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# **Making Life Simpler: Improving Business Regulation in NI**

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Northern Ireland Review of Business Red Tape  
November 2014

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NI Review of Business Red Tape Report

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November 2014

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# Contents

**Foreword**  
Page 01

**Executive Summary**  
Page 03

**1**  
**Introduction**  
Page 07

**2**  
**NI Regulatory Landscape**  
Page 13

**3**  
**Regulatory Landscape in Other Regions**  
Page 21

**4**  
**The Research & Emerging Findings**  
Page 29

**5**  
**Conclusions & Recommendations**  
Page 55

**Annex A**  
**Advisory Panel and Review Team**  
Page 67

**Annex B**  
**Terms of Reference**  
Page 68

**Annex C**  
**NI and UK Regulators**  
Page 71

**Annex D**  
**Strategic Principles of Regulatory Reform**  
Page 73

**Annex E**  
**List of Recommendations**  
Page 75

**Annex F**  
**Links to Research & Innovation Lab**  
Page 82

**Annex G**  
**UK Accreditation Service**  
Page 83

**Annex H**  
**Glossary**  
Page 85

**Annex I**  
**Those who Participated in Review**  
Page 90

## **Glossary of Key Terms**

<b>ARI:</b>	Accountability for Regulatory Impact
<b>BIS:</b>	Department for Business, Innovation & Skills
<b>BRDO:</b>	Better Regulation Delivery Office
<b>BRE:</b>	Better Regulation Executive
<b>BRIA:</b>	Business Regulatory Impact Assessment
<b>BRUs:</b>	Better Regulation Units
<b>CAP:</b>	Common Agricultural Policy
<b>CCDs:</b>	Common Commencement Dates
<b>FoE:</b>	Focus on Enforcement
<b>IAs:</b>	Impact assessments
<b>PA:</b>	Primary Authority
<b>REFIT:</b>	EU regulatory reform programme
<b>RIAs:</b>	Regulatory Impact Assessments
<b>RPC:</b>	Regulatory Policy Committee
<b>SaMBA:</b>	The Small and Micro Business Assessment
<b>SAMBIT:</b>	Small and Micro Business Impact Test
<b>SBEEB:</b>	The Small Business, Enterprise and Employment Bill
<b>SNR:</b>	Statement of New Regulation

**A full glossary with more detailed explanations is provided at Annex H**

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# Foreword

The Northern Ireland Executive has grasped the opportunity to fully assess the potential for regulatory reform in Northern Ireland. We as the Advisory Panel, appointed by Minister Foster to guide and direct the work of this Review, are pleased to be part of this work in helping shape a reform agenda for business regulation.

The context for this Review is very challenging. The Northern Ireland Economic Strategy aims to position Northern Ireland as a competitive business environment, in which the private sector can grow and expand. Regulation has a vital role to play in this regard, and regulatory reform is essential to ensure the impact and burden imposed by Government is kept to a minimum, is effective and efficient, and is designed to support business. While we acknowledge that the fundamental aim of regulation is to protect citizens and the environment, it is important to strike an appropriate balance with economic growth and prosperity.

We are pleased to present this Report to Minister Foster and to the NI Executive. We challenge you to seriously consider the recommendations and put forward a dynamic and robust response which will chart the regulatory reform agenda for the coming three to five years.

The recommendations included in this Report cover all aspects of the regulatory landscape in Northern Ireland and we believe that this is the first such review to be undertaken anywhere in the UK which is so comprehensive. The people we have met through this Review have demonstrated enthusiasm, innovative thinking, and aspirations to reform and make a contribution to a better Northern Ireland. We believe the recommendations of this Review represent an opportunity for the NI Executive to be innovative and far reaching in how it can affect meaningful change in the regulatory landscape and ultimately make NI a simpler and better place to do business.

Along with the NI business community and other stakeholders, we would wish to see the momentum maintained and therefore would strongly urge the Executive to respond by March 2015 on how it wishes to move forward with a re-invigorated regulatory reform agenda to support the Northern Ireland economy.

**Lord Curry of Kirkharle Kt, CBE, FRAGS**

**George Lucas**

**Alan Shannon CB**

**Francis Martin**



# Executive Summary



Making Life Simpler is an aspiration for us all – whether in business, public service or in our private lives. The Northern Ireland Executive wishes to make the regulatory environment in Northern Ireland simpler, more effective, less burdensome and capable of making a greater contribution to economic growth.

The Northern Ireland Economic Strategy recognises the importance of regulatory reform as a key building block for economic stability and growth.

The Minister of Enterprise, Trade and Investment commissioned a Review of Business Red Tape in December 2013. This arose from an Action in a joint initiative from the NI Executive and UK Government – Building a Prosperous and United Community, announced at the time of the G8 Summit in Fermanagh.

The Minister announced the establishment of an Advisory Panel to guide the Review Team and agreed a Terms of Reference to review the Regulatory Framework, Regulations and Regulatory

Delivery. The Review was to make recommendations for improvement, including how Northern Ireland’s regulatory regime could make an effective contribution to its economic competitiveness.

This Review Team progressed work on four key areas:

- assessing the applicability of UK better regulation policies in Northern Ireland;
- improvements to regulatory delivery in Northern Ireland;
- improvements to communication and information for the benefit of businesses and across Regulators; and
- considering an NI approach to the UK Government’s flagship initiatives – Red Tape Challenge and Focus on Enforcement.

Through an extensive period of engagement with a large cross section of stakeholders it became evident that there is a genuine appetite for reform, a strong desire to improve how regulations are made, and for better collaboration between policy

makers, regulators and businesses, as well as providing greater support to businesses.

The Review Team believes that while the well known Better Regulation Principles are favourable and achievable they can be enhanced to support a stronger and more effective culture of Regulatory Reform. This Review identified an additional three principles which will provide a foundation for a more effective regulatory environment. It therefore recommends that this new set of **8 Principles of Regulatory Reform** be adopted and applied by the NI Executive and the wider public sector, to create a more effective culture.

