

# **2<sup>nd</sup> Review of Northern Ireland Better Regulation Strategy 2001**

**March 2010**

## Contents:

1. Introduction .....	1
2. Background.....	2
First Strategy Review: 2006-07 .....	2
Implementation Action Plan.....	3
Terms of Reference for 2009-10 Review.....	5
3. Current Position .....	7
Scope .....	7
Regulatory Impact Assessment Process.....	8
Other Regulatory Reviews .....	11
Better Regulation Standards .....	12
Stakeholder Involvement.....	16
Strategy Reporting and Monitoring.....	17
EU, UK, and Devolved Administration activities .....	18
4. Objectives for the new period: .....	25
5. Standards to apply or adhered to.....	27
6. Monitoring and Reporting .....	29
7. Better Regulation Action Plan 2010-1015.....	30
Better Regulation Strategy .....	30
Regulatory Impact Assessment.....	31
Stakeholder .....	31
Standards and Uniformity.....	32
Collaboration .....	32
Marketing and Communication.....	33
8. Conclusion.....	35
9. Referenced sources for this review.....	36

## **Northern Ireland Better Regulation Strategy**

### **1. Introduction**

- 1.1. Regulation continues to play an important role in the competitiveness of Northern Ireland businesses. Good progress has been made over recent years to ensure that the regulatory environment in Northern Ireland is as good as, if not better, than that in other parts of the UK and Europe, for the ultimate benefit of all our citizens.
  
- 1.2. Many of the Departments in Northern Ireland have a significant role to play in terms of making and enforcing regulations within the devolved remit of the Northern Ireland Executive and Assembly. The Department of Enterprise, Trade and Investment (DETI) has a lead role in relation to better regulation strategy. Through the Northern Ireland Civil Service (NICS) network of better regulation contacts, DETI encourages Departments to operate good regulatory and enforcement practices when setting and implementing policies on devolved issues. Collectively the NICS works towards achieving the vision of the right regulatory environment for the benefit of the businesses in Northern Ireland as well as the wider community.
  
- 1.3. This report covers a stock take of the current strategy and progress against the Implementation Action Plan produced as a result of the last review of the NI Better Regulation Strategy. It also includes recommendations on what further steps are required to maintain our position as a region with good regulatory practices in place.
  
- 1.4. The Better Regulation Unit, within the Department of Enterprise, Trade and Investment, would like to thank all those who have contributed to the review. This includes all the main Departments in Northern Ireland, local business representative bodies, enforcement bodies, stakeholders, and contributions received from better regulation contacts in other regions of the UK, Republic of Ireland and Malta.

## 2. Background

2.1. The Northern Ireland Better Regulation Strategy was agreed by the Executive in 2001 and endorsed by all the Northern Ireland Departments. Its aim was to reduce the regulatory burdens on businesses, and in so doing to encourage and assist the competitiveness and growth of Northern Ireland businesses.

2.2. At that time government recognised the importance of reducing regulatory burdens on business, particularly small and medium sized enterprises. The Regulatory Impact Assessment policy development tool was already in wide spread use by officials. The strategy took this a number of steps forward.

2.3. Key proposals in the 2001 Strategy were:

- To review all legislation which previously required a Regulatory Impact Assessment (RIA)
- Introduce a micro-business test as part of the RIA process to assess the potential impact on very small businesses
- Revise NI Guidance on RIA requirements
- Consideration of business concerns
- Guidance on new legislation affecting business to be provided by Departments and/or Agencies at least 12 weeks before the legislation comes into effect
- Introduction of a Concordat to serve as a blueprint for fair, practical and consistent enforcement

### **First Strategy Review: 2006-07**

2.4. A review of the NI Better Regulation Strategy was carried out by the DETI Better Regulation Unit, in 2006-07. The main purpose of this review was to ensure that Northern Ireland regulatory policy and practice appropriately reflected developments since 2001 in Great

Britain and elsewhere.

2.5. The review examined developments in Whitehall and in the devolved regions of the UK. Further scoping was undertaken with better regulation activities in the Republic of Ireland and at EU level.

2.6. The outcome was an endorsement of the principles underlying the 2001 strategy, together with an Implementation Action Plan. This included 10 key strategic actions, designed to enhance and develop the strategy.

### Implementation Action Plan

2.7. The actions contained in the action plan sought to demonstrate the joined up approach taken across the NICS in adopting better regulation as a key tool for policy making and ensuring compliance. The table below details the actions and shows the status of each, as of end March 2010.

Initiative	Responsibility	Action	Update
<b>Better Regulation Annual Report</b>	DETI will be responsible for the co-ordination and publication of the report with all Departments providing input.	Departments will be asked to provide examples of good practice in Better Regulation, actions being taken and outcomes, details of all completed and partial RIAs and details of what is planned for the next 12 months.	Three reports have been produced for each year 2006-07, 2007-08 and 2008-09. These are available on the better regulation website – <a href="http://www.detini.gov.uk/betterregulation">www.detini.gov.uk/betterregulation</a>
<b>Better Regulation Objective in Corporate Plans</b>	All Departments	Departments are required to include an objective relating to Better Regulation in their Corporate Plan/Operating Plan.	Departments asked to confirm each year.
<b>Training</b>	DETI	Departments to consider if there is a need among staff involved in legislation and policy	'Completion of RIA' has been designed and piloted and there is now a generic training needs course available through

