

<b>Title:</b> Impact assessment of extending the Primary Authority scheme
<b>Lead department or agency:</b> Department for Business, Innovation and Skills
<b>Other departments or agencies:</b> Local Better Regulation Office

## Impact Assessment (IA)

<b>IA No:</b> BIS0275
<b>Date:</b> 04 October 2011
<b>Stage:</b> Final
<b>Source of intervention:</b> Domestic
<b>Type of measure:</b> Primary legislation
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## Summary: Intervention and Options

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

The Primary Authority scheme was introduced in April 2009. It provides greater regulatory consistency and certainty for businesses that operate across a number of local authority areas. The scheme is based on the creation of a statutory partnership between a multi-site business and its "Primary Authority" (PA). The PA acts as a coordinator of other local authority enforcement activity in relation to that business. The scheme has worked very well to date with widespread uptake and support from business, professional bodies and local authorities. Lord Young's Review of Health and Safety legislation recommended an extension of the scheme. The recommendations of Lord Young's review were accepted in full by the government. The overall rationale for intervention is to extend the benefits of the Primary Authority scheme to further address inconsistency in the enforcement of regulation at the local level, by: (i) covering additional regulations currently out of scope; (ii) further reducing the inspection burden on businesses by strengthening inspection plans within the scheme; and (iii) extending eligibility criteria to cover a wider range of businesses.

### What are the policy objectives and the intended effects?

The policy objectives and intended benefits are to:

- reduce inconsistency in the enforcement of regulation at the local level;
- improve compliance levels;
- reduce the costs of compliance for both businesses and regulators;
- deliver greater benefits by bringing additional areas of regulation within scope of the scheme;
- extend the benefits of co-ordinated action beyond enforcement actions and into the planning of inspections;
- broaden the range of businesses that are able to participate in the scheme, including smaller businesses.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

We have considered two options:

Option 1: Do nothing

Option 2: Extend the scheme (preferred option).

No other alternatives are proposed. The existing scheme has already demonstrated benefits, evidenced by evaluation, and has proved its capacity to deliver more effective and more streamlined regulation for multi-site businesses at local level. We believe those benefits should be made available to a higher number of businesses, across a broader range of regulations, and that the benefits of co-ordinated action should apply to the planning of inspections, not just the consistency of enforcement actions.

This preferred option will require legislation: as the scheme is statutory, any amendments must also be statutory. The scheme is voluntary for business.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 2015

**What is the basis for this review?** PIR **If applicable, set sunset clause date** N/A

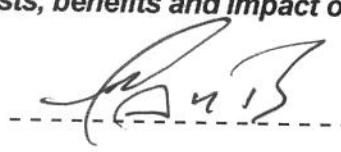
**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**Ministerial Sign-off** For consultation 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:

 Date: 22/5/12

## Summary: Analysis and Evidence

Description: Extend the Primary Authority scheme

Price Base Year 2011	PV Base Year 2011	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: 212.7	High: 352.5	Best Estimate: 282.6

COSTS (£m)		Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.0	5	5	7.4	74.1
High	3.2			12.3	123.5
Best Estimate	2.6			9.9	98.8

### Description and scale of key monetised costs by 'main affected groups'

Costs to business which choose to enter PA scheme: transition costs – start up, developing inspection plans and cost recovery (£1.3m–£2.1m) and annual costs – maintaining PA partnerships and cost recovery (£4.8m–£7.9m)

Costs to local authorities:

- transition costs to PAs – not recovered costs of start up and developing inspection plans (£701,000 – £1.2m)
- annual: costs to PAs – not recovered costs of maintaining PA partnerships and dealing with enforcing authorities (£1.4m – £2.4m), costs to enforcing authorities – costs of referrals and early contact with PAs (£1.2m – £2m)

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

Costs (transition and annual) to trade associations and businesses which choose to participate in the Primary Authority scheme through trade associations.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.5	5	29.2	286.8
High	0.8		48.5	476.1
Best Estimate	0.6		38.9	381.4

### Description and scale of key monetised benefits by 'main affected groups'

Annual benefits to business which choose to enter Primary Authority scheme – improved consistency of advice and risk assessment (£15.1m – £25.2m)

Benefits to local authorities:

- transition benefits to PAs – cost recovery (£477,000 – £787,000)
- annual benefits: benefits to PAs – cost recovery (£3m – £5m), benefits to enforcing authorities – reduced workload (£11.1m – £18.3m)

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

Benefits (transition and annual) to trade associations and businesses which choose to participate in the Primary Authority scheme through trade associations

Key assumptions/sensitivities/risks	Discount rate (%)
Main assumptions: number of partnerships after the extension (600 – 1,000), number of partnerships setting up inspection plans after the extension (240 – 420); categories of costs and benefits the same after extension as those identified for the existing scheme.	3.5
Sensitivities: 15 year period used for appraisal to be consistent with impact assessment carried out when the Primary Authority scheme was first introduced – embedded spreadsheet on page 4 shows year by year costs and benefits for both a 10 and 15 year period; each of the three areas of planned extension will deliver net benefits – strengthened inspection plans and coverage of different company types expected to bring greatest benefits.	
Main risks: scale of take-up; extent of costs and benefits to business and local authorities arising from the extension of the scheme; disruption to delivery resulting from the planned transition of LBRO into BIS.	

Direct impact on business (Equivalent Annual) (£m):	In scope of OIOO?	Measure qualifies as
Costs: 5.3      Benefits: 16.6      Net: 11.2	Yes	OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	2013				
Which organisation(s) will enforce the policy?	BIS				
What is the annual change in enforcement cost (£m)?	N/A				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A	Non-traded: N/A			
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 100	Benefits: 100			
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 10	Medium 30	Large 60
Are any of these organisations exempt?	No	No	No	No	

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties <sup>[1]</sup>	No	Page 27

Economic impacts		
Competition	No	Page 27
Small firms	Yes	Page 27

Environmental impacts		
Greenhouse gas assessment	No	Page 27
Wider environmental issues	No	Page 27

Social impacts		
Health and well-being	No	Page 27
Human rights	No	Page 27
Justice system	No	Page 27
Rural proofing	No	Page 27

Sustainable development	No	Page 27
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<sup>[1]</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	The Regulatory Enforcement and Sanctions Act 2008; <a href="http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/regulatory-enforcement-and-sanctions-bill">http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/regulatory-enforcement-and-sanctions-bill</a>
2	Impact Assessment of Statutory Instruments Implementing the Primary Authority Scheme <a href="http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=31048b816f9f409fa7eb2c97c48cc13d">http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=31048b816f9f409fa7eb2c97c48cc13d</a>
3	Common Sense, Common Safety. A report by Lord Young of Graffham to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture, 2010 <a href="http://www.number10.gov.uk/wp-content/uploads/402906/CommonSense_acc.pdf">http://www.number10.gov.uk/wp-content/uploads/402906/CommonSense_acc.pdf</a>
4	British Retail Consortium Retail statistics and information <a href="http://www.brc.org.uk">www.brc.org.uk</a>
5	A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 <a href="http://www.bis.gov.uk/files/file50500.pdf">http://www.bis.gov.uk/files/file50500.pdf</a>
6	Initial Evaluation of the Effectiveness of The Regulatory Reform (Fire Safety) Order 2005, 2009 <a href="http://www.communities.gov.uk/documents/fire/pdf/regulatoryreformorder.pdf">http://www.communities.gov.uk/documents/fire/pdf/regulatoryreformorder.pdf</a>
7	Better Regulation of Age Restricted Products: A Retail View, 2010 <a href="http://www.lbro.org.uk/docs/age-restricted-products-report.pdf">http://www.lbro.org.uk/docs/age-restricted-products-report.pdf</a>
8	Better Regulation in Europe: An assessment of regulatory capacity in 15 member states of the European Union, 2009 <a href="http://www.oecd.org/dataoecd/0/35/43307706.pdf">http://www.oecd.org/dataoecd/0/35/43307706.pdf</a>
9	CLG, English House Condition Survey 2006 Private Landlords Survey, 2008 <a href="http://www.communities.gov.uk/publications/housing/privatelandlordsurvey">http://www.communities.gov.uk/publications/housing/privatelandlordsurvey</a>
10	Centre for Regional Economic Development, University of Cambria, LBRO, "Review and assessment of the methodology of the retail enforcement pilot in a business environment", 2009 <a href="http://www.lbro.org.uk/docs/cred-report.pdf">http://www.lbro.org.uk/docs/cred-report.pdf</a>
11	Case study available from <a href="http://www.lbro.org.uk/news-pa-bss-1m.html">http://www.lbro.org.uk/news-pa-bss-1m.html</a>

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## Background

1. The Primary Authority scheme was created in response to recommendations in the Hampton Report (2005) which noted widespread inconsistencies of regulatory interpretation between different local authorities. It came into force on 6<sup>th</sup> April 2009 following the passing of the Statutory Instruments which set out more detail about the implementation of the Primary Authority scheme.
2. The scheme allows businesses, charities or other organisations that are regulated by more than one local authority to enter into a partnership with one of those local authorities and for that local authority to then become its 'Primary Authority'. The Primary Authority scheme has two main aspects:
  - **assured advice** from the Primary Authority to the business,
  - **national inspection** agreed between the Primary Authority and the business.

### *Assured advice*

3. The Primary Authority provides assured advice to the business and can, if necessary, block proposed enforcement action by other local authorities that it regards as inconsistent with its advice or guidance. By helping to ensure further consistency, the scheme extension is expected to provide greater confidence for businesses and regulators, and remove unnecessary regulatory barriers to economic growth. It is expected to increase compliance, reduce risk, reduce the cost of failure and reduce the cost of compliance. It also provides a means of resolving disputes when councils disagree on enforcement actions. The data collected by RAND Europe, under a comprehensive evaluation of the Primary Authority scheme, shows that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership<sup>[2]</sup>.