- **Proportionality**
- **Transparency**
- **Consistency**
- **Accountability**
- **Targeted**
- **Collaboration**
- **Support**
- **Regard for Economic Growth**

The Review Team also put forward a series of practical recommendations to address concerns and provide opportunities to structure a strong, innovative, collaborative and efficient regulatory community.

In particular the six high level recommendations should make a significant contribution to ensuring that current regulatory landscape is one which is fit for purpose and can genuinely contribute to a fairer and more competitive economy in Northern Ireland.

- **Appoint an independent Better Regulation Champion.** The Champion's remit should be to steer the Executive Regulatory Reform agenda, monitor progress, assess best practice and provide strategic advice to the Executive. This

post should report to the Executive's Sub-Committee on the Economy and have the full support of all NI Ministers.

- **Adopt a Regulatory Budget scheme to manage the flow of regulations.** Northern Ireland should adopt an appropriate Regulatory Budgets scheme with the intent of securing, in the first period of operation, a neutral balance for the cost of regulation on business. The 'One In One Out' approach is one such scheme and is being more widely adopted across Europe.
- **Progress sector specific reviews in a rolling programme.** The Review Team designed and continues to pilot a model based on the UK Government's Red Tape Challenge and Focus on Enforcement initiatives. Following the pilot and appropriate assessments the model should be adopted and deployed on a rolling programme of reviews on business identified regulatory issues.
- **Improvements to the Regulatory Impact Assessment (RIA) process, including the appointment of an independent scrutiny committee to provide opinion on Departmental RIAs.** The RIA process is key to supporting a Regulatory Budgets scheme and ensuring Ministers make decisions based on robust evidence and analysis. Independent scrutiny is recognised to work, and will provide additional assurances to Ministers in their contribution to economic growth.
- **Publish an Annual Statement on Regulation.** The NI Executive can prove the effectiveness of its regulatory reform programme through reporting on achievements in reducing the regulatory burden and stock; informing on new regulations coming into force in next 12 months, and trailing new policy initiatives

which will impact on business (including EU driven initiatives).

- **Revitalise the Regulators Forum.** With over 70 regulatory functions in Northern Ireland (on both devolved and national issues) there is a significant body of activity being experienced by businesses. This Forum is the ideal mechanism for working together to ensure consistency, improved collaboration and greater engagement with business.

In support of these high level recommendations a range of other activities are recommended in order to progress reform of the regulatory landscape in Northern Ireland and these are detailed in Section 5.

These should be driven by the Better Regulation Champion, who should also chair the Regulators Forum, which in turn can progress areas of work which will effect significant change, reduce burdens, secure compliance and make for a more innovative and dynamic approach to supporting business through regulation.

In commending this report to the Minister the Review Team recognises the significant contribution regulatory reform can make to sustainable economic growth by helping to position NI as an attractive and competitive business location as well as reforming how we deliver public services and getting more for less.

The Advisory Panel and Review Team would wish to thank all those who participated in the Review, sharing their experiences, knowledge and suggestions for reform.

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# Introduction

# 1

In December 2013, the Minister of Enterprise, Trade and Investment, Arlene Foster MLA, launched a Review of Northern Ireland Business Red Tape on behalf of the NI Executive. The Review is one of the key commitments set out within *Building a Prosperous and United Community*, the Economic Pact, agreed by the First Minister, deputy First Minister and UK Government at the time of the G8 Summit in Fermanagh in June 2013.

The NI Economic Strategy recognises that, in order to secure the Executive's vision for the local economy, it is vital that NI grows its private sector and makes it easier to do business. As the Executive seeks to position NI as one of the best regions in Europe to start and grow a business, it accepts the need for sustained action to improve the regulatory environment. This will create the conditions to allow businesses across the whole economy to flourish.

Business regulation is essential to maintain a fair and competitive market place, protect society and the environment while supporting

legitimate business. With regulation, however, usually comes a cost on business to work towards and demonstrate their compliance with the regulatory requirements imposed by Government. Such regulation can come from a range of sources including the NI Executive, the UK Government or the European Union.

The Government and the Executive wish to ensure that all regulations are fair and effective and strike the right balance between protecting consumers, employees and the environment and freeing people and businesses from unnecessary bureaucracy. Red tape can also make running charities and community groups more difficult than it needs to be.

The Review aims to make a significant contribution to supporting businesses in growing locally and exploring new market opportunities. Unnecessary regulatory requirements can be a real burden on businesses. Anecdotal evidence suggests that many companies, particularly owners of small firms, are forced to spend too much time completing paperwork and demonstrating their compliance with regulations,

hampering their efforts to grow. Indeed the 2014 Business Perceptions<sup>1</sup> survey, undertaken for the UK Government, reported that 61% of businesses surveyed agreed that completing paperwork, forms and keeping records was a burden. Whilst this is down from 74% in 2007 (and is steadily reducing year on year), it is arguably too high a percentage, and a significant contributor to the feeling of overall burden.

An Advisory Panel (see Annex A for detailed biographies) has been appointed to support the work of the Review and, given their respective areas of expertise and knowledge, provide guidance and advice to the Review Team. The Advisory Panel members are:

- **Lord Curry of Kirkharle**, Chair of the UK Government's Better Regulation Executive
- **George Lucas**, Chair of the Health & Safety Executive for Northern Ireland
- **Francis Martin**, Partner, BDO, Vice President, British Chambers of Commerce, former President of the NI Chamber of Commerce
- **Alan Shannon**, Retired NICS Permanent Secretary.

The Review Team, led by officials from the Department of Enterprise, Trade and Investment (DETI), includes a secondee from the UK Government's Better Regulation Executive (BRE) within the Department for Business, Innovation & Skills (BIS) and a secondee from the Northern Ireland Chamber of Commerce (NICC). Both of these members of

the team have brought their own perspective to the work of the Review.