<b>Initiative</b>	<b>Responsibility</b>	<b>Action</b>	<b>Update</b>
		work for training on the RIA process and to contact DETI with details.	HRConnect.
<b>Use of Websites</b>	All Departments	All Departments are required to fully utilise their websites to promote all aspects of Better Regulation and ensure that all final RIAs are posted to the web.  DETI to establish a central Better Regulation site.	All Departments continue to use their websites to convey better regulation messages and to publish RIAs.  DETI has made some additional enhancements to its Better Regulation web presence: <a href="http://www.detini.gov.uk/betterregulation">www.detini.gov.uk/betterregulation</a>
<b>Involvement with Stakeholders</b>	DETI	DETI will engage with representatives of the main NI business organisations on a regular basis.  DETI will investigate the use of the website to encourage stakeholder involvement	Three meetings of a new Better Regulation Stakeholders Forum have taken place since 2008 and this will continue as a bi-annual forum for bringing together policy makers and legislators, enforcement bodies and business representative bodies, to share knowledge, report progress and listen to concerns from stakeholders.
<b>Review of Existing Legislation</b>	All Departments	All Departments to review existing legislation to identify opportunities for repeal, consolidation or rationalisation.	Review completed – See Annex C of 2007-08 Annual Report
<b>Review of Forms Currently Issued to Business</b>	All Departments	Departments to review all forms currently in use and take appropriate action to remove, consolidate or amend as appropriate.	Review completed – See Annex B of 2007-08 Annual Report
<b>Review of RIA Requirements</b>	DETI	DETI to review RIA guidance	Initial review completed
<b>Review of Enforcement Arrangements</b>	DETI	DETI to monitor developments in Whitehall in relation to the regulatory sanction reforms proposed by	DETI continues to liaise with the Department for Business Innovation and Skills and will use the Better Regulation Stakeholders Forum (BRSF) to consider NI implications of any

<b>Initiative</b>	<b>Responsibility</b>	<b>Action</b>	<b>Update</b>
		Macrory and ensure that NI Departments consider appropriate action here	developments.
<b>To Examine Whitehall Simplification Plans and Consider Need to Replicate in NI</b>	All Departments	Each NI department to examine the simplification plan of its Whitehall equivalent and consider what action is necessary to replicate improvements in Northern Ireland.	Simplification plans examined and action taken from a NI perspective by Departments. Progress has been reported on in each Annual Report.

2.8. This key set of actions was drawn up to reflect the various stages and elements of better regulation – from the policy makers and legislators who are required to consider the potential impact on the target business sectors in Northern Ireland (through the RIA process), to continued dialogue with the wider business community (through the Better Regulation Stakeholders Forum). Reporting on progress and being able to demonstrate the impact of the strategy being made is fundamental and the Annual Report is a key tool for achieving this. It is endorsed by Executive Ministers each year and assessed by the ETI Committee in the Assembly.

### **Terms of Reference for 2009-10 Review**

2.9. In April 2009, DETI made a commitment to undertake a further review of the NI Better Regulation Strategy. The Terms of Reference for this review were:

- To produce an overview of the current NI position compared with that of Whitehall (all UK for non devolved matters and England), Scotland and Wales.
- To note any developments over the last three years at EU level and in the Republic of Ireland.

- To liaise with regulators and policy makers across the NI Departments and with business representatives and wider stakeholders to identify and agree the key issues to be addressed by the Implementation Action Plan for the three years from 2010-11.
- To consider what improvements can be made in the way the NI Better Regulation Strategy and Implementation Action Plan is communicated, implemented and monitored over the next three year period.

2.10. The methodology included the following key stages:

- Desk and field research (covering the nations of the UK, ROI, EU, Malta and better regulation in general);
- Assessment of specific research studies undertaken by other organisations which relate to better regulation;
- Survey of NICS Departments on the NI Better Regulation Strategy and related matters such as the Regulatory Impact Assessment process;
- Bilateral discussions with business representative bodies and local authority representatives;
- Consultation with members of the NI Better Regulation Stakeholders Forum and wider consultation on findings and proposals for the review report.

2.11. The results of the Review will be considered by DETI and the DETI Minister ahead of a wider consultation, including with the ETI Committee. The final review/action plan would then be submitted to the Executive for agreement.

### **3. Current Position**

3.1. This section of the report is designed to record the findings of the research in terms of the current position and to lead into setting key strategic objectives and a series of supporting recommendations for the NI Better Regulation Strategy.

#### **Scope**

3.2. The 2001 strategy was designed to cover regulatory activity that impacted on the Business, Charitable and Voluntary and Social Economy Sectors of the Northern Ireland Community. Its scope extended to the 11 NICS Departments only and the associated tools were to be used as part of the policy making process on strategic policies and all primary and relevant secondary legislation.

3.3. The Department of Enterprise, Trade and Investment (DETI) is identified as the lead department for the better regulation strategy. This is primarily due to its remit of championing the business community. A network of better regulation contacts has been established with the other NICS departments and this acts as a conduit for information gathering and sharing with the respective policy and regulatory areas of their Departments. While DETI has lead responsibility for the development and oversight of the strategy, each NI Department takes responsibility for its own Better Regulation activities to ensure the strategy is being appropriately adopted.

3.4. In GB the scope of better regulation activity extends to include all primary and secondary laws that are regulatory in nature and impact on society and also includes the local authority level of government. Impact assessments cover all aspects of the community – including citizens and the public sector. The Republic of Ireland is not prescriptive as to the sectors impacted by regulation and has a requirement that the Regulatory Impact Analysis be carried out on all primary legislation and major secondary legislation.

3.5. Should the scope of the NI Better Regulation Strategy be extended?

As a next stage development, given the enforcement roles currently undertaken by local councils on Environmental Health and the proposed new enforcement roles under the Review of Public Administration (RPA), it is recommended that the NI Better Regulation Strategy be extended to cover all policymaking, legislation and enforcement activities undertaken by the NICS Departments **and** NI Local Authorities. It should also be extended to cover all enforcement bodies sponsored by NI Departments that operate as arms length organisations and are under the remit of the NI Executive and NI Assembly.

3.6. In relation to the sectors that the strategy should cover, it is considered at this stage that the specific sectors of Business, Charitable and Voluntary and Social Economy Sectors be retained as those which this strategy impacts on. Any future review can consider bringing this into line with GB and extending its remit to cover all sectors in the NI community.

### **Regulatory Impact Assessment Process**

3.7. A key policy development tool used across governments, including Northern Ireland, is the Regulatory Impact Assessment (RIA). This tool is designed to assess the potential impact on those affected by a regulation or policy and to consider the potential administrative burden and cost to them. With the consideration of possible options, it helps to guide policy makers and Ministers to determine which option is best suited to the situation being considered.