### *National inspection plan*

4. As well as assured advice, Primary Authorities can work with partner businesses to prepare a national inspection plan. The Primary Authority develops and leads the inspection plan across the business's area of operation so that other regulators or Local Authorities inspect the business in a co-ordinated way. This saves time and resource for both the business and local authorities. 5% of Primary Authorities currently use inspection plans and these demonstrate benefits. The data collected by RAND Europe shows inspection plans result in a reduction of about 20 hours' work per partnership per year for businesses<sup>[3]</sup>.

### *Existing benefits*

5. The OECD country report on the UK cited the Primary Authority scheme as a "potentially far reaching innovation" to handle the specific issues that arise for national firms who are subject to multiple local regulatory jurisdictions, and the LBRO model has been of interest to governments in other jurisdictions at the leading edge of regulatory reform, including Scotland and the Netherlands<sup>[4]</sup>.
6. The Primary Authority scheme delivers a balance of regulatory intervention between local and national levels. The scheme gives councils the flexibility to account for local circumstances and to reflect concerns that exist in their communities whilst bringing benefits by delivering consistent interpretation of regulation. But the scheme provides a crucial vehicle for better local coordination led by specific local authorities, aiming to prevent contradictory local regulation.

<sup>[2]</sup> RAND Europe (an independent not-for-profit research institute) has carried out an evaluation of Primary Authority commissioned by LBRO. The early data has been made available to us. The full report is not available yet.

<sup>[3]</sup> See footnote 2.

<sup>[4]</sup> Better Regulation in Europe: An assessment of regulatory capacity in 15 member states of the European Union, 2009 <http://www.oecd.org/dataoecd/0/35/43307706.pdf>

7. The scheme has had significant and accelerating take up in two years of operation. There are now over 1,000 Primary Authority partnerships covering nearly 300 businesses and over 41,000 UK premises. Businesses which have signed up include large retailers like Marks and Spencer and ASDA, and smaller companies like Daylesford Organics and smaller farming businesses. All the major supermarkets are already enrolled in Primary Authority partnerships.
8. It has limited application in Scotland and Northern Ireland because of the devolution settlements. The scheme applies in Scotland and Northern Ireland in relation to local authority trading standards, environmental health, and some fire safety functions exercised under legislation where legislative competence has not been devolved to either the Scottish Executive or the Northern Ireland Assembly.
9. The Local Better Regulation Office (LBRO), a non-departmental public body of BIS, operates the scheme. Its role is to:
  - Approve partnerships between businesses and local authorities (or to help businesses find a local authority partner).
  - Play a determination role on enforcement actions if either an enforcing authority or a business wants to challenge the Primary Authority's decision.
  - Set up and maintain a secure database containing all the details of the partnerships, actions taken and advice given.
  - Provide consent to inspection plans where these are in use within Primary Authority partnerships.

## Problem under consideration

10. The Primary Authority scheme was introduced in April 2009 to provide greater consistency and regulatory certainty for businesses operating across a number of local authority areas.
11. During the Review of the Local Better Regulation Office in summer 2010, the scheme received strong support from business, professional bodies and from some local authorities. The success of the scheme was also recently acknowledged by Lord Young's Review of Health and Safety legislation<sup>[5]</sup>. It has been praised by the OECD as mentioned above.
12. The scheme has, however, got a number of limitations on its current scope: at present it covers only trading standards, environmental health, licensing and health and safety regulations; the full potential of inspection plans have not been exploited – hindered in part by the powers set out in the current Act; and some types of businesses are currently ineligible for a Primary Authority partnership – including franchises and many smaller businesses. As a result: too many businesses still face inconsistency in local-level regulatory enforcement in the areas currently out of scope; some types of business cannot participate in the scheme even though it would be beneficial to them and to the enforcement authorities if they could; and inspections are often unnecessarily burdensome still even for businesses that are within the scheme and for local authorities carrying out those inspections.
13. During the Review of LBRO arguments were put to the Review by business for an extension of the Primary Authority scheme into other legislative areas. Lord Young's Review of Health and Safety legislation also recommended an extension of the scheme beyond a narrow definition of enforcement action into inspection and, further, that the existing statutory framework underpinning the inspection plan provisions could be strengthened. The recommendations of the report were accepted in full by the government<sup>[6]</sup>.

<sup>[5]</sup> "Common Sense, Common Safety", October 2010. A report by Lord Young of Graffham to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture.

[http://www.number10.gov.uk/wp-content/uploads/402906\\_CommonSense\\_acc.pdf](http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf)

<sup>[6]</sup> Number 10 News, Lord Young restores common sense to health and safety, October 2010,

<http://www.number10.gov.uk/news/latest-news/2010/10/lord-young-report-55605>

14. Because of the success of the scheme, and in line with the Coalition commitment to “end tick box regulation”, Ministers have asked the Better Regulation Executive and LBRO to look into options for extending it. This impact assessment discusses the costs and benefits associated with extension.

## Rationale for intervention

15. The overall rationale for intervention is to extend the benefits of the Primary Authority scheme by addressing continuing inconsistency in local-level regulatory enforcement in policy areas which are currently out of scope, further reducing the inspection burden on businesses (through strengthening of inspection plans), and enabling access to the scheme’s benefits for businesses which are currently ineligible for a Primary Authority partnership.
16. Legislation would be necessary to make appropriate amendments: as the scheme is statutory, any amendments must also be statutory. But it would be relatively straightforward to make the necessary changes as part of a wider Regulatory Reform Bill or Competition and Enterprise Bill. Public consultation has allowed us to test the proposed extensions to the scheme. The responses have been broadly supportive -
17. The scheme has been a significant success in its current form and received overwhelmingly positive comments from business and professional bodies and has received support from participating local authorities (examples below). These benefits are explored in the cost benefit section.

“Why wouldn’t businesses want a Primary Authority? After all, you succeed with regulators by working with rather than against them.” - B&Q Safety Advisor Gary Howells<sup>[7]</sup>

“It’s wonderful that we can have one authority which can efficiently ensure all our brasseries are run to the same high standards.” - Brasserie Blanc Managing Director John Lederer<sup>[8]</sup>

“We feel this much more efficient way of working is beneficial to consumers, business and local authorities alike, and will help save millions of pounds in the process.” - Westminster City Council Operational Director - Premises Management Steve Harrison<sup>[9]</sup>

“We now make changes with confidence, knowing that they will be supported by our partner.” - Moto Head of Risk Management Jonathan Hayes<sup>[10]</sup>

“We can see many benefits of this partnership - not least being able to work closely with businesses, support economic prosperity and protect our communities by ensuring public health and safety is as good as it should be.” - Wakefield Council Leader Peter Box<sup>[11]</sup>

“This partnership is a fantastic example of how, by more effective enforcement, councils can help reduce the burden on local employers and help their businesses in these difficult economic times.” - Chelmsford Borough Council Councillor Ian Grundy<sup>[12]</sup>

18. Moreover, there is potential to contribute to the Coalition government’s commitment to “end the culture of ‘tick-box’ regulation, and instead target inspections on high-risk organisations through co-regulation and improving professional standards” by increasing the scope of the Primary Authority scheme to deliver elements of co-regulation. In particular there is scope for the inspection plans to operate as a mechanism to support “earned recognition”. This can be achieved by varying the inspection plan according to the compliance systems and performance of a business, and in so doing can serve to incentivise effective compliance management by the business.

[7] <http://www.lbro.org.uk/pa-advice-to-business.html>

[8] <http://www.lbro.org.uk/pa-inspection-plans.html>

[9] <http://www.lbro.org.uk/pa-finance-and-resources.html>

[10] <http://www.lbro.org.uk/pa-business-participation.html>

[11] <http://www.lbro.org.uk/pa-becoming-a-primary-authority.html>

[12] <http://www.lbro.org.uk/pa-resources-for-local-authorities.html>

19. The Primary Authority scheme also fits squarely within the localism agenda. Regulatory power is maintained at the local level, but businesses operating nationally are afforded a joined-up approach to regulation. The scheme promotes a collaborative approach and dialogue between local authorities, allowing them to focus resources more effectively, while still responding to local concerns and intelligence.
20. There is also scope to engage the Local Enterprise Partnerships within the Primary Authority environment. For example, where inspections take place that do not follow the inspection plan, a feedback system could operate where the business is able to report these inappropriate visits to the Primary Authority. The Local Enterprise Partnership (LEP) could, acting on feedback from the Primary Authority and/or LBRO, then act as forum for the Primary Authority and the business to discuss such impediments to business growth.
21. A detailed rationale for intervention for each area proposed to be included in the extension is listed below:

<b>Area</b>	<b>Rationale</b>
Extend regulatory scope to include age restricted sales of alcohol (Licensing Act 2003) and fire safety (Regulatory Reform (Fire Safety) Order)	<p>Age restricted sales of alcohol and fire safety are two regulatory areas that, while in LBRO's remit, were specifically excluded from the scope of the Primary Authority scheme following consultation in 2009. We said in the impact assessment of Statutory Instruments implementing the Primary Authority scheme that we would review these exclusions in 2011.</p> <p>Both areas are of significant interest to business.</p> <p>Retailers, in particular, place a high priority on compliance; from ensuring products are safe to preventing sales of age restricted products to children - the sector spends over £20m in training and in-store leaflets<sup>[13]</sup> per year<sup>[14]</sup> on the latter case alone. However, at present, the same system or products can be inspected by all 433 local authorities, even if the business' procedures have been approved by the Primary Authority.</p> <p>The current legal system is complex and fragmented for age restricted sales which accentuates the benefits that could be achieved through the extension of Primary Authority into this area of regulatory enforcement. There are 13 separate categories of age restricted products sold by retailers. These include alcohol, tobacco, aerosol spray paint, knives and fireworks. The sale of these products is governed by 18 separate pieces of legislation, spanning the responsibilities of six government departments. This legislation has developed piecemeal over time and as a consequence there are a number of different rules that apply, particularly in terms of offences and defences. The situation is worst for those retailers that sell more than one category of product. This has obvious cost implications for enforcers and businesses. The complexity is also aggravated by a high staff turnover rate. In the pub trade staff turnover is even higher than the average rate in retail, at around 60%. All staff have to be properly trained and supervised. Currently there are in the order of 600,000 staff employed in pubs and bars. BRC survey information indicated that 2.9m people are employed in the UK's 293,000 retail outlets. Extending the PA scheme to age restricted products has great scope to simplify and improve the way in which compliance is managed making it easier to understand and to meet the legal requirements.</p> <p>Businesses and business representative bodies strongly support bringing age restricted sales of alcohol, and fire safety, into scope.</p>

<sup>[13]</sup> British Retail Consortium Retail statistics and information available at [www.brc.org.uk](http://www.brc.org.uk)

<sup>[14]</sup> British Retail Consortium Retail statistics and information available at [www.brc.org.uk](http://www.brc.org.uk)

Area	Rationale
	<p>For example the Confederation of British Industry said: "if consistency is the aspiration of the Primary Authority scheme then the scope needs to be as wide ranging and comprehensive as possible with no exclusions of licensing (...) and fire legislation"<sup>[15]</sup>.</p> <p>The recent review of the Regulatory Reform (Fire Safety) Order 2005 reported that businesses expected their fire and rescue authority or local authority to provide targeted advice and guidance: "Few of the businesses interviewed for this evaluation were aware of the availability of the HM Government's guidance, or of other sources of fire safety guidance. All, however, felt it important that guidance on implementing their responsibilities should be available – and expected their Fire and Rescue Authority or local authority to be a primary source."<sup>[16]</sup></p> <p>Evidence received from business on the existing scheme shows that businesses benefit from improved consistency of advice and a consistent approach to risk assessment in respect of regulatory areas currently in scope after joining the scheme<sup>[17]</sup>. Government intervention is necessary to enable businesses to also benefit from Primary Authority in respect of age restricted sales of alcohol, and fire safety.</p> <p>Responses to the public consultation carried out over the summer of 2011 have been generally supportive of the plans to extend Primary Authority into these areas. Fire and Rescue services have expressed caution and extensions in this area would have to ensure they have the support of CLG and that those operating the services are satisfied that Primary Authority will be monitored to ensure it maintains the required levels of compliance and enforcement, as we would expect it to. Similarly any extension to cover age-related sales of alcohol still requires the agreement of the Home Office and they have questions over the fit with the current direction of their policies on under-age drinking and associated enforcement.</p>
Extend regulatory scope to include Part I of the Housing Act - matters relating to health and safety in housing and the Criminal Justice Act 1988 which deals with age restricted sales of knives	<p>Since the scheme came into force, it has become clear that not all relevant legislation relating to health and safety in housing, and age restricted sales of knives, was included within the statutory scope. Government intervention is necessary to rectify this to enable businesses to benefit from Primary Authority in respect of these areas.</p> <p>This has been highlighted by stakeholders who are supportive of the changes:</p> <p>"..in reference to the Housing Act 2004, it is inconsistent that Part 1 of the Act, relating to the enforcement of the Housing Health and Safety Rating system, should be excluded from the scope of the Act, while Parts 2-5 of the Act - those relating to the regulation of houses in multiple-occupation - are included. We are of the view that Parts 1 and 2-5 of the Housing Act 2004</p>

<sup>[15]</sup> A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 <http://www.bis.gov.uk/files/file50500.pdf>

<sup>[16]</sup> Initial Evaluation of the Effectiveness of The Regulatory Reform (Fire Safety) Order 2005, March 2009, <http://www.communities.gov.uk/documents/fire/pdf/regulatoryreformorder.pdf>

<sup>[17]</sup> The data collected by RAND Europe shows that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership and inspection plans results in a reduction of about 20 hours' work per partnership per year for businesses.

Area	Rationale
	<p>should fall within the purview of the Primary Authority scheme." Chartered Institute of Environmental Health<sup>[18]</sup>.</p> <p>"Given the investment made by businesses in compliance, the review group took the view that the Primary Authority scheme should be extended to cover all age-restricted products, including alcohol. This offers the recognition of business efforts to prevent under-age sales in inspection plans and enforcement activity. There is little to be gained from 'test purchasing' at public expense in a business that already funds its own scheme of a similar nature and acts upon the results. This offers scope for efficiency savings and the ability to release public funds to target less responsible businesses"<sup>[19]</sup>"</p> <p>Responses to the public consultation carried out over the summer of 2011 have been generally supportive of the plans to extend Primary Authority into these areas. However CLG officials have ongoing doubts over its application to Part 1 of the Housing Act. LBRO advise that of all the areas of extension we are considering, this is the area where there is numerically the least interest – i.e. where there are fewer businesses seeking the extension.</p> <p>Businesses support the extension of Primary Authority to cover the age related sale of knives, no objections have come through in the consultation and Home Office officials support this move.</p>
Enable access for businesses seeking a Primary Authority partnership – Company Group structures	<p>Currently excluded from the Primary Authority benefits are some Company Group structures where not all the separate legal entities within the group conform to the eligibility criteria; even if the group members share a common compliance approach. These separate entities, even if they are eligible in their own right, are unable to share a common Primary Authority for premises-based activities such as Health &amp; Safety and some of the Company Group members may not actually be eligible for a Primary Authority partnership at all.</p> <p>All of the companies within a group are only able to enter into Primary Authority partnerships with the same Primary Authority if they operate across local authority boundaries and are themselves regulated by the Primary Authority. This is not always the case. For example, Rank operates Mecca Bingo and Grosvenor Casinos through two separate companies. The two businesses face similar compliance issues (aside from gambling regulations) and would benefit from a co-ordinated Primary Authority approach. Grosvenor Casinos has registered for Primary Authority with Westminster but Mecca Bingo is not able to do likewise as it does not operate in Westminster. This means that although Rank may disseminate the advice provided by Westminster Primary Authority to Grosvenor Casinos throughout the group, the advice is only assured for Grosvenor Casinos. Mecca Bingo would require a separate partnership with a local authority that directly regulates the business, meaning that Rank is unable to fully access the consistency that a single Primary Authority can offer.</p> <p>Government intervention is necessary to address this so that Primary Authority benefits can be extended to businesses that cannot currently participate. There was broad agreement in the responses to the public</p>

<sup>[18]</sup> A response to the public consultation on the statutory instruments under the Regulatory Enforcement and Sanctions Act 2008 <http://www.bis.gov.uk/files/file50500.pdf>

<sup>[19]</sup> Better Regulation of Age Restricted Products: A Retail View, August 2010. <http://www.lbrouk.org/docs/age-restricted-products-report.pdf> The membership of the Review Group that wrote the report represents in the region of UK 250,000 retail outlets.

Area	Rationale
	consultation carried out over the summer of 2011 to the proposal to extend Primary Authority in this way.
Enable access for businesses seeking a Primary Authority partnership – Franchises	<p>At the moment franchises are only eligible to participate in Primary Authority where they themselves are regulated by more than one local authority.</p> <p>Some businesses operate a dual model with both franchises and outlets wholly owned by the business. Approaches to compliance are often shared by the franchises and the business. Some franchise operations are tightly controlled, with compliance being directed by the franchisor rather than being left to the discretion of franchisees. Within this dual model, compliance is often shared by the franchises and the business.</p> <p>Within such tightly controlled franchise operations, there would be benefits in the franchisor being able to enter into a Primary Authority partnership and to disseminate assured advice, and develop an inspection plan, for the business as a whole. As Primary Authority partnerships are only available to individual companies, single Primary Authority partnerships for franchise operations are not currently possible.</p> <p>Moreover, a “work around” whereby the franchisor and the franchisees all enter into partnerships with the same Primary Authority, and the Primary Authority treats those partnerships as linked, is rarely available for franchise operations. Most franchisees operate only a small number of premises which means that they are excluded from the scheme by the eligibility gateways which require that they are regulated in more than one local authority area and that they are regulated in the Primary Authority’s area. Kentucky Fried Chicken has, for example, entered into a Primary Authority partnership with Woking Borough Council but only a very small number of its franchisees would be able to enter into linked partnerships and so benefit from assured advice.</p> <p>Government intervention is necessary to address this so that Primary Authority benefits can be extended to businesses that cannot currently participate and so that the scheme remains responsive to the changing economic climate and business’ need to develop an adaptive response to that. There was broad agreement in the responses to the public consultation carried out over the summer of 2011 to the proposal to extend Primary Authority in this way.</p>
Enable access for businesses seeking a Primary Authority partnership – Trade Associations	<p>Many businesses which hold membership of trade associations are not individually regulated by multiple local authorities and therefore do not meet the current eligibility criteria for Primary Authority. However, trade associations can provide extensive and detailed compliance advice, guidance and services to their members which improve their compliance capability and performance in a similar, albeit looser, way to a business HQ disseminating compliance advice to its locations. A much wider range of businesses could benefit from the Primary Authority principle, particularly SME’s.</p> <p>Trade associations and most of their members are generally excluded from the Primary Authority scheme because they do not meet the current eligibility criteria for Primary Authority:</p> <ul style="list-style-type: none"> <li>• Member businesses may not be individually regulated by multiple local authorities;</li> <li>• Alternatively they may not all be regulated by a single local authority; and</li> <li>• Trade associations often do not themselves undertake the regulated</li> </ul>