In undertaking the Review, the DETI Minister provided the Advisory Panel and the Review Team with an extensive Terms of Reference (Annex B). The Review Team has been tasked with making recommendations which will identify a longer term strategic direction for the Executive in order to deliver a more effective regulatory regime which supports business and economic growth.

This Review covers current legislation, both primary and secondary, which falls principally within the devolved field and the regulatory functions of Northern Ireland Ministers, Departments and public bodies.

The objectives of the Review were to consider:

- the processes and structures currently used within NI Departments in progressing regulatory policies and business views on their suitability;
- recommendations for a plan of action to improve business engagement and challenge and deliver a more effective and consistent structure across the NI Executive for developing, delivering and implementing regulatory requirements;
- the potential application of current initiatives used by the UK Government to manage its regulatory stock in the NI context and make recommendations for a plan of action to simplify the regulatory burden;
- areas of regulatory delivery/implementation and enforcement which are considered to be particularly burdensome on business and make recommendations to deliver an

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/314378/14-p145-business-survey-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314378/14-p145-business-survey-2014.pdf)

- efficient and more effective approach to implementation by Regulators;
- the potential for applying UK regulatory delivery initiatives in NI;
  - how Northern Ireland could be more effective in influencing the regulatory policies developed by the European Union;
  - the benefits and costs of placing a statutory duty on NI Regulators to have regard for economic growth in their actions;
  - the views on broad areas of regulation which are considered to pose a disproportionate burden on NI business. This could cover those regulations impacting upon particular sectors of the local economy (e.g. the hospitality sector or manufacturing) or thematic regulations that cut across all sectors of the economy (e.g. environmental or health & safety regulation); and
  - the potential to review and improve NI regulations, perhaps through a programme similar to the UK Government's Red Tape Challenge or a process for tailoring Red Tape Challenge findings to the NI context.

For the purposes of this Review and aligned with current Better Regulation policy in Northern Ireland business is defined as all businesses in NI, including charitable, voluntary and social economy enterprises.

Regulatory reform is widely regarded as a contributor to competitiveness, business and economic growth and impacts on investment decisions – whether these are for expansion of local businesses or inward investment.

The Independent Review of Economic Policy presentation on 'Global best practice in productivity improvement – lessons for Northern Ireland'<sup>2</sup> suggests that countries or investment agencies that overcome unnecessary bureaucracy will be more successful in attracting inward investment.

The World Economic Forum's Global Competitiveness Report 2014-15<sup>3</sup> states that Government attitudes towards markets and freedoms and the efficiency of its operations are also very important. Excessive bureaucracy and red tape, overregulation, corruption, dishonesty in dealing with public contracts, lack of transparency and trustworthiness, inability to provide appropriate services for the business sector, and political dependence of the judicial system impose significant economic costs to businesses and slow the process of economic development.

In addition the World Bank's Doing Business 2014<sup>4</sup> report states that since 2003, 1578 research articles using Doing Business data have been published in peer-reviewed academic journals and another 4464 have been posted online. According to the findings of the research, reforms simplifying business registration lead to creation of more businesses.

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<sup>2</sup> <http://www.irep.org.uk/Docs/bestpractice.ppt>

<sup>3</sup> [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2014-15.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf)

<sup>4</sup> [http://www.doingbusiness.org/reports/global-reports/~/\\_/media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB14-Chapters/DB14-Research-on-the-effects-of-business-regulations.pdf](http://www.doingbusiness.org/reports/global-reports/~/_/media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB14-Chapters/DB14-Research-on-the-effects-of-business-regulations.pdf)

The Economic Advisory Group (EAG) report on Competitiveness Index for Northern Ireland<sup>5</sup> also assesses the regulations regarding setting up a business and the impact this has on firms being created.

### **Approach**

When the Review was launched, the DETI Minister noted that fundamental to the success of the Review would be securing a valid, relevant and meaningful evidence base. The Review has relied heavily on positive engagement from business representatives, the third sector, Regulators, officials from across all Executive Departments, researchers/academics, colleagues in Whitehall and individual businesses that have taken the time to provide their views and examples of both good and bad regulatory practice across NI.

The analysis and recommendations contained within this report have been developed using evidence gathered by the Review Team. In order to ensure that the evidence was both relevant and reliable we pursued the approach outlined below:

- At the launch of the Review, the DETI Minister issued a public call for evidence in relation to the NI regulatory environment;
- The Review Team also undertook an extensive series of bilateral evidence gathering engagements with key stakeholders in the business community and third sector;
- Workshops;
- Research projects;

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<sup>5</sup> <http://www.eagni.com/fs/doc/publications/eag-competitiveness-index-report.pdf>

- Survey of front line enforcement;
- Survey of businesses through the NICC; and
- an Innovation Lab<sup>6</sup>.

In addition, the Advisory Panel met separately with a group of key NI business representatives and a selection of NI based Regulators.

### **Structure**

This report has been structured into 4 main sections: firstly, Executive Summary and Introduction. Section 2 considers the existing NI Better Regulation Framework and regulatory environment; Section 3 covers the regulatory environment in other devolved nations in the United Kingdom, the Republic of Ireland and Europe.

Section 4 considers the research undertaken, the analysis of that, and emerging findings on which to build evidence based recommendations. It considers the wide range of issues including policy development and the role played by Regulatory Impact Assessments (RIAs) in informing decision making by Ministers considering the introduction of new regulations. It details the approach taken during this Review to identifying specific regulations which are considered to be overly burdensome. It also considers the applicability of this model being adopted on an ongoing basis by the Executive as a means of removing unnecessary, outdated regulation. In addition an Innovation Lab was commissioned to consider possible options for independent scrutiny of Regulatory Impact Assessments.

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<sup>6</sup> A small group of identified experts working in a dedicated space for a concentrated period of time to consider a specified issue

Section 4 also considers regulatory delivery; that is the work of Regulators in implementing and ensuring compliance with regulatory requirements. It considers evidence, provided by stakeholders, of both good and bad regulatory practice and it focuses on proposals that would improve communication between Regulators and businesses as well as information sharing amongst businesses. In addition two research projects considered the approach taken to setting fees and charges, and if there is inconsistency in their application; and scoping the potential viability for development of an integrated business regulation hub.