3.8. The RIA process in Northern Ireland has been in existence for some time and has been enhanced and improved from time to time to bring it into line with thinking and developments elsewhere – for example in Whitehall. It was recognised as part of the last review exercise that

the RIA process should be reviewed and some initial work was undertaken in the area of costs. At that time, however, it was decided not to proceed further, given changing situations in GB, particularly in relation to work being done in Whitehall in relation to considering the introduction of Regulatory Budgets for each Department. Subsequently in 2009, the UK Government drew back on the Regulatory Budgets initiative due to the recession.

3.9. The current RIA process in Northern Ireland has three distinct stages – Initial, Partial and Full. The supporting guidance is designed to guide staff and users of the RIA through each of these stages. In general the feedback from the survey which was issued to NI Departments was that the guidance, and the process itself, could usefully be reviewed with a view to streamlining. In addition discussions with Departments highlighted the key role that Departmental Economists should play in supporting policy makers in undertaking the Regulatory Impact Assessment. It is not clear how involved departmental economists are in the policy making of every department, however the feedback from officials who participated in this review is that the relationship with policy makers and Departmental Economists in undertaking the RIA's would add considerable weight and focus to them.

3.10. From discussion with colleagues in other regions of the UK and in ROI, their Impact Assessment (GB) or Regulatory Impact Analysis (ROI) consists of the one process and is not sub-divided as is the case in NI. The Republic Of Ireland Regulatory Impact Analysis process also considers the cross border impact of new regulations. Given the importance of the ROI market to NI businesses there may be scope for considering introducing a cross border impact test as part of the NI RIA process.

3.11. Also, in carrying out RIAs, NI departments do not use a standard methodology for assessing costs. Widely adopted across Europe,

including UK, ROI and Malta is the Standard Cost Model. This was originally developed by the Dutch and has become the key modelling tool for calculating costs and financial administrative burdens associated with regulations and the impact on the wider business community. Whilst not a strictly scientific model, it is a mechanism for base lining cost implications and uniformly facilitates future simplification calculations to demonstrate contributions to administrative burden reductions.

3.12. An action from the 2006-07 review was the development of a training course for NICS staff on Completion of a RIA. This was designed in 2008-09 and piloted later in 2009. The course was signed off in late 2009 and is now a generic training tool for the NICS and is available through HRConnect. While this course is in response to the current RIA position, it is recognised that the content may require further review to bring it into line with any future enhancements proposed as part of this review.

3.13. In December 2009 the EU Services Directive was implemented in Northern Ireland. This requires all competent authorities and local authorities to provide online the appropriate guidance and application systems for completion by anyone in the EU that may wish to operate a service within another Member State. As this major milestone is now past and significant work has been completed across Northern Ireland in preparing for the implementation date, it is necessary to consider how the requirements of the EU Services Directive are mainstreamed.

3.14. It is proposed that the following actions be undertaken:

- The RIA process be reviewed with the aim of delivering a single RIA which staff can use and decide at what stage and to what level of detail they should complete it and that discussions are held with Head of Profession for Economists

to ascertain how better to include Departmental Economists in the RIA process;

- The RIA Guidance be reviewed to reflect the changes emanating from the review of the RIA process; and, that guidance available through the NICS Policy Toolkit be reviewed to ensure it accurately reflects the part RIA's have in good policy making and links through to the relevant guidance;
- The Standard Cost Model be considered and assessed to determine whether it should be adopted as the only model for costing the impact of regulations on the business community as part of the RIA process;
- Assess how best to integrate the needs of the EU Services Directive into the RIA process;
- Consider introducing a cross border impact test in the RIA process;
- Take proactive steps to raise the profile of the RIA process with NICS officials.

### **Other Regulatory Reviews**

3.15. Two major reviews were published in 2009 that relate to regulatory impact on business. These were – the independent Review of the Agrifood sector Better Regulation and Simplification, for the NI Department of Agriculture & Rural Development (DARD) and the Department of the Environment (DOE); and a cross border study undertaken by InterTradeIreland on the Regulatory Barriers to Cross Border Trade and Business.

3.16. While the Independent Review for DARD/DOE focuses specifically on the agrifood sector, the final report does make recommendations which have potential impact wider than the sector and indeed better regulation in general. In this regard the more general better regulation recommendations are in line with the thrust of

this review and the way forward proposed in this report on wider better regulation. It would be fair to say that work has already progressed on a number of fronts which would address recommendations made, for example, in the area of training, and proposals are included in this review which would address others, for example, the area of monitoring.

3.17. The InterTradeIreland report was a study of the impact of a small sample of comparable regulations made on either side of the border, on businesses that trade or would wish to trade or do business in either or both jurisdictions. Given that Northern Ireland is a region of the UK and ROI is a state in its own right, there were difficulties in progressing aspects of the report at Northern Ireland level, without taking into account wider UK matters. Indeed the majority of the sample of regulations considered in the study were in fact UK reserved matters and recourse would need to be made to the UK Government on these. It is recommended in the report that consideration be given to including in the RIA process an assessment of the cross border impact on business of new regulations or policy. This will be considered as part of the wider review of the RIA proposed in this report.

### **Better Regulation Standards**

3.18. As part of this review it is appropriate to summarise the standards which are applied or adopted in Northern Ireland in the context of better regulation. First and foremost are the **Principles of Better Regulation**, which are: **Proportionate, Accountable, Consistent, Transparent & Targeted**. These were identified by the UK Government's Better Regulation Taskforce, in 1997, and remain entirely applicable. The ROI has six principles of better regulation – Necessity, Effectiveness, Proportionality, Transparency, Accountability and Consistency.