Area	Rationale
	<p>activities of their members.</p> <p>Government intervention is necessary to enable trade associations to access the scheme, and so extend the benefits of Primary Authority to a wider range of businesses. This would be a slightly different form of the scheme, focused on the provision of advice and guidance, with local authorities taking the advice provided by the Primary Authority into account. This would enable more efficient use of local authority and business resources, as the Primary Authority would interact with trade associations rather than all the individual businesses, reducing the administration workload for Primary Authority, trade associations and local authorities as well as for organisations wanting to join the scheme.</p> <p>There was broad agreement in the responses to the public consultation carried out over the summer of 2011 to the proposal to extend Primary Authority in this way.</p>
<p>Use co-regulation delivered through the strengthening of Primary Authority inspection plans for those businesses with good compliance systems in order to better focus inspections</p>	<p>Primary Authorities can work with partner businesses to prepare a national inspection plan. Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks. As already mentioned the data collected by RAND Europe shows inspection plans result in a reduction of about 20 hours' work per partnership per year for businesses.</p> <p>At the moment, however, there is little obligation on other local authorities to comply with inspection plans and local authorities infrequently provide feedback to the Primary Authority after inspections or enforcement action. We believe this is one reason why the take up of currently lies at only around 5% of participating businesses. This prevents the full potential of inspection plans from being exploited and weakens the capacity to build a dynamic risk-based inspection regime which reflects the current compliance situation for the business and the local authorities regulating it. Strengthening inspection plans so that local authorities are required to follow them would enable full recognition and exploitation of business-led activities such as third party inspections and business audits. This would reduce the costs associated with regulation by multiple local authorities, for example by avoiding repeated checks, by coordinating activity and standardising feedback, while also reducing costs for local authorities and business and, ultimately, increasing compliance through a better information flow.</p> <p>Feedback to the Lord Young review from some large multi-site food retailers suggests that the Primary Authority scheme has not yet delivered consistent inspection in practice and the review recommended strengthening the existing statutory framework underpinning inspection plan provisions.</p> <p>Several large businesses have made it clear to us that they think this would greatly increase the return on their investment in Primary Authority.</p> <p>This approach is also important in supporting our policy intention to broaden the use of co-regulation where this provides a more cost effective solution for business – as it provides regulators and businesses with a formal framework within which to do this<sup>[20]</sup>.</p> <p>“...the scheme has been successful, but it has had insufficient impact on the</p>

<sup>[20]</sup> More information on co-regulation is available in a separate impact assessment attached to the White Paper.

Area	Rationale
	<p>inspection regime. One of the intentions behind the scheme was to remove inconsistencies here as well, but the specific provisions have limited ‘teeth’. Businesses and the Primary Authority may draw up an inspection plan, but there is little obligation on other local authorities to comply with it. Feedback to the review from some large multi-site food retailers suggests that the scheme has not yet delivered consistent inspection in practice.</p> <p>I believe that we need to tackle this issue. The existing statutory framework underpinning the inspection plan provisions could be strengthened, with an enhanced role for the HSE. I therefore propose a consultation with the intention of having an improved system in place as soon as practicable.” Lord Young<sup>[21]</sup></p> <p>Responses to the public consultation carried out over the summer of 2011 demonstrated general support for the proposal to strengthen inspection plans in this way – although some caution was expressed by trading standards offices about the suggestion that local authorities should be obliged to seek consent in advance from the Primary Authority when deviating from inspection plans. We believe government intervention is necessary to reduce the burden of inspection for compliant businesses and local regulators by strengthening the existing statutory framework underpinning inspection plan provisions. We will seek to do this in a way that balances the needs of local enforcement officers to act quickly in certain situations with the need to deliver the benefits of a coherent enforcement relationship with participating businesses in a way that supports and incentivises their compliance and removes unnecessary costs for all parties.</p>

## Policy objectives

22. The policy objectives are to address inconsistency in the enforcement of regulation at the local level in policy areas currently out of scope of the existing scheme and to achieve a further reduction of the inspection burden on businesses by:
- ensuring that the Primary Authority scheme delivers all of its potential benefits, by strengthening key elements and incorporating a wider range of regulatory areas; and
  - extending those benefits to more businesses, by increasing opportunities for participation in the scheme.
23. The intended effects include:
- a reduction in the cost of regulation to business and public services;
  - improved compliance through an improved relationship between business and their Primary Authority, through improved use of intelligence and increased certainty over advice given;
  - a reduction in the costs of compliance for both businesses and regulators;
  - an increase in the net benefits delivered by the scheme, by bringing additional areas of regulation within scope;
  - extending the benefits of coherent local authority action beyond the coordination of enforcement actions and into the planning of inspections;
  - to broaden the range of businesses that are able to participate in the scheme, including more smaller businesses.
  - helping new ‘localist’ structures of accountability and transparency work effectively - ensuring local issues are taken into account within the planning of compliance measures, enabling better targeting of local resources at the greatest local need, such as face-to-face business support for SMEs or targeting ‘rogue’ businesses;

<sup>[21]</sup> Common Sense, Common Safety [http://www.number10.gov.uk/wp-content/uploads/402906\\_CommonSense\\_acc.pdf](http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf)

- the removal of barriers which may deter the business community from moving into different business structures – including where this may be needed to mount an effective and adaptive response to changing economic circumstances, so supporting growth.

## Options identification

24. We have considered two options:

- Option 1 – Do nothing
- Option 2 – Extend the scheme

25. No other alternatives are proposed. As the existing scheme has already demonstrated benefits and has proved its capacity to deliver more effective, more streamlined regulation for multi-site businesses at local level and we believe that those benefits should be made available to a higher number of businesses.

## Options analysis

### Option 1 – Do nothing

26. This option involves the scheme continuing as it currently is.
27. The impact assessment of Statutory Instruments implementing the Primary Authority scheme assumed that 700 – 1,100 partnerships to be set up by 2014.
28. This is a counterfactual for the second option – to extend the scheme.
29. The current take up on inspection plans suggests that the potential benefit of this part of the Primary Authority scheme would remain substantially unfulfilled if we do nothing.
30. ‘Doing nothing’ would also place the government at reputational risk due to: failure to comply with the Lord Young recommendation that the government has accepted; unmet demand for extension from business; and a failure to adequately meet the Coalition Commitment to end ‘tick box regulation’.
31. There is also the opportunity cost of ‘untapped potential’ in not maximising the benefits the scheme offers for removing barriers to economic growth. It would also prevent maximisation of the savings to the regulatory system in providing greater efficiency in improving business compliance.

### Costs

32. There would be no additional costs associated with this option. However, we would anyway need to revisit the position on the three regulatory areas which are currently excluded as this was a commitment made in the original response to consultation.

### Benefits

33. This option would not deliver any additional benefits other than those associated with the projected take up for the existing scheme over time.

### Option 2 – Extend the scheme

34. This option includes the following:

- **Extending to new policy areas:** age restricted sales of alcohol (Licensing Act 2003); fire safety (Regulatory Reform (Fire Safety) Order) matters relating to health and safety in housing (Part 1 of the Housing Act); and age restricted sales of knives (Criminal Justice Act 1988).
- **Strengthening of Primary Authority inspection plans.** Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks. At the moment, however, there is little obligation on other local authorities to comply with inspection plans or to provide feedback to the Primary Authority. The option proposes strengthening inspection plans so that local authorities are required to follow them and to facilitate feedback flow.
- **Increasing access for businesses seeking a Primary Authority partnership:** Company Group structures; Franchises and trade association members.

35. This option will require legislation. As the scheme is statutory, any amendments must also be statutory.

#### *Gambling*

36. This option may include gambling although gambling, which was another area of regulation specifically excluded from the scope of the Primary Authority scheme following consultation in 2009.
37. In the case of the Gambling Act 2005, the vast majority of enforcement for age-restricted sales is undertaken by the Gambling Commission – the national regulator for commercial gambling in Great Britain.
38. The Act sets out three licensing objectives which underpin the functions that the Commission and Licensing authorities perform. They are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
39. The Act also gives a role for local authorities in licensing gambling premises in their area which involves; issuing premises licences for casinos, betting offices and race tracks, bingo clubs, adult gaming centres and family entertainment centres, issuing permits for gaming machines in members' clubs and licensed premises (fruit machines or amusement with prizes), gaming in members' clubs etc. Monitoring and enforcement of these licenses and permits also falls within the licensing authorities remit.
40. Through the consultation period the Gambling Commission have been in discussions with the LBRO to explore the scope for aspects of gambling regulation to be built into the Primary Authority scheme. How this would operate depends upon the future direction of enforcement arrangements, including the balance between that carried out by local authorities and those activities carried out by the Gambling Commission. We believe the Primary Authority scheme, or similar approach could be extended to the Gambling Act 2005 and we will continue to explore how this could be done. If appropriate we will build this into the legislation bringing forward the extensions to Primary Authority.

#### **Data and assumptions**

##### *Sources*

41. Much of the data used for the estimates is provided by RAND Europe (an independent not-for-profit research institute) from an evaluation of Primary Authority commissioned by LBRO<sup>[22]</sup> – we have received information from 27 businesses and 23 local authorities within the Primary Authority scheme.

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<sup>[22]</sup> See Footnote 2.