Section 5 draws on all the evidence and analysis undertaken and puts forward what the Advisory Panel and Review Team consider to be an effective and realistic approach to undertaking a sustained programme of regulatory reform in Northern Ireland; measurements of success for this review; and the lasting benefits which could be secured for the Northern Ireland economy in supporting improved competitiveness, investment, growth and exports.

The Advisory Panel and Review Team wish to acknowledge the contributions made by all who have participated in this Review. The team was greatly encouraged by the positive engagement, the forthrightness during discussions and the insights provided into current practices, effects and more so how things could be improved.

Invest NI needs a sound, efficient and robust regulatory regime to support its ongoing work in attracting inward investment and supporting indigenous business growth

Reducing red tape is essential to our success in promoting Northern Ireland as an ideal location to invest, live and do business.

# Northern Ireland Regulatory Landscape

## 2

### REGULATORY POLICY AND REGULATIONS

#### Policy Context

Lead responsibility for Better Regulation (BR) policy rests with the Department of Enterprise, Trade and Investment (DETI). However, while DETI has a lead role in terms of setting a strategic direction for Better Regulation, it is the responsibility of individual Departments and Regulators to apply the principles of Better Regulation.

The first cross-departmental Better Regulation Strategy, endorsed by the NI Executive, was agreed in 2001. A key aspect of this was the Executive's agreement to endorse the recognised Principles of Better Regulation: **Proportionality, Consistency, Accountability, Transparency and Targeted.** The Strategy has been reviewed twice since, in 2006-07 and 2009-10.

Each review has led to a number of actions aimed at improving the regulatory environment in NI including, following the 2009-10 review, extending the scope of the

Executive's approach to cover local government and the establishment of a Regulators Forum, where Regulators can meet, share best practice and learn from improvements others are making.

While there is a basis for regulatory reform in Northern Ireland and there have been areas of improvement, there has been no significant monitoring of the extent to which the agreed Better Regulation policies of the Executive are being applied by Departments, nor any concerted attempt to improve the regulatory environment in a strategic way.

A number of significant improvements have either been delivered or are currently being undertaken. The Review will build upon a number of these key reforms including the Environmental Better Regulation Bill; review of NI employment law; review of the RIA guidance; and planning reform and work undertaken to lessen the regulatory burden on primary producers in the agri-food sector.

## To be able to compete globally, overseas investors and indigenous businesses need a climate where the regulatory demands ...

### **Policy Development**

Northern Ireland Departments are required to consider undertaking RIAs as a means of measuring the potential impact of a policy, strategy or regulation on business in Northern Ireland. The RIA process has been in existence since 2001, as part of a wider policy impact assessment toolkit to support policy makers. The BR strategy review in 2009-10 included an action for the guidance and process to be reviewed to bring it up to date and more into line with international best practice.

Integral to the policy making process is engagement and consultation with stakeholders. Once again officials are obliged to listen to the concerns of those to be impacted by any new policies and consider how best to mitigate these.

### **Regulatory Structures in Northern Ireland**

In addition to the NI Executive producing regulatory activity through the 12 Departments, much regulatory activity originates from Whitehall, and approximately half of the 70+ Regulators operating in Northern Ireland are UK-wide organisations whose powers and responsibilities derive from Reserved or Excepted legislation. Examples include HMRC or the Civil Aviation Authority (CAA). A full list of Regulators active in NI is included at Annex C.

The regulatory delivery landscape is complex and there are national Regulators operating

in NI and indeed some national Regulators who also regulate under devolved legislation, and others who use devolved Regulators to support implementation of national regulatory requirements. Regulatory delivery can either be through Departments, local government, arm's length bodies and non-Ministerial organisations.

As well as the formal regulatory structures, there is ongoing engagement between the Executive and key stakeholders through various groups, forums and committees, including the Regulatory Reform Group (which has membership of senior civil servants from most NI Departments and representatives from a wide range of business and trade bodies (20); the Regulators Forum (which brings together most Regulators operating in NI in an environment that supports sharing experiences, best practice and raising issues of common concern); and a more general Better Regulation Stakeholders Forum (which is largely a forum for disseminating information to Departmental officials, business bodies, Regulators and others with an expressed interest in better regulation matters). In addition individual policy areas in Departments will have active stakeholder engagement channels.

Northern Ireland participates at UK National level in the 4-nations Better Regulation Forum and the Whitehall Regulatory

... placed on them are handled in an efficient, business friendly manner that enables them to focus on driving their business growth. Invest NI

Excellence Forum. These provide channels for sharing experiences across the UK. In addition the DETI better regulation officials meet with their Republic of Ireland counterparts.

### **Influencing Europe**

There are established structures in Northern Ireland to support policy leads in influencing Europe, including training on EU structures, access to NI's MEPs and the Office of the Northern Ireland Executive in Brussels (ONIEB).

The Office of the First Minister and Deputy First Minister (OFMDFM) European Division is tasked with promoting NI's engagement with the European Union and acts as a central liaison point for European communications. It includes ONIEB, which aims to assist the NI Executive to further the aims of its Programme for Government through engagement with the European Institutions in Brussels.

### **Major Reform Initiatives**

In January 2011, following an independent review, the Department of Agriculture and Rural Development (DARD) published an Action Plan which set out a wide-ranging regulatory simplification programme principally targeted at the primary production sector of the agri-food industry. The outcome of this work, supported by the Department of the Environment (DOE), was published in October 2014. This initiative

delivered an 11% reduction in the regulatory burden faced by primary producers.