- 3.19. The **Enforcement Concordat** is a Whitehall voluntary code of practice which all local authorities in the UK can sign up to. It defines enforcement activity in the broadest sense, including advisory visits and other assistance, and is not limited in the regulatory activities it applies to. Local Authorities can decide whether or not to sign up to the Concordat and apply its principles within their remit. The **Regulators Compliance Code** is a statutory code that came into force in April 2008 and applies to trading standards, environmental health, licensing and fire and rescue for all English local authorities. The Regulators Compliance Code aims to promote efficient and effective approaches to regulatory inspection and enforcement, improving the outcome of regulation without imposing unnecessary burdens.
- 3.20. While both these documents were principally devised for local authorities in England, some parts of the Northern Ireland enforcement community have signed up to adopting their principles and ethos, for the benefit of the local community. It is not entirely clear at this stage in the review process to what extent these documents are directly relevant to all regulatory and enforcement activity in Northern Ireland and whether there may be merit in extending the adoption of the principles of either or both documents to other enforcement areas within the NI remit.
- 3.21. It is therefore proposed that both documents be considered and assessed by all regulatory and enforcement bodies in Northern Ireland and their relevance considered. A view can then be taken as to whether a broader approach to adoption is required.
- 3.22. In 2009 DETI signed a **Statement of Intent with the Local Better Regulation Office** (LBRO) in England so that the principles and practical outworkings of the Primary Authority Scheme could be applied in Northern Ireland. The remit of the LBRO is principally for GB, however to ensure that NI businesses were not at a disadvantage

a Statement of Intent was drawn up and signed between DETI, all NI local authorities (for their Environmental Health roles) and the NI Trading Standards Service, to ensure that all businesses in NI could benefit from the Primary Authority Scheme operated by the LBRO. Currently the scope of this arrangement only covers trading standards and environmental health. If the scope of the LBRO and its Primary Authority Scheme were to be enhanced to include other key enforcement activities, then NI officials will consider extending the scope of the Statement of Intent to ensure benefits are available to those affected in NI.

3.23. The **Northern Ireland Guidance on Regulatory Impact Assessment** is the primary guidance document for completion of a RIA and it is recognised that this guidance should be reviewed to take account of the review of the RIA process in NI. Once this is complete it will set a new standard in NI for undertaking RIAs.

3.24. The 2001 Strategy stipulated that Departments should provide guidance on new legislation that affected businesses, at least 12 weeks in advance of the legislation coming into force. The only exemptions from this requirement are when timetables are unavoidably dictated by either emergency situations or by EU or other International process. An emergency situation could be risks to public health, for example. DETI, along with the other Departments, is developing a supporting **NI Code of Practice on Guidance on Regulations**. This was developed on foot of the Whitehall Anderson Review of the guidance that is made available to businesses. This NI draft document is designed to set a standard for the production of guidance for businesses in NI resulting in what should be clear, concise, meaningful and easily followed guidance. Once the document has been approved it will be adopted as a standard for officials.

3.25. Currently in NI there is an effective network across the NI Departments in relation to better regulation. Each department has a nominated contact for DETI Better Regulation Unit to liaise with and staff are aware that this unit is also available to provide any advice and guidance, particularly in relation to RIAs. If the scope of the NI Better Regulation Strategy is to be expanded to include all enforcement bodies and local authorities a review of the network of better regulation contacts may be required to ensure that multi-directional contact and communication is achieved.

3.26. Online technology increasingly plays an important role as a channel for communicating and interacting with customers and users of a service. NIBusinessInfo is the government web portal for all matters relevant to the NI business community and greater consideration should be given on how the local regulatory environment can capitalise on the investment in this platform and how greater integration can be achieved with it. Improvements have already been made to the better regulation pages on the DETI website, however with the ever changing standards in technology all Departments and organisations should consider how best to make greater use of online technologies. This can be in areas such as marketing of better regulation and the regulatory process from consultation and impact assessment through to guidance and support.

3.27. It is therefore proposed that the following be considered in more detail to further improve the standards adopted in NI:

- Create a comprehensive list of enforcement organisations that come under the scope of the NI Better Regulation Strategy;
- Investigate the need for creating a forum for enforcement bodies to share best practice on enforcement and assess the relevance of the

Enforcement Concordat and Regulators Compliance Code;

- Devise new Guidance on Completing a Regulatory Impact Assessment, following review of the RIA process;
- Introduce the draft NI Code of Practice on Guidance on Regulations, once approved;
- Assessment of how best to utilise online technologies to support better regulation and the regulatory regime in NI;
- Raise the profile of standards to be achieved in regulatory activity, through a marketing campaign.

## **Stakeholder Involvement**

3.28. DETI is responsible for hosting the Northern Ireland Better Regulation Stakeholders Forum. This was one of the actions from the 2006-07 review and is an open forum that brings together all those interested in better regulation activity. To date its role has been to share information and knowledge across the interested parties who attend and give them a voice for raising issues of concern. The principle target representatives are:

- Departmental legislators, policy makers
- Enforcement bodies
- Business representative bodies
- Other interested parties

3.29. Three meetings have been held to date. The aim is to host Forum meetings twice a year. In addition to formal meetings, the group is used as the conduit for consultation on any new initiatives to support better regulation and for the dissemination of information. During 2009 the Forum members were consulted on a new web feedback form as a further channel for their members or anyone to

provide grassroots level feedback on particular regulations that may be having a more than appropriate adverse impact on their business.

3.30. DETI actively engages with business representative organisations to discuss regulatory activity and seek their views. Other NI Departments also liaise with their key stakeholders on the specific issues within their remit. This is to be encouraged and should continue right across the NICS and indeed all areas of the public sector that are involved in regulatory activity. As part of this strategy review DETI has had a series of bi-lateral discussions with a number of the business and voluntary sector representative bodies and welcomes the contribution they continue to make to this aspect of the necessary activities to support and benefit the local business communities here.

3.31. It is therefore proposed that the following actions be taken forward to support stakeholder involvement:

- DETI to continue to host bi-annual Stakeholder Forum events and undertake an assessment of the effectiveness of the forum and its potential future role;
- NI Departments and enforcement organisations to continue to engage with their target sectors on better regulation – from policymaking through to enforcement and consider how best to improve consultation and communication with them;
- Enforcement organisations to consider establishing a Forum/network for sharing best practice and working to a common standard of enforcement.