42. In developing the initial proposals we used evidence from the stakeholder engagement with 93 organisations conducted for the Review of LBRO.
43. In producing this final Impact Assessment we have analysed the responses to the specific consultation on the future of the LBRO and the proposed extensions to the Primary Authority scheme, which ran over the summer of 2011<sup>[23]</sup>.
44. We have also gathered data from various databases and relevant documents (details below).
45. This impact assessment has also made use of the evidence base from the previous consultations carried out for Regulatory Enforcement and Sanctions (RES) Bill and for Statutory Instruments (SIs) implementing the Primary Authority scheme.

*Number of partnerships after the extension*

46. We have looked in detail at each area proposed to be included in the extension to estimate the number of likely candidates for the new categories of partnerships. We have gathered data about the business population in each area and the current partnership figures.
47. We have gathered data from the following sources:
  - Inter Departmental Business Register (February 2011)
  - CLG, English House Condition Survey 2006 Private Landlords Survey, 2008<sup>[24]</sup>
  - Financial Analysis Made Easy database
  - LBRO 2010 Corporate Plan
  - Primary Authority database.
48. We have also consulted LBRO and other relevant bodies (e.g. the British Property Federation, the Chartered Institute of Environmental Health, Federation of Small Businesses, and the Chief Fire Officers Association) for their expert opinion.
49. We have compared the population of businesses likely to be affected by the extension with take up in the population of business affected by the existing scheme.
50. Some proposed extensions are quite niche. For example, from our discussions with housing associations and our analysis of relevant statistics, we conclude that few businesses would be in scope for the matters relating to health and safety in housing. We have adjusted the figures accordingly.
51. If we assume a similar proportion take up the extension (with some exceptions such as matters relating to health and safety in housing) then we estimate that between 600 and 1000 additional partnerships will be set up by 2016 as a result of the extension. This compares to 563 partnerships set up in the 2 years since Primary Authority was established and 700 – 1,100 partnerships assumed to be set up for the existing scheme in the impact assessment introducing the scheme.
52. The consultation has shown broad support from business for the areas of proposed extension – however it has not provided additional detail which has allowed us to further refine the projected numbers.
53. As this is a forecast we use a range of projections to capture the sensitivity of the analysis.

*Number of first and subsequent partnerships*

54. LBRO data showed that 47% of partnerships are first partnerships (e.g. a business and/or a local authority will not have any experience in the scheme) and 53% are subsequent ones. We have assumed the same for this impact assessment.

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<sup>[23]</sup> The Future of the Local Better Regulation Office and Extending the Benefits of the Primary Authority Scheme – A Consultation:

<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/f/11-985-future-local-better-regulation-office-consultation.pdf>

<sup>[24]</sup> <http://www.communities.gov.uk/publications/housing/privatelandlordsurvey>

## *Cost recovery*

55. LBRO data showed that 48% of the current partnerships recover full costs and 12% do not recover any costs. We have assumed the same for this impact assessment. This will be a transfer from business to local authority. While it does not change the total cost to society it affects the distribution of the cost between business and local authority.
56. It has been noted that the remaining 40% of the current partnerships recover some but not all the costs. "Some cost recovery" encompasses a range of options which include:
  - service levels as provided previously under home authority will be free, additional services are chargeable;
  - certain services are chargeable, others are provided for free;
  - set number of hours are provided annually for free, with additional hours chargeable at hourly rate; and
  - costs recovered at the discretion of the Primary Authority.
57. It has not been possible to establish the percentage of costs which are recovered under "some cost recovery" arrangements for the current scheme. For the purpose of this impact assessment we have assumed that 40% of the partnerships will recover half of the cost. This will be a transfer from business to local authority. While it does not change the total cost to society it affects the distribution of the cost between business and local authority. This is relevant for One In, One Out calculations.

## *Number of partnerships setting up inspection plans after the extension*

58. We believe that after strengthening of inspection plans more businesses would be interested in development of inspection plans (as already mentioned 5% of partnerships currently use inspection plans). Based on our discussions with LBRO we have assumed one fifth of the total number of partnerships assumed to be set up in existing and new areas (260 - 420) will be interested in developing an inspection plan<sup>[25]</sup>. It is important to note that the inspection plan can cover several partnership categories and business can only ever have one inspection plan with one Primary Authority.

## *Business and local authorises labour cost*

59. We have used the mean hourly senior manager hourly tariff of £22.46 uplifted by 24% for overheads (£27.85) as business labour costs. The tariff is based on the ASHE 2010 data<sup>[26]</sup>.
60. LBRO data has shown that average hourly rate charged by current Primary Authorities is £42.86<sup>[27]</sup>. We have used this figure as Primary Authorities' labour costs. However, it is important to note that the figure has been extrapolated from a small base. We did not receive additional data on this through consultation.
61. We believe that the hourly costs for Primary Authorities and enforcing authorities are different. Feedback to LBRO suggests that Primary Authorities tend to use a senior officer to be the Primary Authority relationship manager whereas enforcing authorities use a less senior manager as they undertake more "routine/frontline" tasks such as inspection. The impact assessment of Statutory Instruments and Environmental Health Officer of £27.75<sup>[28]</sup> as enforcing authorities' labour costs. This was based on the consultation on the draft Statutory Instruments on Primary Authority. We have used it, uplifted for overheads and inflation, in this impact assessment (£35.27).

<sup>[25]</sup> The impact assessment of Statutory Instruments implementing the Primary Authority scheme assumed that 700 – 1,100 partnerships to be set up. This impact assessment assumes that additional 600 – 1,000 will be set up as a result of the extension of the scheme.

<sup>[26]</sup> 2010 Annual Survey of Hours and Earnings (ASHE), [http://www.statistics.gov.uk/downloads/theme\\_labour/ashe-2010/2010-occupation.pdf](http://www.statistics.gov.uk/downloads/theme_labour/ashe-2010/2010-occupation.pdf)

<sup>[27]</sup> We understand that the figure includes overheads.  
<sup>[28]</sup> It did not include overheads.

## *Number of trade associations developing a Primary Authority relationship after the extension*

62. Trade associations represent an opportunity to extend the benefits of Primary Authority to a much wider range of businesses. Trade associations could cascade the advice to their members who can all follow the same consistent approach. For example, the National Federation of Retail Newsagents would like to obtain advice for all 17,000 of its member businesses with regard to age restricted sales. We will test in consultation how many trade associations will be interested in participating in the Primary Authority scheme.

### *Categories of costs and benefits*

63. We have assumed the same categories of costs and benefits as a result of the extension as those identified for the existing scheme. No additional costs and benefits specific to the planned extensions were identified through the consultation.
64. The final level of costs and benefits will in part be dependent on the precise mix of extensions that are put in place. These will become clearer over time, and in particular we are still negotiating with some other Departments on whether and how to cover some of the additional areas of regulation. However, each element of extension is estimated to deliver net benefits – therefore we do not envisage a scenario under which the failure to implement some of the proposals would result in net costs. In addition LBRO advise that the extension of Primary Authority to new company types and strengthened inspection plans – both of which we will be introducing – are the two areas likely to be of greatest potential benefit.

### *Other data and assumptions*

Subject	Assumption	Source/Comment
No of hours spent by local authorities (LAs) on setting up PA partnership	1 <sup>st</sup> PA: 29.9 subsequent PA: 8.6	Data provided by RAND Europe <sup>[29]</sup>
No of hours' per week spent by PA on dealing with the PA business to maintain partnership	1 <sup>st</sup> PA: 3.11 subsequent PA: 1.5	Data provided by RAND Europe
No of hours per week spent by PA on dealing with enforcing authorities (EAs)	1 <sup>st</sup> PA: 1.95 subsequent PA: 0.3	Data provided by RAND Europe
No of hours spent by PA on developing the inspection plan	20.1	Data provided by RAND Europe
No of hours per week spent by EA on dealing with PAs	1	Our assumption based on corresponding data for PAs (consulted with LBRO)
No of contacts with business reduced per year by EA due to PA (in terms of familiarisation, risk assessment ect)	50	Our assumption after consultation with LBRO
No of hours per contact saved by EA due to PA (in terms of familiarisation, risk assessment ect)	7	Our assumption after consultation with LBRO
No of hours spent by business on setting up PA partnership	37.68	Data provided by RAND Europe
No of hours per week spent by business on maintaining partnership	2	Data provided by RAND Europe
No of instances of inconsistent advice a year	Reduced from 5.5 instances (pre-PA scheme) to 3 instances	Data provided by RAND Europe
No of hours spent by business on developing the inspection plan	20.6	Data provided by RAND Europe
Average loss from contradictory advice	£10,000	The assumption from the impact assessment of Statutory Instruments

<sup>[29]</sup> See Footnote 2.

