as a maximum in this impact assessment; the minimum benefits will be assumed to be £0.

PART 3: Extension to the Non-Devolved Functions of Local Authorities in Scotland, Northern Ireland and Wales

Introduction

72. Local Authorities in England have been required to have regard to the Compliance Code in performing many of their regulatory functions since April 2008. The Government consulted on extending this approach to the relevant regulatory functions which are:
    - reserved to Westminster (ie not a responsibility of the devolved administrations);
    - and performed by local authorities in Scotland, Wales and Northern Ireland.

Estimating the Impact of the Extension

73. This part of the assessment seeks to identify the costs and benefits arising from applying the Code to non-devolved functions performed by local authorities in Scotland, Wales and Northern Ireland.

[21] This is likely to be an overestimate. The Renewable Fuels Agency, in their response to the consultation, argued that there would be no significant costs for them in adopting the Code. For consistency, we have continued to apply the same principles to the estimate in their case as elsewhere, but this total should be seen in the light of their views.

74. The Impact Assessment for the Compliance Code estimated that the impact of the Code would be cost neutral for local authorities. This assumption has been extended here to this estimate of the impact of the Code on local authorities in Scotland, Wales and Northern Ireland.

75. Local Authorities in Scotland, Wales and Northern Ireland, and their representatives had a number of comments on the specific estimates of the likely impacts that we consulted upon: these have been accordingly reduced in line with their comments here.

Impact on Business and Third Sector

76. For this IA we estimate no costs and benefits from extending the Compliance Code to cover local authorities outside England. There are in fact likely to be number of benefits for business from (for instance) better tailored advice. There will also be benefits for business from having to devote less productive time to inspections. It is hard to quantify the relevant benefits, as the circumstances of specific businesses will differ: consultees were invited to give their views as part of the consultation, but no responses were received on this specific point.

Impact on Local Authorities

Annual Benefits for Local Authorities

77. The Compliance Code Impact Assessment anticipated costs to local authorities to be equal to the scale of benefits, in the order of between £18.2 million and £30 million for local authorities.

78. This estimate (set out at pages 65 to 66 of the Response to the Consultation on the Code)[22] was based on the assumption that implementation of the Code might result in a 20-33% reduction in the number of inspections. It estimated a representative unit cost for local authorities for a typical inspection and calculated the cash impact of a reduction in activity on this scale.

79. The assumptions involved in this calculation were tested as part of the consultation; the key data involved in the calculation are set out below

Wage costs for an inspector	£18.50[23]
Hours involved in an inspection	2 hours
Number of inspections carried out by local authorities	2.5 million[24]
Reduction in inspections	20% -33%[25]

[22] Available at http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/page44055.html
[23] Assumption consulted upon as part of Compliance Code Impact Assessment, page 68.
[24] Figures from 2003-4 published in the Hampton Report (Reducing administrative burdens: effective inspection and enforcement, HM Treasury, 2005), 11.

(range)	

80. For the purposes of this estimate, we need to establish the comparable figures for Scotland, Wales and Northern Ireland. Three of the variables here are likely to be the same: there is no evidence to suggest that the wage costs involved, the hours involved in a typical inspection, and the likely reduction in inspection numbers, will be significantly different from the position in England.

Estimating the number of inspections in Scotland, Northern Ireland, and Wales

81. There are no comprehensive data on the total number of inspections carried out in Scotland, Wales and Northern Ireland. As a basis for calculation, we put forward a number of assumptions in the consultation Impact Assessment. A number of local authority consultees suggested that the total adopted as a result of these assumptions seemed unrealistically high: for this impact assessment, we have therefore reduced the figure.

82. It would be misleading to assume that the numbers adopted for English local authorities can simply be translated to local authorities elsewhere:

- the Compliance Code Impact Assessment drew on CIPFA statistics for 2003-4 figures; *most* of the component statistics included local authorities in Wales; *some*, but not all, included local authorities in Scotland.

- many of the functions that are carried out by English local authorities are devolved matters elsewhere, and therefore would fall outside the scope of the proposed changes to the Code listing order;

- the structure of local government is unitary in character outside England; individual councils will perform a wider range of functions than many of the "two tier" authorities in England;

- in Northern Ireland, relatively few of the relevant regulatory functions are performed by local authorities. Trading Standards functions are, generally speaking, a function of central government.

83. The proportion of reserved versus devolved work is particularly hard to quantify given the diverse implications of devolution. On the basis of all these considerations, we consulted on the assumption that the number of relevant inspections involved for Scotland, Northern Ireland and Wales would fall between 3 and 5% of the total number of inspections conducted by local authorities in England as estimated in the Compliance Code impact assessment, meaning between 75,000 and 125,000 inspections as a whole. Consultees were specifically asked to give their views on their figure. While a number of respondents from a local authority background found that this was unrealistically high, no alternatives were offered. For the purposes of this Impact Assessment therefore we will adopt a reduced range, of between 1 and 3% - ie. 25,000 to 75,000 inspections. The following calculations are all based on these revised figures.

[25] Again, this assumption was consulted upon, and modified as a result of the consultation, in the context of the Compliance Code, see pages 60-61.