### **Strategy Reporting and Monitoring**

3.32. Each Department commits to the principles of better regulation through a statement in its Corporate Plan and this is renewed annually

in the Operating Plans for each Department. This requirement is an action that came out of the 2006-07 review of the NI Better Regulation Strategy, as did the requirement to produce an Annual Report.

3.33. DETI takes the lead each year in producing the Better Regulation annual report and seeks input from all Departments on their regulatory activity for the year being reported on. The opportunity is also taken to report on significant activities at a UK and EU level. Prior to publication, the report is agreed by the Minister for Enterprise, Trade and Investment, is considered by the ETI Committee and then is endorsed by all Executive Ministers. Three Annual Reports have been published to date and this is a useful channel for demonstrating that better regulation continues to be an important contributor to the economic development policies of the NI government.

3.34. It is proposed that these activities continue and further consideration be given to how best monitoring arrangements can be enhanced at Departmental or NICS level to demonstrate clearly that standards are being maintained with regard to the NI Better Regulation Strategy.

### **EU, UK, and Devolved Administration activities**

3.35. As part of this review, research was carried out on activities currently being undertaken at EU level (including specific Member States of ROI and Malta); and at UK level (as well as what is happening in the other Devolved Administrations).

3.36. There are many similarities across the various administrations investigated as part of this review. For example extensive use is made of the Impact Assessment process and each Impact Assessment is designed specifically for the market in which the officials operate. There are lessons to be learned from considering each Impact Assessment when undertaking a review of the Northern

Ireland RIA process. The other regions researched use the Standard Cost Model and have adapted it for their particular situation.

3.37. The EU issued “The Small Business Act for Europe” in 2008 and a key aspect of this is the importance of regulation on the small business community which particularly in Northern Ireland is a major contributor to the NI economy. The EU recently issued a progress report on the SBA and overall is encouraged by the efforts being made across Europe to support small businesses, including a small business test in the Impact Assessment.

3.38. In addition the EU undertook its third strategic review of better regulation in the EU and is committed to securing a 25% reduction in the administrative burden of EU imposed regulation, by 2012. The latest SBA report (January 2010) indicates that it is possible this target will be exceeded and it may be as much as a 33% reduction achieved within the timescale, i.e. 2012. Other key aspects of the better regulation agenda in EU include the following:

- Codifying legislation so users can more easily understand the amendments made to original legislation;
- Simplification Programme of Commission legislation;
- Creation of a central Impact Assessment Board to review and monitor Impact Assessments;
- Moving to integrated IAs – covering benefits and costs

3.39. In the Republic of Ireland, better regulation is led and directed from the Department of the Taoiseach. As with the other regions researched, Ireland makes use of a Regulatory Impact Analysis and this is applied to all primary legislation and key secondary legislation. The officials within the Department of the Taoiseach have a monitoring role to ensure the RIA accompanying a draft Bill going before the

Cabinet is completed appropriately and is supportive to the legislation being considered at Cabinet.

- 3.40. In Ireland the focus has been on a number of key central departments to undertake a base lining exercise with the Standard Cost Model and it is the intention to roll this out to all central government departments in the coming year so a robust set of baseline data is available on which to build simplification plans to further improve the regulatory environment in ROI. At present the work of the ROI better regulation strategy is focused on central government and local authorities are yet to be brought into the remit of it. The intention is that this will happen.
- 3.41. Extensive work has gone into the RIA process in ROI and training courses, detailed guidance and advice points are available for officials requiring help with the process.
- 3.42. The Maltese Government published its Better Regulation Strategy 2008-2010 and a telephone discussion took place with the Maltese officials and DETI's Better Regulation team in December 2009 to discuss current issues and share knowledge of developments on the better regulation agenda. This was a very useful discussion and the opportunity was used to clarify the Maltese Government's commitment to Impact Assessments as a key policy tool and their use of the Standard Cost Model.
- 3.43. The Welsh Assembly Government currently has limited legislative powers and the focus of its regulatory work is on enforcement. Their commitment is set out in The Welsh Ministers' Business Scheme. The Welsh Assembly Government is also developing strong ties with the Local Better Regulation Office in England and has signed an agreement which permits the LBRO to work with them and provide services to support the officials from the

regulators and enforcement bodies to better understand the needs of local business.

3.44. Scotland has been developing a new Business and Regulatory Impact Assessment approach. This is designed to build on the best elements of the existing Impact Assessment process and integrate a more business focused approach with regard to the impact experienced. They are also wishing to improve the consultation process to make it more transparent and help address concerns of the business community in Scotland. It is expected that this will be available and rolled out in 2010, with supporting guidance and training, and once again this will prove a useful reference source for the proposed NI review of the RIA.

3.45. The Scottish Government established an independent committee – Regulatory Review Group (RRG) with the remit to

- try and resolve specific problems causing Scottish business concerns;
- formulate a strategic approach and develop a process to improve the regulatory landscape; advise the Scottish Government on better regulation; and
- act as an independent and informed monitor

3.46. The RRG reports annually on its progress against the remit set for it and details specific activities and achievements of the group.

3.47. As in England, a lot of enforcement activity is taken forward by the local authorities in Scotland and the Scottish Government is working with the local authorities on developing to a new standard of enforcement practice – including a ‘light touch’ as opposed to a heavy handed approach; focus on real problems and risks to produce positive outcomes; and leading to simple regulation that works.

3.48. The Better Regulation Executive is the lead organisation in England for UK national matters and for those that impact on the local authorities throughout England. It has a wide range of functions, including influencing European policy in relation to better regulation; coordinating an extensive network of Better Regulation contacts in all Whitehall Departments; having oversight of the Local Better Regulation Office; and setting policy for the UK on better regulation.

3.49. The Regulatory Policy Committee has recently been established in Whitehall and BRE provide secretarial support to it. Its key role is to comment on the quality of analysis supporting policy decisions on new regulations, and on whether the policy design will ensure the benefits justify the costs. In addition the RPC has the scope to review, advise and comment on performance of regulators against the Hampton principles\*.