The Department for Employment and Learning (DEL) committed to a comprehensive Employment Law Review in the NI Executive's Economic Strategy. Historically, Northern Ireland has sought to mirror Great Britain with respect to employment law matters, however the Department is committed to using its devolved powers to divert from the GB policy position and to develop locally tailored solutions, where appropriate. The Review is focused on three main themes:

- Early resolution of workplace disputes;
- Efficient and effective Employment Tribunals; and
- Better Regulation measures.

The Employment Law Review includes a better regulation pilot review of two sets of regulations: the Conduct Regulations and Working Time Regulations. Positive engagement with expert stakeholder groups has resulted in the development of proposals to produce consolidated and rationalized legislation across both policy areas. It is the intent to build on this pilot review by reviewing all employment regulations with the express purpose of reducing unnecessary administration for the benefit of both employers and employees, while protecting important employment rights.

DOE is progressing work on an Environmental Better Regulation Bill, scheduled to be introduced to the NI Assembly in 2014. The key provisions in this Bill will centre on improving two key areas of regulatory intervention by the Northern Ireland Environment Agency (NIEA) principally, permitting and powers of inspection.

Significant work is underway with regard to reforming the NI planning system. Key areas of this work include economic consideration assessment; performance of the planning system in making decisions; and hierarchy of developments and where the responsibilities will lie under the two tier planning system (local planning is to be devolved to local authorities from 2015).

NIEA is progressing a programme of introducing Prosperity Agreements with key businesses. Prosperity Agreements are agreements between a business and a Regulator that create prosperity and well-being for the firm whilst mitigating the impact of its operation on customers or the environment. Typically they involve the adoption of innovative practices that deliver outcomes in excess of minimum compliance standards, for the mutual benefit of the business and the public interest. A relevant example is an agreement between NIEA and Linden Foods / Linenergy.

DOE is currently undertaking a review of the legislation for entertainment licensing. It has established a key stakeholders working group, which includes Pubs of Ulster, PSNI, the NI Fire & Rescue Service (NIFRS), the NI Licensing Forum and the Department for Social Development (DSD), which is due to report to the Minister by December 2014. The aim of the review is to ensure that the legislation is appropriate and sufficient to safeguard health and safety and public order without placing an unnecessary burden on those seeking an entertainments licence. It will look at the cross cutting areas between entertainment licensing and alcohol licensing.

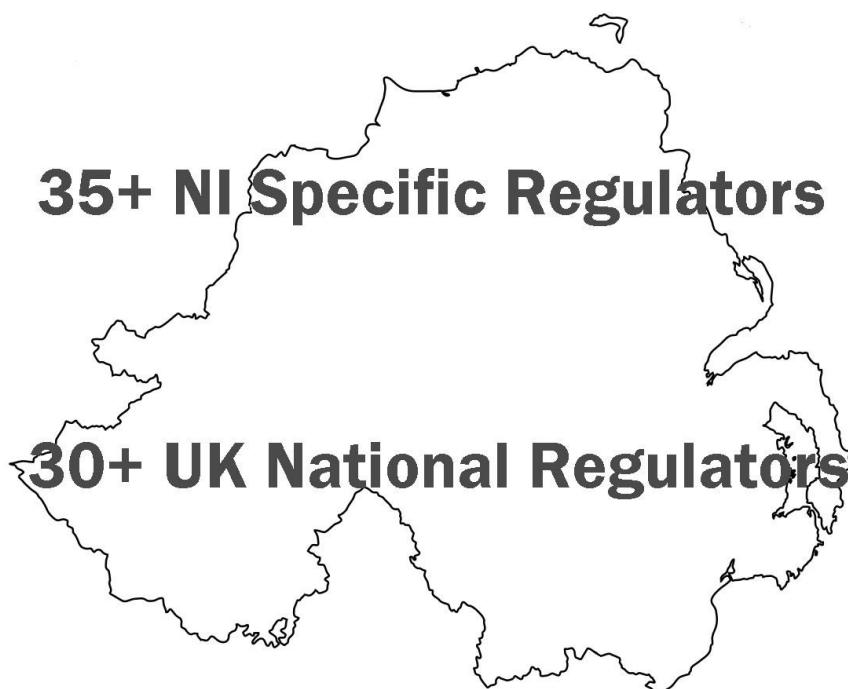
DSD undertook a consultation on proposed changes to the law regulating the sale and supply of alcohol in Northern Ireland in 2012. As a result of this consultation, the Minister has proposed some changes which impact on the regulatory environment in this sector. These include: allowing statutory approval for voluntary industry-led codes of practice in relation to the sale and promotion of alcohol; alignment of entertainment and alcohol licences; the removal of the requirement for a Children's Certificate; and allowing licensed premises to apply for ad hoc late opening licences to allow greater flexibility for one-off events. In addition, extended opening hours over the Easter period, an extension of 'drinking up' time to one hour from 30 minutes, relaxation of the laws on the advertising of functions in

clubs, and restrictions on supermarkets' advertising of alcohol are also proposed.

In addition to these and other initiatives that have been or are being taken forward locally, NI also benefits from regulatory reforms in areas where legislative competence is either reserved or excepted to Westminster. The UK Government has run both a Red Tape Challenge and Focus on Enforcement initiative during this current Parliament which has raised total net savings to business of over £1.5 billion.