Likely benefits of a reduction in the number of inspections

84. On the basis of the estimates in the Code Impact Assessment, we believe that there will be a reduction of between 25% and 33% in the number of these inspections as a result of the implementation of the proposals under consideration: that is, a reduction of this order against the overall total of between about 25,000 and 75,000 inspections in a year. The likely cost of each of these inspections, based on the considerations set out above – that is, two hours' work at an hourly rate of £18.50 – would amount to £37. The benefit of full Code implementation for local authorities would therefore fall in a range between (approximately) **£230,000 and £920,000.**[26]

Annual Costs for Local Authorities

85. The Impact Assessment accompanying the Compliance Code anticipated commensurate costs for local authorities, as resources were focused elsewhere on activities like giving advice to businesses. We have no reason to suppose that this will impact differently on local authorities outside England: the annual benefits are therefore also likely to fall in a range between **£230,000 and £920,000**

Start-up (one-off, non-annual) costs for local authorities

86. The Impact Assessment accompanying the Compliance Code estimated that each local authority would require 10-15 days of officer time to update enforcement policies in line with the recommendations of the Code. For conservatism (in order not to underestimate the costs) we can make a similar assumption for each of the 80 local authorities in Scotland, Northern Ireland and Wales. Using this assumption, the total start-up costs would therefore fall (at the most) within a range between about **£110,000 and £160,000**[27]. We estimate that these will be spread equally over three years.

87. The figure is in reality likely to be considerably lower than this, and we specifically sought views on this point in the consultation. Some consultees argued that many local authorities already regulate in the spirit of the Code, and that there would in fact. be minimal need to review existing procedures. The Government believes that these moderate start-up costs will be in any case offset by the associated benefits, including efficiency savings.

[26] That is, a reduction in a range between 25% and 33% of a total of 25,000 to 75,000 inspections. The minimum of the range is derived as follows: 25% of (25,000 inspections x 2 hours per inspection x an hourly rate of £18.50) = 25% of £925,000 = £231,250; the maximum as follows: 33% of (75,000 inspections x 2 hours per inspection x an hourly rate of £18.50) = 33% of £2,775,000 = £915,750.
[27] That is: between 72 and 108 hours' work at an hourly rate of £18.50, over 80 local authorities.

COSTS AND BENEFITS

SUMMARY TABLE (Figures are rounded to the nearest £100,000)

Description	Total	Paragraph Reference
Annual Benefits: Total	**£0.2 to £5.2 million (midpoint £2.7 million)**	
Annual Benefits for Local Authorities	£0.2 million to £0.9 million (midpoint £0.6 million)	84
Annual Benefits for Business	£0 to £4.3 million (midpoint £2.0 million)	
Of which, Public Sector Regulator Extension (Part 1) gives the following benefits:	*£0-£4.1 million*	19-20
Of which, Other Regulatory Functions (Part 2) gives the following benefits:	*£0-£0.3 million*	46-47
Annual Costs: Total	**£0.2 to £0.9 million (midpoint £0.6 million)**	
Annual Costs for Local Authorities (Part 3)	£0.2 to £0.9 million (midpoint £0.6 m)	85
Transition (One-Off) Costs: Total	**£0.1 to £5.5 million (midpoint £2.8 million)**	
Regulator Transition costs: Public Sector Regulator Extension (Part 1)	£0 to £5.1 million	37-38
Regulator Transition costs: Other Regulatory Functions (Part 2)	£0 to £0.2 million	70-71
Regulator Transition Costs: Local Authorities (Part 3)	£0.1-£0.2 million	86

Specific Impact Tests

Below is a list of the other specific impact tests we have considered.

Competition Assessment
The proposals being taken forward will put the Hampton principles that relate to regulatory activity on a statutory footing. There are unlikely to be any impacts on competition, either directly or indirectly.

Small Firms Impact Test
The proposals are designed to streamline bureaucracy in order to help companies boost their growth and competitiveness. The Code should lead to a more consistent and efficient 'light touch' regulatory environment for businesses generally. As such, it is of significant potential benefit to small firms and will not impact adversely on small firms. (The views of small businesses will be sought as part of the consultation process).

Legal Aid

There will no impact on Legal Aid.

Sustainable Development, Carbon Assessment, Other Environment
We do not believe that there will be any impacts on these areas. We have looked at the initial tests and are satisfied that they do not apply.

Health Impact Assessment
We do not believe that there is a health impact to the proposals.

Race, Disability, Gender and Other Equality
We do not believe that there will be an impact on the equality strands as the proposals impact on business and regulators not on individuals. We have, however, looked at each of the equality impact initial tests individually and are confident that there is no impact.

Human Rights
The Compliance Code contains guidance for regulators setting policies or principles about the exercise of regulatory functions. Regulators will be under a legal duty to have regard to the Code, but this duty is subject to any other legal requirement affecting the exercise of the relevant regulatory function. National regulators and local authorities are public authorities for the purposes of the Human Rights Act 1998, and section 6 of that Act makes it unlawful for them to act in a way that is not compatible with the Convention rights (the human rights protected by the European Convention on Human Rights).

Regulators will also be under a duty to have regard to five principles of good regulation set out in s.21 of the Act. This duty is again subject to any other legal requirements affecting the exercise of the function.

The Code and the five Principles of Good Regulation are concerned with how regulators regulate. The Code or five principles may affect the way in which that public body exercises its regulatory functions which in turn may engage a person's human rights (for example, article 1 protocol 1 (protection of property)). In these circumstances, the way in which the public body acted would need to be justified. In such cases, we do not consider that compliance with the Code or 5 Principles of Good Regulation should require any interference with protected rights. Moreover, as the duty to have regard to the Code and the five Principles of Good Regulation is expressly subject to any other legal requirements, such as the Human Rights Act, the proposals are compatible with the Convention Rights.

Rural Proofing
We have considered the initial test on rural proofing and are confident that there is no impact on rural communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

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