Subject	Assumption	Source/Comment
No of hours saved by business as a result of consistent approach to risk (inspection plans)	20	implementing the Primary Authority scheme modified downwards after our discussions with business. Our assumption after consultation with LBRO
Cost recovery	partnerships which will not recover costs at all – 12% partnerships recover full costs – 48% partnerships which recover 50% of costs – 40%	Our assumption after consultation with LBRO
No of referrals per partnership per year	5	Our assumption after consultation with LBRO
No of hours spent by EAs on each referral	1	Our assumption after consultation with LBRO
No of hours saved by EAs per an inspection plan per year	2	Our assumption after consultation with LBRO

## Risks

### *Scale of take-up of the Primary Authority scheme*

65. The main potential risk is that of lower than expected take-up of the Primary Authority scheme due to the fact that businesses will be unaware of the changes. However, we believe that this risk is not significant because of the popularity of the existing scheme. We have also used a range of estimates of uptake to capture the sensitivity of the analysis in this impact assessment and the consultation responses show that there is business support for the planned extensions.
66. There is also the risk of lower than expected take-up of the Primary Authority scheme owing to the limited capacity among the enforcing authorities in some cases. For example, fire authorities' may have limited capacity to support Primary Authority partnerships<sup>[30]</sup> extended into this area.
67. The Chief Fire Officers Association (CFOA) has expressed some concerns that lack of resources may mean that each fire authority would only be able to act as the Primary Authority for one business. This may limit the number of partnerships likely to be set up in this area. CFOA thinks that it would be unlikely that an average Fire and Rescue Service (FRS) would have capacity to support more than one Primary Authority partnership; some of the larger services might be able to host multiple partnerships, whilst many of the smaller services are now reducing their workforces and so are unlikely to have any capacity at all. LBRO have advised that a number of models of cost recovery can help to address these limitations.
68. Capacity of local authorities was expressed as a concern at the developmental stages of the scheme. Yet, the operation of the scheme has shown that these risks have not materialised, due to a combination of active management by LBRO and cost recovery. We feel that the cost recovery element and LBRO's key role in the formation of a Primary Authority partnership will mitigate the risk. To determine whether a proposed partnership is suitable, LBRO takes account of issues such as the capacity of an authority to resource the partnership.

<sup>[30]</sup> In this impact assessment, similarly to the RES Act, references to a local authority include also "a fire and rescue authority". See: Regulatory Enforcement and Sanctions Act 2008, p. 2 [http://www.legislation.gov.uk/ukpga/2008/13/pdfs/ukpga\\_20080013\\_en.pdf](http://www.legislation.gov.uk/ukpga/2008/13/pdfs/ukpga_20080013_en.pdf)

69. There is no barrier to those authorities that have greater capacity hosting a greater number of partnerships. For example, the London Fire Brigade currently supports 10 businesses in a petroleum licensing Primary Authority partnership, which is resourced by cost recovery from the businesses. If fire authorities are sufficiently resourced, they may be able to support multiple businesses in fire safety Primary Authority partnerships in the same way. Currently 46 local authorities (which include one combined fire authority and one county fire authority) support 182 businesses between them. This demonstrates the capacity for local authorities to support multiple businesses. If an individual authority had capacity difficulties, there would be no compulsion to host a partnership.

*Extent of costs and benefits to business and local authorities arising from the extension of the scheme*

70. There is also the risk that this impact assessment has not captured the full extent of the costs and benefits to business and local authorities arising from the extension. This may be caused both by the fact that we have used data from the evaluation of the existing scheme which is still in its infancy and that we have assumed the same categories of costs and benefits as a result of the extension as those identified for the existing scheme. We believe that this risk has been mitigated by providing a range of costs and benefits estimates. The consultation has not identified additional issues not already captured in the impact assessment.

*Amendments of the definition of regulated person*

71. There are potential challenges associated with amending the definition of regulated person. For example, allowing trade associations to act as a conduit for the dissemination of Primary Authority assured advice. The advice would only be fairly general in nature, as it would need to be applicable to all members. This enables the trade association to take on a co-regulatory role. The Primary Authority would need to ensure there is a strong incentive for the trade association to continue to honour this role. One way to do this could be by the Primary Authority charging the trade association for this guidance.

*Communication risk*

72. There is a risk that regulators would be unaware of the changes and of the new relationships. This could be mitigated through ensuring publicity and through LBRO keeping a register of the new partnerships. This would increase visibility to regulators and local authorities.

*Delivery disruption risk*

73. The proposed extensions to the Primary Authority scheme are being implemented at a time when LBRO will be moving into BIS. There is a risk therefore that this transition, if not managed effectively could disrupt the operation of the Primary Authority scheme. This is recognized as a key risk within the transition project and BIS will be seeking to do all that it can to ensure that such problems do not arise, for example by ensuring that existing staff transfer into BIS to support the scheme and that the resource implications of the transition do not impact on those delivering Primary Authority.

**Cost and benefit detail**

Costs for businesses

*One-off costs*

74. There will be start up costs involved for businesses developing a Primary Authority partnership with a local authority. Using figures provided by businesses and local authorities already participating in Primary Authority partnerships, it is estimated that businesses spend on average almost 38 hours per partnership liaising with the local authority to establish a Primary Authority partnership. This liaison includes negotiation of the scope of the partnerships, agreement of the nature of services to be provided, charging arrangements and agreement of the legal contract. For 600 -1,000 partnerships assumed to be set up after the extension, start-up costs for businesses developing new partnerships

partnerships have been estimated at between £630,000 and £1.1m<sup>[31]</sup>. Businesses and local authorities surveyed noted that agreement of the legal terms and conditions of the partnership represents a significant proportion of the time taken in establishing a partnership and it is expected that the time required establishing subsequent partnerships will be reduced.

75. One-off costs for businesses will also include costs related to the development of inspection plans. Using figures provided by businesses and local authorities already using inspection plans, it is assumed that businesses spend on average 20 hours on the development of the inspection plans. For 260 - 420 partnerships assumed to develop an inspection plan after the extension, one-off costs to businesses in the development of inspection plans have been estimated at between £149,000 and £241,000<sup>[32]</sup>.
76. As the RES Act allows Primary Authorities to recover the costs from the business involved, one-off costs for businesses will also include start-up costs and costs in the development of inspection plans incurred by a local authority acting as a Primary Authority. As already mentioned in the assumptions and data section for the purpose of this impact assessment, we have assumed that 48% of the partnerships assumed to be set up after the extension will recover full costs<sup>[33]</sup> and 40% will recover half of the costs<sup>[34]</sup>. This equates to a cost for business between £477,000 and £787,000 for 600 – 1,000 partnerships<sup>[35]</sup>.
77. The details of one-off costs<sup>[36]</sup> to businesses are summarised in the table below. Low refers to low take up and high to high take up.

Costs	One-off costs Low	One-off costs High
<b>One-off costs to business including</b>	<b>£1.3m</b>	<b>£2.1m</b>
Business start up costs	£630,000	£1.1m
Developing inspection plan costs	£149,000	£241,000
Primary Authority costs recovery	£477,000	£787,000

#### *Annual costs*

78. Based on RAND data, it is assumed that on average businesses spend about 2 hours a week on maintaining the Primary Authority partnership. Using these figures, the annual costs for businesses for maintaining Primary Authority partnerships have been estimated at between £1.7m and £2.9m<sup>[37]</sup>.
79. Annual costs for businesses will also include charging arrangements for partnerships. As already mentioned Primary Authorities are able to recover the costs of operating a partnership from the business involved, and there are a number of charging models in place in existing partnerships. We have estimated the direct cost of cost recovery to business at between £3m and £5m for 600-1,000 partnerships<sup>[38]</sup>. However, it is assumed that these costs will be compensated by a reduction in duplication and inconsistent advice, as discussed below.

<sup>[31]</sup> The lower figure is based on the number of hours assumed to be spent on setting up a partnership (37.68), and the lower number of partnerships (600) at the senior manager hourly tariff (£27.85). The higher figure has been estimated similarly but using the higher number of partnerships (1,000).

<sup>[32]</sup> The costs have been estimated using the average number of hours assumed to be spent on developing the inspection plan (20.6) for the lower and higher number of partnerships assumed to develop an inspection plan after the extension (260 – 420) at the senior manager hourly tariff (£27.85).

<sup>[33]</sup> Based on data provided by LBRO.

<sup>[34]</sup> Our assumption after consultation with LBRO.

<sup>[35]</sup> The basis for this figure is discussed under the annual costs for local authorities part.

<sup>[36]</sup> We expect all one-off costs and benefits to be spread across businesses and local authorities over that period 5 years.

<sup>[37]</sup> This is based on the number of hours assumed to be spent on maintaining the partnership (2) at the senior manager hourly tariff (£27.85) for all 600 – 1,000 partnerships.

<sup>[38]</sup> The basis for this figure is discussed under the annual costs for local authorities' part.

80. It is worth noting that in case study discussions carried out by RAND Europe, businesses were asked for their views on being charged for the services they were being provided with through the scheme. In each of the three cases, businesses thought the service was good value for money and did not represent a large financial burden for them.

### Benefits for businesses

#### *Improved consistency of advice*

81. Evidence received from business shows that communication between local authorities can be an issue. The quotes from case studies in the research undertaken by the Centre for Regional Economic Development to review and assess the methodology of the Retail Enforcement Pilot in a business environment<sup>[39]</sup> show that there is still a perceived inconsistency in the interpretation of the regulations:

"There are huge inconsistencies between different local authorities...some listen and compromise...others banging your head against a wall as they can do what they want to do."

"Confusion because of different interpretation...different councils' confusion with H&S, Fire and FSA. However Trading standards are black and white...good practical procedures...if wrong get 28 days notice of revisit ...you know where you stand-what you are working to."

"CONSISTENCY that is the problem with the authorities...we need ...this is what has happened - this is what is likely to happen, but they can't do that...vague or get letter of improvement."

82. The Primary Authority scheme addresses this as local authorities are required to contact Primary Authorities before proceeding with enforcement action against a business with a Primary Authority partnership. The scheme, therefore, creates greater certainty and consistency for businesses operating across local authority boundaries and therefore reduces losses from contradictory advice (where, for example, businesses plan on the basis of advice given by one local authority, only for this to be contradicted elsewhere).
83. The loss value is dependent upon the size of the business and scope of the advice, and it is assumed that the average loss from contradictory advice amounts to £10,000 per incident per business<sup>[40]</sup>. Based on RAND Europe data we have also assumed that the Primary Authority scheme reduces the number of conflicting advice incidents from 5.5 to 3 a year per partnership. Based on these assumptions, it is estimated that the annual savings to business resulting from improved consistency of advice as a result of joining Primary Authority scheme at the range of £15m and £25m<sup>[41]</sup>.
84. Examples received from businesses and local authorities also suggest that Primary Authority reduces costs that arise for businesses as a result of 'gold plating' of legislative requirements. The case study below shows how Primary Authority advice saved up to £1m in relation to a single issue.