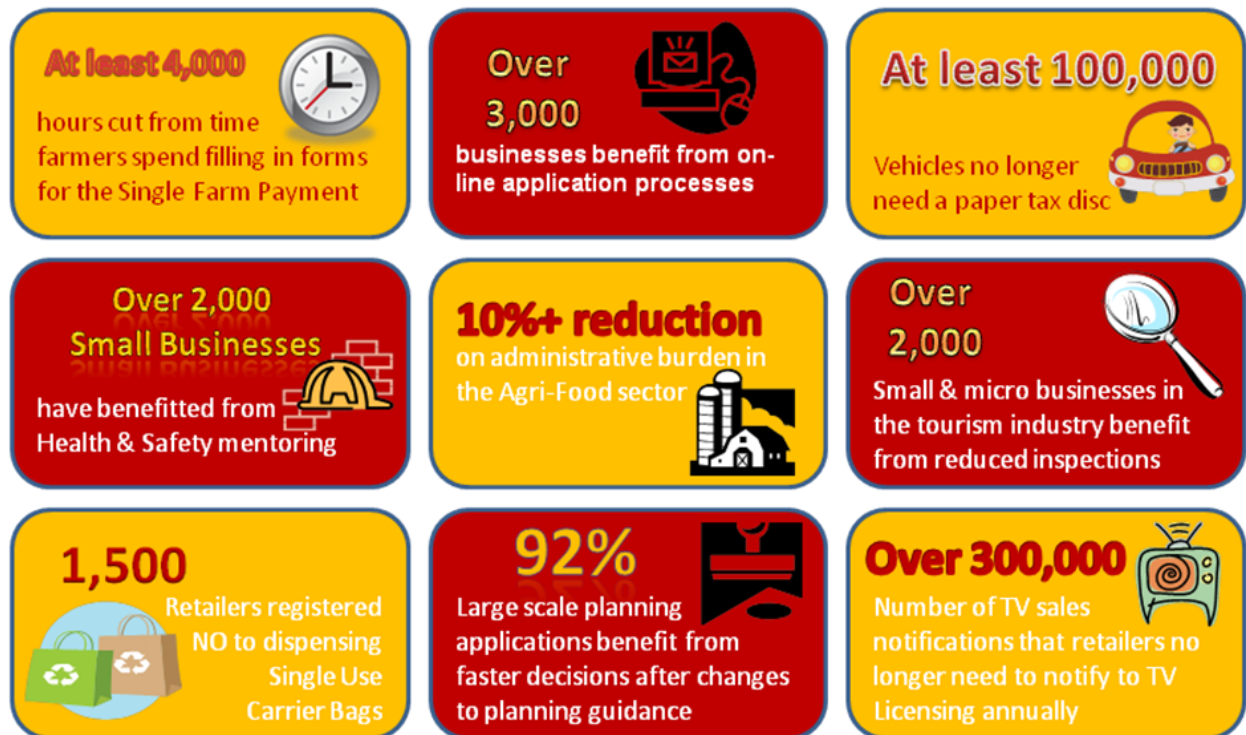
Taking a simple proportion, based on NI's share of UK GVA, would suggest annual savings of more than £30 million could be achieved locally. Northern Ireland businesses have benefited directly from the outcomes of reserved and excepted matters, but also NI Ministers may have taken local decisions to follow suit with other matters that are devolved on which there are regulatory improvements in GB.

The chart below highlights a number of significant regulatory reforms that have benefited NI businesses in recent years.



# Red Tape NI

## Review of Business Regulations



### REGULATORY DELIVERY

Of the 70+ Regulators operating in Northern Ireland there are almost 40 which come within the remit and scope of the NI Executive and NI Assembly.

As mentioned above there is a complex structure of delivery – whether directly through Departments, arm’s length bodies or local authorities. It is understood that further functions are being devolved to a restructured local authority landscape in 2015 and this will further enhance their

activity in delivering regulations and securing compliance.

As with other regulatory regimes Northern Ireland Regulators deploy a series of tools – from inspections, guidance and advice, checks, form filling etc.

Regulators tend not to work in isolation and have the opportunity to share experiences through the NI Regulators Forum, exchanges with counterpart organisations elsewhere in the UK, ROI and Europe and through more

structured agreements to affect regulatory delivery.

The UK Government previously introduced a Primary Authority (PA) Scheme and a number of NI Regulators observe a Memorandum of Understanding to respect PA principles where businesses with premises in NI have entered into a PA agreement with Regulators in England or Wales.

NI Trading Standards Service holds a PA relationship with Moy Park. The NIFRS is monitoring PA relationships, established in early 2013, between Hampshire Fire and Rescue Service (HF&RS) and the Royal National Lifeboat Institute, and also between HF&RS and Home Retail Group (Argos, Habitat and Homebase) premises in NI.

#### **Information/Guidance/Advice/Services**

Many, if not all, Regulators have information online, operate telephone advice services, or indeed have inspection and professional staff who are willing to work with businesses who have queries and are keen to meet their compliance needs. Currently there is no single point of contact for businesses on all regulatory matters.

Regulators have in place a series of policies and procedures which outline how they deliver the regulatory requirements in the legislation, including enforcement, customer care, appeals and inspection policies.

A range of regulatory services are covered by a fees and charges regime. The fees and charges are set out in legislation. Businesses have expressed concern about the inconsistency in these. The Review Team commissioned research on this, the findings of which are summarised in Section 4.

#### **Summary**

DETI has produced Better Regulation Annual Reports for a number of years, demonstrating the progress that has been made on regulatory reform activity, however no substantive or cumulative single costing or effect has been recorded during this time.

While undoubtedly good work is being done there is no certainty as to whether the flow of regulation is being stemmed, or how more efficient or effective the various regulatory regimes are in contributing to economic growth or securing the primary compliance requirements.

The initiatives described above represent the context within which the Review has been conducted. It aims to build upon existing policy rather than starting from scratch. It is a piece of work incremental to existing or completed policy development. Its scope covers current legislation which falls principally within the devolved field, and relates to the regulatory functions of NI Ministers, Departments and public bodies.



# Regulatory Landscape in Other Regions

## 3

### **REGULATORY REFORM IN OTHER REGIONS**

The United Kingdom, along with Germany, The Netherlands, Sweden and Czech Republic are strong advocates for regulatory reform in Europe. In addition Canada, Australia and the USA, among other nations, take an active role in addressing the regulatory burden on business imposed through regulation and government intervention. This Section of the report gives a brief overview of regulatory activity within the UK, Republic of Ireland and Europe.

The Devolution Settlements for Scotland and Wales are different to that in Northern Ireland and, as such, the priorities within each devolved region will be different. As stated in Section 2 there is a 4-nations Better Regulation Forum whereby officials from each administration get together to share knowledge, experiences and issues of common concern. Equally all participate in the UK Regulatory Excellence Forum hosted by the UK Government.