3.50. For UK reserved matters, the UK Government has adopted the principle of common commencement dates and there are only two times in the calendar year when new regulations can come into force – April and October. This approach has not been adopted in Northern Ireland, as anecdotal evidence is that local businesses welcome the ‘drip feed’ effect throughout the year as opposed to being ‘hit’ twice a year with potentially major change. There is, however, an initiative at EU level considering the potential for common commencement dates and in light of this increasing move towards the principle of having 2 dates within a year, it is proposed that a more formal study be undertaken in Northern Ireland to secure the views of stakeholders on adopting such an approach here.

3.51. Devising Simplification Plans and monitoring performance against these is another major area of work for BRE and the Whitehall Departments. This work contributes significantly to providing evidence

---

\* <http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/assessing-our-regulatory-system>

for the reduction on administrative burden for business as a result of simpler and more effective regulation. A survey of NICS Departments indicated that there would be support for devising a Northern Ireland Simplification Plan system so that we can clearly demonstrate the impact such work has on those regulations which come under the remit of the NI Executive and NI Assembly.

3.52. The Local Better Regulation Office (LBRO) was established as a result of the Regulatory Enforcement and Sanctions Act 2009. It takes forward a very practical set of activities in its role to support better regulation, principally among the local authority network in England (of which there are over 400). Of the 80% of services delivered locally through local authorities to businesses, 56% of the interaction with those businesses is regulatory related. The LBRO's aim is to stimulate and support effective performance in environmental health, fire safety, licensing and trading standards, with a specific brief to reduce the regulatory burdens on business, while maintaining or even enhancing the current levels of public and environmental protection. While the remit covers the whole of the UK, its extent varies. Northern Ireland has signed a Statement of Intent with the LBRO so that businesses here can benefit from the services and standards that LBRO aim to achieve for businesses in England.

3.53. One of its key aims is to reduce inconsistency in enforcement and unfair competition – this is achieved through the Primary Authority Scheme, whereby a multi site company in the UK can opt to identify a primary authority whereby authorities in other parts of the country will make recourse to if there is an issue of concern at a plant or location for that particular company in that particular authority area.

3.54. Another key initiative that the LBRO is heavily involved in is that of the Retail Enforcement Pilot – which has recently ended and a report on the lessons learned from it is due to be published later in 2010. The underlying principle was to undertake general inspections

of companies by someone with a particular expertise in one area but would look out for issues affecting other regulatory areas, whether this be environmental health, fire safety, for example.

3.55. Trading Places is another important initiative run by the LBRO. This is strongly supported by the private sector companies and affords officials from local authority enforcement areas the opportunity to spend one to two days with a company to learn from the other side what impact the regulatory and enforcement activity has on that company. It gives a valuable insight for the officials who participate and the private sector companies are welcoming of the opportunity to have such direct dialogue with key inspection staff.

3.56. Enforcement staff in the NI Trading Standards Service have participated in a Trading Places initiative with visits to two major employers – Argos and Homebase. A return visit, to Northern Ireland, is being planned for the corporate staff of these two companies. It is proposed that consideration be given to a Trading Places Initiative for Northern Ireland.

## **4. Objectives for the new period:**

4.1. To build on the success of the original NI Better Regulation Strategy and the 2006-07 review, new objectives are proposed for the forthcoming period, against which the success of this review and supporting actions can be measured. The overriding aim of the NI Better Regulation Strategy is to ensure only necessary regulations are made to a quality standard which are effectively enforced, compliance achieved, which demonstrate the 5 principles of better regulation - **Proportionate, Accountable, Consistent, Transparent & Targeted.**

4.2. The following objectives aim to position the regulatory regime in Northern Ireland on a par with other Member States in the EU and with other devolved regions in the UK.

**4.2.1. To review the current Regulatory Impact Assessment process and devise an enhanced and more complete system and process which will ensure an effective regulatory impact assessment policy making tool is available for officials to use, which contributes to more effective regulations which support the principles of better regulation for Northern Ireland;**

**4.2.2. To assess the potential for widening the scope of the NI Better Regulation Strategy to include all local authority activity in Northern Ireland and all enforcement organisations so that a consistent approach is taken from policy making through to regulation, implementation and enforcement, aiming to secure compliance for the benefit of the local business, voluntary, charitable and social economy sectors and the NI citizen at large;**

**4.2.3. To establish a full set of standards, supporting policies and guidance which are to be used at all stages of the regulatory**

**process – from the RIA in policy making, to providing guidance on regulations, to the enforcement approach taken with those affected by the regulations;**

**4.2.4. To review current arrangements with stakeholders and recommend improvements to further improve the communication channels for stakeholders to participate and input to the regulation making and enforcing process;**

**4.2.5. To continue effective and meaningful liaison and dialogue with better regulation counterparts at EU, Member State, UK and devolved administration levels to share knowledge, experiences and best practice for the benefit of the NI regulatory regime;**

**4.2.6. To devise a comprehensive marketing campaign which will support the positioning of the better regulation message among all stakeholders and provide a mechanism for improved communications among the stakeholders so these objectives can be met.**

4.3. Section 7 of this report details a series of strategic tasks which takes forward the recommendations made in Section 3 to tangible actions, and will support the achievement of these objectives and contribute to the overall aim of better regulation.

## **5. Standards to apply or adhered to**

5.1. This section of the review report records all the current standards that should already be applied as part of the regulatory process and also to list those areas that it is proposed should be investigated further, as a result of this review and dependent on the outcome, then become revised or additional standards which will apply, once approved.

5.2. List of standards that currently apply and will continue to:

- Principles of Better Regulation
- Application of the RIA process
- Enforcement Concordat and Regulators Compliance Code (for those enforcement bodies to which it applies at present and NI has confirmed its adoption of the principles of both documents)
- Requirement to provide guidance on new or changes to legislation that affect businesses, at least 12 weeks before they come into force
- Commitment in Departmental Corporate Plans to better regulation
- Statement of Intent with Local Better Regulation Office (for trading standards and environmental health)
- Bi-annual Better Regulation Stakeholders Forum
- Production of Better Regulation Annual Report for NICS

5.3. The following is a list of those areas which it is considered appropriate to research and investigate further with a view to determining their relevance for NI and seek agreement to a standard for the matter being addressed.