#### *Case study<sup>[42]</sup>*

Leeds City Council acts as Primary Authority BSS Group for health and safety regulation. BSS Group operate trade counters at 434 sites across the UK. BSS Group were concerned about the need to properly address the risk from legionella at their sites, and felt that they did not have the necessary specialist expertise internally so they hired a consultant to put together a control strategy.

The consultancy provided detailed reports recommending a series of actions including detailed risk assessments at all of their sites, and a variety of control measures such as removing dead legs of pipework etc where these were found. The total cost for implementation of the recommendations is estimated by BSS

<sup>[39]</sup> Centre for Regional Economic Development, University of Cambria, LBRO, "Review and assessment of the methodology of the retail enforcement pilot in a business environment", May 2009 <http://www.lbrouk.org.uk/docs/cred-report.pdf>

<sup>[40]</sup> The assumption from the impact assessment of Statutory Instruments implementing the Primary Authority scheme modified downwards after our discussions with business for the Review of LBRO.

<sup>[41]</sup> The costs have been estimated using the assumed number of incidents reduced by the Primary Authority scheme (2.5) and the assumed average loss (£10,000) for 600 and 1,000 partnerships.

<sup>[42]</sup> Case study available from <http://www.lbrouk.org.uk/news-pa-bss-1m.html>

at in excess of £1m. BSS went to their Primary Authority to get detailed advice on legionella. The Primary Authority was able to give advice that the business should control legionella by eliminating all sources of aerosols where possible, and then only applying controls where they could not be eliminated. The cost of implementing this recommendation is negligible and can be dealt with through existing processes. The annual cost of Primary Authority for BSS is around £5,000, meaning that this piece of advice alone has saved the equivalent of 200 years of Primary Authority costs.

#### *Improved consistency of risk assessment*

85. As already mentioned Primary Authorities can work with partner businesses to prepare a national inspection plan. Inspection plans provide useful intelligence to other councils to target their inspection activity and to minimise unnecessary and duplicative checks.
86. At the moment, however, there is little obligation on other local authorities to comply with inspection plans and local authorities infrequently provide feedback to the Primary Authority after inspections or enforcement action. This prevents the full potential of inspection plans from being exploited and weakens the capacity to build a dynamic risk-based inspection plan which reflects the current compliance situation for the business and the local authorities regulating it. Some businesses already having inspection plans noted that it was difficult to quantify savings as a result of them due to a limited awareness amongst local authorities of the existence of the inspection plans.
87. We believe that strengthening inspection plans so that local authorities are required to follow them would enable full recognition and exploitation of business-led activities such as third party inspections and business audits.
88. Based on RAND data, it is assumed that inspection plans result in a reduction of about 20 hours' work per partnership per year. Based on this assumption the savings for multi-site businesses as a result of improved consistency of risk assessment due to inspection plans have been estimated at between £145,000 and £234,000 per year<sup>[43]</sup>.

#### Net benefits for business

89. Our estimate is that the overall net benefits for businesses will amount to between £10.4m and £17.3m a year. The final level of benefit will in part be dependent on the precise mix of extensions that we are able to put in place – some of which are still being negotiated with other Departments. However each element of extension will deliver net benefits.
90. The monetised impact of Primary Authority on businesses is summarised in the table below.

Costs and benefits	Annually Recurring Low	Annually Recurring High
<b>Business annual benefits including</b>	<b>£15.1m</b>	<b>£25.2m</b>
Savings - consistency: advice	£15m	£25m
Savings - consistency: risk assessment	£145,000	£234,000
<b>Business annual costs including</b>	<b>£4.8m</b>	<b>£7.9m</b>
Maintaining Primary Authority partnerships	£1.7m	£2.9m
Primary Authority costs recovery	£3m	£5m
<b>Net benefits</b>	<b>£10.4m</b>	<b>£17.3m</b>

#### Costs for local authorities

##### *One-off costs*

<sup>[43]</sup> This is the numbers of hours assumed to be saved as a result of an inspection plan (20) at the senior manager hourly tariff (£27.85) for 240 and 420 partnerships assumed to develop inspections plans after the extension.

91. Collected evidence for the evaluation of the existing scheme has shown that the costs for setting up a partnership are lower for Primary Authorities who have previously been involved in setting up more than one partnership. It is assumed that a typical Primary Authority start-up would involve a single officer's time of almost 30 hours for first partnerships and almost 9 hours for subsequent partnerships. Based on LBRO data, we have assumed that 47% of partnerships will be first partnerships (e.g. a business and/or a local authority will not have any experience of the scheme) and 53% will be subsequent ones.
92. Start-up costs for local authorities developing new partnerships have been therefore estimated at between £477,000 and £795,000 for 600 to 1,000 partnerships<sup>[44]</sup>.
93. It is important, however, to note that the costs may be even lower if there were already existing arrangements between a business and a local authority which became a basis for a Primary Authority partnership. Therefore the time spent on setting up the Primary Authority partnership might be lower than it might have been without a previous arrangement.
94. There will also be some small one-off costs to local authorities in the development of inspection plans. It is assumed that it takes about 20 hours for a local authority to develop an inspection plan. The one-off costs have been estimated at the range of £224,000 and £362,000<sup>[45]</sup> for partnerships assumed to develop an inspection plan after the extension.
95. The details of one-off costs to Primary Authorities are summarised in the table below.

<b>Costs</b>	<b>One-off costs Low</b>	<b>One-off costs High</b>
<b>One-off costs to Primary Authorities including</b>	<b>£701,000</b>	<b>£1.2m</b>
Primary Authority start up costs	£477,000	£795,000
Developing inspection plan costs	£224,000	£362,000

#### *Annual costs for Primary Authorities*

96. Collected evidence has indicated that Primary Authorities spend about 3 hours per week administering a first partnership and about 1.5 hours for each subsequent partnership. The range is dependent on a number of factors, including the size of the business, the scope of the partnership and the nature of support given through the Primary Authority relationship.
97. The annual costs for maintaining Primary Authority partnerships have been estimated at between £3m and £5m for 600 – 1,000 partnerships<sup>[46]</sup>.
98. Annual costs for Primary Authorities also include costs of dealing with enforcing authorities. Collected evidence has indicated that that Primary Authorities spend about 2 hours per week on this for first partnerships and about 0.3 hours per week for subsequent partnerships. This results in annual costs to Primary Authorities of between £1.4m and £2.4 for 600 – 1,000 partnerships<sup>[47]</sup>.

<sup>[44]</sup>The cost has been estimated using the numbers of hours assumed to be spent on setting up first partnerships and subsequent partnerships (29.9 and 8.6), the number of first and subsequent partnerships for 600 partnerships (280 and 320 respectively) and 1,000 partnerships (467 and 533 partnerships) at the average hourly rate charged by a Primary Authority (£42.86).

<sup>[45]</sup>The cost has been estimated using the average number of hours assumed to be spent on developing the inspection plan (20.1), the number of partnerships assumed to develop inspection plans (260 and 420) at the average hourly rate charged by a Primary Authority (£42.86).

<sup>[46]</sup>The cost has been estimated using the number of hours assumed to be spent on maintaining first and subsequent partnerships (3.11 and 1.5 for first and subsequent partnerships respectively). We have also used the average hourly rate charged by a Primary Authority (£42.86) and the number of first and subsequent partnerships within the range of 600 and 1,000 partnerships.

<sup>[47]</sup>The cost has been estimated using the number of hours assumed to be spent by Primary Authorities on dealing with enforcing authorities (1.95 for first partnerships and 0.3 hours for subsequent partnerships), first and subsequent partnerships within the range of 600 and 1,000 partnerships at the average hourly rate charged by a Primary Authority (£42.86).

99. We have estimated that Primary Authorities will recover between £3m (in case of 600 partnerships) and £5m (for 1,000 partnerships) from the businesses involved<sup>[48]</sup> resulting in between £1.4m and £2.4m of costs not recovered. As mentioned already, we have assumed that 48% of partnerships will recover full costs of providing Primary Authority and 40% will recover half of the costs.

#### *Annual costs for enforcing authorities*

100. Annual costs for enforcing authorities will include costs of notifying enforcement actions to Primary Authorities. Notifications (or referrals) take place where enforcing authorities refer complaints regarding a business to the relevant Primary Authority for it to follow up with its partner business therefore results in releasing resources for enforcing authorities.

101. Since Primary Authority came into force, there have been 48 referrals of intended enforcement action against 13 different businesses. The range is from 0 notifications of enforcement action per partnership year (for the majority of partnerships) to 20 for one business in six months.

102. As mentioned in the assumptions and data section for the purpose of this impact assessment we have assumed 5 referrals per partnership per year. We have also assumed that enforcing authorities spend 1 hour on each referral. The annual costs related to this have been estimated at between £106,000 and £176,000<sup>[49]</sup>.

103. The contacts between Primary and enforcing authorities do not relate only to notification of enforcement action but also include large volumes of early contact to resolve compliance issues. We have assumed that enforcing authorities spend 1 hour a week on this per each partnership. The annual costs related to this have been estimated at between £1.1m and £1.8m<sup>[50]</sup>.