### **UK/WHITEHALL**

The UK Government has had a high profile regulatory agenda over recent years. A key

commitment of the current UK Government, when it came to power in May 2010, was to become the first government to leave office having reduced the overall burden of regulation on business.

UK Government policy recognises that some regulations are ineffective and unnecessary. Complying with them costs businesses and third sector organisations time and money, and can restrict growth. It aims to ensure all regulations are fair and effective. It wants to strike the right balance between protecting people's rights, health and safety and freeing them from unnecessary bureaucracy.

Through the Better Regulation Executive (BRE), the Department for Business Innovation & Skills (BIS) leads on regulatory reform across Whitehall. To ensure the UK Government's regulatory policy objectives are delivered and that regulations are fair and effective, the Government is committed to:

- controlling the number of new regulations by operating a 'one in, two out' rule for

business regulation (a form of Regulatory Budget);

- assessing the impact of each regulation;
- reviewing the effectiveness of government regulations;
- reducing regulation for small businesses;
- improving enforcement of government regulations;
- using alternatives to regulation; and
- reducing the cost of EU regulation on UK business.

Proposals for new regulation that will have an impact on business are subject to rigorous scrutiny and cost benefit analysis. There are challenges at all stages of the policy development cycle and there is a presumption that new regulation will be consistent with an agreed set of better regulation principles and will be:

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

BRE is supported in its aims by a series of Better Regulation Units (BRUs) in most central government Departments in the UK. BRUs are required to provide advice and support, and challenge policy makers on all aspects of the Government's principles of Better Regulation. They promote the use of alternatives to Government regulation including self-regulatory and co-regulatory approaches.

BRUs aim to:

- encourage policy teams across their Departments to use and embed alternatives to regulation;
- encourage policy teams across their Department to use and embed the Government's regulatory principles;
- proactively work on embedding culture change within their respective Department/Agency; and
- facilitate the use of new regulatory principles and approaches within Departmental teams and Regulators.

To deliver the Government's objectives a series of policy initiatives have been developed and implemented across Whitehall. Individual initiatives are considered in more detail later in Section 4. They have been tested with key stakeholders locally to consider their appropriateness as a means of driving regulatory reform in NI.

The Better Regulation Delivery Office (BRDO) improves delivery of regulation, working with business, a single Local Authority and policy makers to make regulatory delivery more consistent, transparent and accountable. Regulators are often in the front line of business interaction with Government and their actions impact directly on the ability of businesses to grow and succeed. BRDO's approach to reform prioritises actions that support sustained growth and improve social and environmental protections.

In 2011 the government in Westminster announced a programme of non-statutory, themed reviews of the stock of existing

## We will be the first government in modern history to have **reduced** – rather than increased – domestic business **regulation during our time in office** – UK Prime Minister

legislation across Whitehall. The Red Tape Challenge model has offered business, the general public and Departments the opportunity to challenge burdensome, out of date regulation. As a result, where appropriate, regulation has been removed from the statute book.

The programme's underlying principle has been the assumption that any identified regulation will be revoked, unless the sponsoring Department has good justification to retain it. By the end of the Parliamentary term in May 2015, this will result in annual savings of at least £1.5 billion for UK businesses. In addition, non-legislative reforms including improvements to paperwork, guidance and online services are guaranteed to save businesses time and money.

During 2012 a Focus on Enforcement (FoE) initiative was introduced, evolving from the Red Tape Challenge work of BRE. FoE examines how government Departments, Agencies and local authorities enforce regulation, and has highlighted a number of areas for improvement.

Findings from ten FoE reviews undertaken since the Budget in 2012 have now been published. Regulators and Whitehall Departments alike have responded positively and produced sensible and practical suggestions to address highlighted problems including inconsistent enforcement and contradictory legislation.

The Regulators' Code<sup>7</sup>, published by BRDO, provides a framework for regulatory delivery that

supports and enables Regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities. The Code came into statutory effect in April 2014. Nearly all non-economic Regulators operating in England, including local authorities and fire & rescue authorities, must have regard to it when developing policies and procedures that guide their regulatory activities. The Code does not detract from the core purposes of the Regulators that fall within its scope, i.e. to regulate for the protection of the vulnerable, the environment, social or other objective, but it does seek to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between Regulators and those they regulate.

Across Whitehall, non-economic regulatory bodies are encouraged to sign up to the voluntary light-touch Accountability for Regulatory Impact scheme (ARI). The scheme encourages regulators to demonstrate transparency and accountability to business when making significant changes to policy or practice.

A key concern raised by business throughout the review was their perceived lack of engagement and opportunity to input into the development of legislation and regulations and also into the enforcement or regulatory approaches to be adopted by Regulators charged with delivering regulations.

Under ARI, Regulators assess the cost to business of proposed changes in advance of

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<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

# Primary Authority is truly innovative and is transforming the way regulation impacts on business in a way that exceeds any policy intervention in recent memory –

UK Association of Convenience Stores

implementation and discuss those impacts with business stakeholders. Participating non-economic Regulators receive templates and suggestions for creating an evidence-based assessment of the proposed changes.

Much of the UK's better regulation framework is currently non-statutory, relying on departmental and agency compliance with guidelines, backed by ministerial collective agreement to challenge the introduction of new regulation. However, BRDO has developed two initiatives addressing enforcement inconsistencies, which have been enshrined in legislation.

## Primary Authority Scheme

The **National Federation of Meat and Food Traders** was introduced to its coordinated Primary Authority in England (Horsham District Council) by BRDO. The partnership is working with specialists, including the Public Health England laboratory, to provide expert advice and support to its members and regulators, to promote growth and compliance.

The Primary Authority (PA) Scheme initiative replaced the limited local authority Home Authority Principle, and encourages regulators to engage in collaborative compliance. Under the PA scheme, businesses are allowed to create a relationship with one single local authority for the provision of advice and guidance on compliance with regulation which will apply to all established premises the business occupies, no matter where it is located. The PA scheme currently covers only England and Wales.