- NI Code of Practice on Guidance on Regulations (this has been consulted on and prepared and endorsement/approval of the Executive will be sought as part of this wider review process)

- Standard Cost Model as part of the Regulatory Impact Assessment
- Reviewed RIA process to streamline and make more user friendly
- Reviewed small and micro business tests
- New and enhanced NICS web presence on better regulation for the benefit of the wider business community (possibly through [www.NIBusinessInfo.co.uk](http://www.NIBusinessInfo.co.uk))

5.4. These have been listed here for convenience, principally for the public sector officials who work in the area of regulation – from policy making through to enforcement and tie in with Section 7 of this report on new actions to be taken forward.

## **6. Monitoring and Reporting**

- 6.1. In order to demonstrate progress resulting from this review, in support of the NI Better Regulation Strategy, it is important that the proposed actions are monitored and progress effectively reported to stakeholders. To this end it is essential that monitoring arrangements are considered as part of any future work programme so that it becomes mainstream.
- 6.2. Results from a survey of Departments on the need for an inter-departmental group to be set up to oversee the work of the NI Better Regulation Strategy, indicate that there may be merit in investigating further the establishment of such a group. The primary remit would be to ensure standards are maintained, particularly by officials in application of the RIA process and overseeing the progress on actions from this review – using its influence where need be to initiate change or further action.
- 6.3. It is proposed that there should continue to be a Better Regulation Annual Report, with DETI taking the lead on coordinating input from across the NICS and reporting on progress against the strategy and the actions coming out of this review exercise. Further work will be required to consider how best monitoring of actions and other key elements of the regulatory process can be monitored and how. It is accepted however that this is an important aspect of the wider performance management agenda and proposals will be made at a future date on how best to achieve this within existing resources and structures.

## 7. Better Regulation Action Plan 2010-2013

7.1. In order to progress the better regulation agenda in Northern Ireland and improve the regulatory environment for the benefit of the wider business community and citizens in Northern Ireland the following series of key strategic actions are to be initiated and progressed during the period 2010-2013. The actions are categorised into 6 key themes, each of which relate back to the objectives for the next period of the NI Better Regulation Strategy, as set out in Section 4 to this report.

### Better Regulation Strategy

Initiative	Lead	Actions
Extend the NI Better Regulation Strategy to cover all local authorities and all enforcement and regulatory bodies	DETI to lead for local authorities  Departments to lead on enforcement and regulatory bodies under their sponsorship	<ul style="list-style-type: none"> <li>• To work with Local Authority organisations SOLACE and NILGA, along with DOE to secure buy-in</li> <li>• To scope all enforcement and regulatory bodies and Departments to secure their buy in</li> </ul>
Simplification Plans	DETI to coordinate Departments to provide inputs and take forward simplification activities	<ul style="list-style-type: none"> <li>• Coordination of a dedicated NI Simplification Plan</li> <li>• Take forward appropriate actions</li> <li>• Provide update and progress reports annually</li> </ul>
Common Commencement Dates	DETI to lead	<ul style="list-style-type: none"> <li>• Seek views of stakeholders on the introduction of common commencement dates for NI made regulations.</li> </ul>
Overview workshop / roadshows for policy makers/legislators/enforcers on the NI Better Regulation Strategy	DETI	<ul style="list-style-type: none"> <li>• Design promotional materials and undertake a road show to Departments, for relevant officials</li> </ul>

Interdepartmental Committee/Group to oversee the NI Better Regulation Strategy	DETI to lead, all Departments to input and provide support for	<ul style="list-style-type: none"> <li>• Establish an Inter Departmental group and draft a terms of reference</li> <li>• Bi-annual meetings</li> <li>• Annual reporting on performance</li> </ul>
--	--	---

### Regulatory Impact Assessment

Initiative	Lead	Actions
Review of Regulatory Impact Assessment	DETI	<ul style="list-style-type: none"> <li>• Review the process and recommend a simplified version</li> <li>• Improve presence and guidance on OFMDFM Policy Link</li> <li>• Provide updated guidance for officials</li> <li>• Review training course</li> <li>• Secure agreement for expert support to be available in all Departments for officials – i.e. Dept'l Economists</li> <li>• Assess integration of EU Services Directive consideration to the process</li> <li>• Assess inclusion of cross border implications within the RIA</li> </ul>
Standard costing model to be used in conjunction with RIA process	DETI to lead	<ul style="list-style-type: none"> <li>• Assess the Standard Cost Model for application in NI</li> <li>• Incorporate into the RIA process the outcomes of this</li> <li>• Assess need to devise standardisation of the small and micro business tests within the RIA process</li> </ul>

### Stakeholder

Initiative	Lead	Actions
Better Regulation Stakeholders Forum	DETI	<ul style="list-style-type: none"> <li>• Undertake a review of the Forum, to reaffirm its remit, role and agree its future direction</li> </ul>
Enforcement Organisations Forum	DETI to lead with input from Departments and	<ul style="list-style-type: none"> <li>• Ascertain the interest/need for a forum with the remit of moving to a standard level of enforcement approach across all bodies</li> </ul>

	enforcement bodies	
--	--------------------	--

### Standards and Uniformity

Initiative	Lead	Actions
Guidance on Regulations	DETI	<ul style="list-style-type: none"> <li>• Seek formal agreement to the draft NI Code of Practice on Guidance on Regulations</li> </ul>
Regulators Compliance Code/Enforcement Concordat	All	<ul style="list-style-type: none"> <li>• Assess the relevance of both documents to NI</li> <li>• Identify which enforcement bodies should sign up to, in principle</li> </ul>
Monitoring of RIAs and wider adoption of NI Better Regulation Strategy	All	<ul style="list-style-type: none"> <li>• DETI to investigate what options are available within current structures and resources to take this forward</li> <li>• All Departments to implement and report on annually</li> </ul>
Technology adoption	All	<ul style="list-style-type: none"> <li>• To consider how best to use existing web resources and structures to better streamline the regulation web presence for the benefit of users</li> <li>• Investigate what options are available with nibusinessinfo.co.uk</li> <li>• Investigate options for a central RIA database – for officials to access as a resource tool and for interested parties to access for information</li> <li>• Formal introduction of new web feedback system for users to comment on specific regulations that concern them (already designed and currently being tested)</li> </ul>