#### Benefits for local authorities

##### *One-off benefits*

104. As mentioned already, the RES Act allows Primary Authorities to recover costs from the business involved and we have assumed that 48% of the partnerships will recover full costs and 40% will recover half of the costs. This will result in between £477,000 and £787,000 one-off benefits to Primary Authorities<sup>[51]</sup>. We consider this a benefit to the Primary Authority but a cost to business hence it is a transfer and does not affect the aggregate cost benefit figure.

##### *Annual benefits*

105. The impact assessment of Statutory Instruments implementing the Primary Authority scheme anticipated that Primary Authority would have quantifiable benefits for enforcing authorities which would be achieved through the release of resources. It was assumed that Primary Authority would reduce the collective workload of other local authorities dealing with a particular business with a Primary Authority partnership in terms of familiarisation, risk assessment, and follow up work on enforcement issues, up to and including prosecution. We have assumed an average 50 contacts per

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[48] This is 48% of annual costs to Primary Authorities plus 40% of half of those costs for lower and higher ranges of the number of partnerships assumed to be set up after the extension.

[49] The cost has been estimated using the assumed number of referrals per partnership per year (5), the number of hours assumed to be spent on each referral by enforcing authorities on dealing with Primary Authorities (1), the number of partnerships assumed to be set up after the extension (600 – 1,000) at the hourly rate for enforcing authorities (£35.27).

[50] The cost has been estimated using the number of hours assumed to be spent per week by enforcing authorities on dealing with Primary Authorities (1), the number of partnerships assumed to be set up after the extension (600 – 1,000) at the hourly rate for enforcing authorities (£35.27).

[51] This is 48% of one-off costs to Primary Authorities plus 40% of half of those costs for lower and higher ranges of the number of partnerships assumed to be set up after the extension.

annum with a saving of 7 hours per contact for the enforcing authority. The savings for enforcing authorities as a result of this have been estimated at between £7.4m and £12.3m annually<sup>[52]</sup>.

106. Benefits in the form of time savings to enforcing authorities will also arise from the development of inspection plans.

107. During our engagement with local authorities it has been indicated that with inspection plans in place, this will lead to a reduced number of inspections carried out, by enforcing authorities, of businesses within a Primary Authority. Some local authorities and businesses have suggested that an inspection plan may not substantially reduce the number of inspections but should lead to more focused inspections.

108. We have assumed that for a given enforcing authority 2 hours' work per year per an inspection plan will be saved as a result of an inspection plan. Assuming that between 240 and 420 inspection plans will be developed after the extension, the benefits to enforcing authorities from the use of inspection plans is likely to be between £3.7m and £5.9m<sup>[53]</sup>.

#### Net benefits for local authorities

109. The cost and benefit analysis for local authorities has shown that the overall net annual benefits for local authorities amount to between £11.5m and £18.9m.

110. The monetised impact of Primary Authorities on local authorities is summarised in the table below.

Costs and benefits	Annually Recurring Low	Annually Recurring High
<b>Local authorities annual benefits including</b>	<b>£14.1m</b>	<b>£23.3m</b>
Savings to enforcing authorities including	£11.1m	£18.3m
<i>Savings as a result of reduced workload</i>	£7.4m	£12.3m
<i>Savings as a result of inspection plans</i>	£3.7m	£5.9m
Cost recovery to Primary Authorities	£3m	£5m
<b>Local authorities annual costs including</b>	<b>£2.6m</b>	<b>£4.4m</b>
Costs to Primary Authorities not recovered - maintaining partnerships & dealing with enforcing authorities	£1.4m	£2.4m
Costs to enforcing authorities including	£1.2m	£2m
<i>Costs of referrals</i>	£106,000	£176,000
<i>Costs of early contact</i>	£1.1m	£1.8m
<b>Net benefits</b>	<b>£11.5m</b>	<b>£18.9m</b>

#### **Summary**

111. Our best estimate is that the net overall annual benefits of the extension of the Primary Authority scheme for all parties will amount to £29m. The midpoint of the net benefit range, estimated over 15 years<sup>[54]</sup>, amounts to £282.6m. We have used a period of 15 years for the estimates in this case to be consistent with the original Impact Assessment when Primary Authority was first introduced.

[52] The benefits have been estimated using the number of hours assumed to be saved per contact by enforcing authorities on dealing with Primary Authorities (7), the number of contacts per year per partnership (50), the number of partnerships (600 – 1,000) at the average hourly rate for enforcing authorities (£35.27).

[53] This is 2 hours' work at the enforcing authority tariff (£35.27) over the 200 authorities that we have estimated the average Primary Authority partnership will operate for between 260 and 420 partnerships assumed to develop inspection plans after the extension.

[54] NPV is calculated over 15 years. We have assumed a gradual take up for the first 5 years and a steady state for the following 10 years. This is consistent with the impact assessment of Statutory Instruments implementing the Primary Authority scheme.

112. The impact of the extension of the Primary Authority scheme as a whole is summarised in the table below.

Costs & benefits	Range	Annual Recurring	PV
Total benefit	Low	£29.2m	£286.8m
	Mid	£38.9m	£381.4m
	High	£48.5m	£476.1m
Total cost	Low	£7.4m	£74.1m
	Mid	£9.9m	£98.8m
	High	£12.3m	£123.5m
Total net benefit	Low	£21.9m	£212.7m
	Mid	£29m	£282.6m
	High	£36.2m	£352.5m

113. It is important to note that the estimates in this impact assessment do not include costs and benefits associated with enabling access for businesses seeking a Primary Authority partnership through trade associations. At this stage of policy development we have not be able to adequately test how many trade associations will be interested in participating in the Primary Authority scheme – although we know that some are, and the consultation has identified at least half a dozen early candidates who are keen to explore this option. This will be an aspect of the scheme that LBRO will monitor once it is implemented and which will form part of the post implementation review.

114. Moreover, LBRO are currently piloting two approaches to this which is informing the precise scope and format of the planned legislative changes:

- Sector Models Pilot: test the feasibility of providing Primary Authority advice through trade associations. As part of this pilot, LBRO are working with the Health and Safety Executive (HSE), the Food Standards Agency (FSA), and up to five trade associations with their prospective Primary Authority partners.
- Compliance Models Pilot: involve LBRO working with a number of businesses that operate inter-related approaches to compliance (for example franchises and tenanted premises) to explore the extent to which the Primary Authority approach can deliver benefits. The pilot aims to test how well the existing arrangements for assured advice under Primary Authority can operate for businesses where there is an inter-related approach to compliance. As part of this pilot LBRO will be working with HSE, FSA, and two franchise businesses with their prospective Primary Authority partners.

115. The pilots have been running since April 2011 and are informing the scope and format of legislative change that are needed to deliver Primary Authority benefits to small businesses through trade associations and franchises.

## One-In, One-Out and sunsetting regulations

116. This will be a legislative change which will impact business therefore it is in scope of the One-in, One-out Rule. However, as the direct incremental economic benefits to business (£16.6m) are greater than the incremental economic cost to business (£5.3m) resulting in a net beneficial impact (£11.2m), this measure is considered an OUT under One-in, One-out.

117. As the proposal will not result in any new burden on businesses or civil society organisations and is voluntary it is out of scope for sunsetting.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)]; We intend to include a duty to review the impact of the Primary Authority scheme through the proposed secondary legislation to bring LBRO's functions in-house.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] Review the impact of the extended the Primary Authority scheme in achieving greater regulatory consistency and certainty for businesses operating across a number of local authority areas.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <ol style="list-style-type: none"><li>1) In-depth evaluation of the Primary Authority scheme</li><li>2) Analysis of stakeholder views</li><li>3) Consider whether the costs and benefits have been realised and if not why</li><li>4) Evaluate lessons learned</li></ol>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <ol style="list-style-type: none"><li>1) Impact Assessment that accompanied the statutory instruments to implement the Primary Authority scheme 2009</li><li>2) Data from RAND Europe's evaluation of the Primary Authority scheme 2011</li></ol>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Costs and benefits in line with expectations or benefits exceeded</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] LBRO collects extensive quantitative and qualitative data about the Primary Authority scheme and reports to the department against its progress on agreed Corporate Plan targets. It does this annually through its published Annual Report and Accounts. This target setting and reporting system will continue when the functions are bought in house.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p> <p>N/A</p>

## Annex 2: Specific impact tests

### Equality Impact Test

118. We do not believe that there will be any impacts in the area of equality.

### Competition Test

119. The initial analysis of the competition filter test reveals that a detailed competition assessment is not considered necessary. The table below gives the results of the competition filter test.

#### Results of the Competition Filter test:

In any affected market, would the proposal	
Directly limit the range of suppliers?	No
Indirectly limit the range of suppliers?	No
Limit the ability of suppliers to compete?	No
Reduce the suppliers' incentives to compete vigorously?	No

### Small Firm Test

120. Creating a Primary Authority framework for small businesses by enabling them to access the Primary Authority scheme through trade associations is likely to bring some benefits to small businesses.

121. At the moment, as mentioned in the rationale for intervention, many businesses which hold membership of trade associations (often SMEs) are not individually regulated by multiple local authorities and therefore do not meet the current eligibility criteria for the Primary Authority scheme.

122. Enabling access for businesses seeking a Primary Authority partnership through trade associations would focus on the provision of advice and guidance, with local authorities taking the advice provided by the Primary Authority into account.

123. This would provide benefit to small businesses, are likely to contact associations for early advice. This would also enable more efficient use of local authority and business resources, as the Primary Authority would interact with the trade association, rather than all the individual businesses, which would reduce the administration for organisation. Similarly, the trade association would contact the Primary Authority for advice, rather than a range of local authorities.

124. Our discussions with trade associations have found that small businesses are supportive of this policy.

### Other Impact Tests

125. We do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.