### Collaboration

Initiative	Lead	Actions
Liaison with Whitehall and other Devolved Administrations	All	<ul style="list-style-type: none"> <li>• DETI to liaise with Better Regulation Executive on Strategic issues</li> <li>• DETI to attend 4-nations better regulation events</li> </ul>

		<ul style="list-style-type: none"> <li>• Departments to liaise with Whitehall and Devolved Administration counterparts on regulatory matters in specific sectors and work areas</li> <li>• DETI to liaise with the Local Better Regulation Office and consider any future developments from a NI perspective.</li> </ul>
Trading Places Initiative (LBRO initiative)	DETI	<ul style="list-style-type: none"> <li>• DETI to consider potential for a trading places initiative in Northern Ireland and delivery options</li> </ul>
Intelligent Inspections	All	<ul style="list-style-type: none"> <li>• If Enforcement bodies forum established (See under Stakeholders) this group would consider and investigate options</li> </ul>
Sharing Intelligence on the compliant or more importantly the non-compliant	All	<ul style="list-style-type: none"> <li>• Enforcement bodies forum to consider</li> </ul>

### Marketing and Communication

Initiative	Lead	Actions
Overarching Marketing Communications Plan for Better Regulation for NICS	DETI, with input from Departments	<ul style="list-style-type: none"> <li>• Devise a plan for covering range of communication activities to improve the profile of better regulation, both internally and externally. Key actions could include: <ul style="list-style-type: none"> <li>• NICS workshop/roadshows on strategy and RIA process</li> <li>• Publication of revised guidance on RIA</li> <li>• Publication of NI Code of Practice on Guidance on Regulations</li> <li>• Stakeholder input</li> </ul> </li> </ul>
Publication of Better Regulation annual report	DETI in lead, all Departments to input	<ul style="list-style-type: none"> <li>• Coordinating inputs, drafting and securing approval from Executive</li> <li>• scrutiny by ETI Committee</li> </ul>
Improve internal communications across the NICS network of better regulation contacts in all	DETI to lead	<ul style="list-style-type: none"> <li>• assess how best to build on existing network and improve levels of communication and understanding with relevant staff</li> </ul>

organisations		
Improve communication and consultation with stakeholders on better regulation	All	<ul style="list-style-type: none"> <li>• DETI to lead on considering improvements from a better regulation strategy point of view</li> <li>• Departments to consider how to improve communication with their contacts on more specific regulatory matters</li> </ul>

## **8. Conclusion**

- 8.1. Better Regulation continues to be important and necessary tool in the delivery of growth in the Northern Ireland economy. Government is committed to introducing only necessary regulation which are designed with the principles of better regulation in mind.
- 8.2. It is important that a level playing field is made for the business community, which in itself generates fair and appropriate market competition, and which is ultimately beneficial for the citizens. The NI Better Regulation Strategy is an important tool for government to demonstrate to the wider business community that the Northern Ireland Executive is playing an important role in overseeing the local regulatory environment and representing the interests of Northern Ireland based businesses at UK national and EU level when required.
- 8.3. The Northern Ireland Executive remains committed to better regulation and strongly believes that in the ever changing environment we must maintain a high standard of regulatory activity, learn from others and take forward the steps necessary to maintain the standard expected of the wider business community.
- 8.4. It is believed that the recommended actions in this review will significantly contribute to further improving the regulatory landscape in Northern Ireland.

## 9. Referenced sources for this review

1. Review papers for 2006-07 review of NI Better Regulation Strategy
2. Papers associated with the NI Better Regulation Strategy 2001
3. questionnaire completed by representatives of NICS Departments in October 2009
4. bilateral discussions with some NICS Departments in November/ December 2009
5. Bilateral discussions with IOD, CBI, NIIRTA, NICVA and FSB
6. Regulatory Barriers to Cross-Border Trade and Business (InterTradeIreland)
7. bilateral meetings with officials in Local Better Regulation Office
8. Trading Places brochure
9. LBRO Corporate Plan 2009-12
10. LBRO website
11. LBRO Strategic Implications of Shared Working in Regulatory Services
12. Applying the Regulators' Compliance Code and Enforcement Concordat – LBRO
13. EU website on Better Regulation
14. EU Third Strategic Review of Better Regulation in the EU (2009)
15. EU report on Small Business Act (January 2010)
16. EU Better Regulation – Simply Explained (2006)
17. EU Impact Assessment Board Report for 2008
18. EU Impact Assessment Guidelines (January 2009)
19. Regulatory Policy Committee – Terms of Reference (BRE)
20. Better Regulation in Scotland
21. The Scottish Improving Regulation Report 2008
22. Scottish Regulatory Review Group Annual Report 2008
23. bilateral communication with Scottish Government officials
24. The Welsh Ministers' Business Scheme
25. bilateral communication with officials in Welsh Assembly Government
26. Regulatory Impact Analysis (Republic of Ireland)
27. bilateral meeting with better regulation officials in Republic of Ireland
28. GB Code of Practice on Guidance on Regulations (BRE)
29. Better Regulation Executive web pages on BIS website

30. documents on the UK Impact Assessment process – guidance, template, online training
31. Malta's Better Regulation Strategy 2008-2010
32. UK Government Response to the House of Commons Regulatory Reform Committee's Inquiry into Themes and Trends in Regulatory Reform
33. DARD/DOE Independent Review of Better Regulation in the Agri-food Sector
34. National Audit Office Report – Complying with Regulation: Business Perceptions Survey 2009
35. HM Government Response to the Institute of Directors' 269 Regulatory Suggestions (October 2009)
36. HM Government's Forward Regulatory Programme (October 2009)
37. BRE initiative – Better Regulation supports better outcomes – Benefits of Better Regulation
38. UK Standard Cost Model Manual – Measuring Administrative Cost (September 2005)