The Small Business, Enterprise and Employment Bill (SBEEB) was announced in the Queen's Speech on 4 June 2014. It covers a number of

better regulation initiatives to ensure that future governments remain committed to better, smarter, proportionate, targeted, consistent, and necessary regulation; that Departments are accountable for their actions and the burdens imposed on business; and also that systems and processes are transparent.

The Bill requires future governments to publish targets for cutting or removing regulatory burdens in each Parliamentary term, and to report progress against the targets. It also includes statutory review provisions to remove out-dated, burdensome or ineffective regulation, and will establish a Small Business Appeals Champion in each of the non economic regulators to help make sure that complaints and appeals procedures are user-friendly for business, giving them a clear and easy pathway to challenge decisions should they so wish. Those with a UK-wide remit will have this available in NI.

The Deregulation Bill is currently passing through Parliament. It will include a statutory Growth Duty to ensure that regulators have regard for economic growth as part of their decision-making and purpose. The Growth Duty underpins other Better Regulation initiatives such as the ARI and is intended to remove uncertainty about whether regulators are able to respond to economic concerns.

## SCOTLAND

As with the UK Government and the NI Executive, the Scottish Government approach to better regulation focuses on adopting 5 key principles of regulation (that it is transparent,

# The Scottish Government's Better Regulation agenda aims to support the Economic Purpose and all the related elements of the National Performance Framework

proportionate, consistent, accountable and only where needed). In addition it encourages a risk-based, enabling approach; and a range of activity to tackle the stock, flow and culture of regulation.

A key aspect of Scotland's current approach is the introduction of a Regulatory Reform Bill to the Scottish Parliament in 2013. The Bill received Royal assent on 19 February 2014 and the enterprise (and other) provisions within the Regulatory Reform (Scotland) Act 2014 were commenced by Order in June. The key enterprise elements are :

- Powers to make the delivery of regulations more consistent;
- A duty on Regulators to contribute to achieving sustainable economic growth in regulatory activity;
- A Code of Practice in relation to the exercise of regulatory functions;
- Amending requirements for certificates of compliance for mobile food business street trader licence applications; and
- A framework for a primary authority scheme allowing businesses to receive tailored support from local authorities in relation to regulation.

The Scottish Government is now progressing a number of the enabling provisions within the Act. Responses to a public consultation on a Scottish Regulators' Strategic Code of Practice, which aims to describe in more detail how regulators should apply regulatory principles and contribute to achieving sustainable economic growth, are currently being analysed with a view to finalising a Code which will be laid before the Scottish Parliament. The scope and detail of

what a Scottish Primary Authority scheme might look like are also being considered and developed, and will be subject to further public consultation.

Under the Scottish Regulators' Strategic Code of Practice Regulators are required to build good practice in order to contribute to achieving sustainable economic growth while concurrently delivering their other core functions. The duty does not prioritise sustainable economic growth over other regulatory objectives; it requires regulators to take economic factors appropriately into account, determine an appropriate balance where necessary and be accountable for their decisions.

Primary Authority - The Scottish Government is currently considering setting up a Scottish-based scheme with similar principles, but this has not yet been developed.

Scotland operates a Business Regulatory Impact Assessment (BRIA). The BRIA helps policy makers to use available evidence to find proposals that best achieve the policy objectives while minimising costs and burdens. Through consultation and engagement with business, the costs and benefits of the proposed legislation can be analysed. It also ensures that any impact on business, particularly small enterprises, is fully considered before regulations are made.

In Scotland, the independent Regulatory Review Group champions regulatory reform. Chaired by an independent appointment, the Group uses its knowledge and experience to advise and work with the Scottish Government on all aspects of better regulation to improve the regulatory

landscape. It has also effected change to support wider economic policy and investment in Scotland and addressed key regulatory concerns on a number of major investment projects.

In addition The Scottish Government works with local authorities and other regulatory agencies to improve the regulatory and enforcement environment for businesses in Scotland. Convention of Scottish Local Authorities (COSLA)'s Regulatory Forum held its first meeting in February 2010 in response to the identification of the need for a group to provide a strategic overview across the range of regulatory services for which local authorities and their partner organisations have responsibility. The range of service areas covered is extensive, as is the list of responsibilities and areas of work within each of the services - hence the emphasis on a group that operates at strategic level.

## **WALES**

The Welsh Government has funded a bespoke programme of activity in Wales to drive better delivery of regulation since October 2009 following publication of their Inspection, Audit and Regulation in Wales Policy Statement. This programme of activity has been delivered by the Better Regulation Delivery Office (BRDO) and an annual work programme is developed in consultation with all Welsh Government Departments aimed at delivering a bespoke service that meets the distinct needs of businesses, regulators and citizens in Wales.

A Memorandum of Understanding (MOU) sets out how the Secretary of State for Business, Innovation & Skills and Welsh Ministers work together in the exercise of their respective functions. The MOU positions BRDO so it can work effectively, both where the policies are aligned between the UK and Welsh Ministers, but also where there are differences relating to devolved issues, distinctive priorities and focus of Welsh Ministers regarding regulatory enforcement, and the Welsh-specific setting in which regulation is delivered.

The current BRDO work programme for 2014-15 prioritises delivering Primary Authority; implementing the Regulator's Code; working with business; and supporting regulator performance and delivery.

The Welsh Regulator's Forum is jointly chaired by BRDO and Welsh Government and brings together representation from national and local regulators in Wales.

## **REPUBLIC OF IRELAND**

Responsibility for Better Regulation Initiatives within the Irish Government is divided across 3 Government Departments. The Department of Jobs, Enterprise & Innovation (DJEI) leads on reducing red tape/administrative burden, competition issues and representing Ireland at international fora. The Department of Public Expenditure and Reform (DPER) leads on issues relating to the Regulatory Impact Assessment and the Department of the Taoiseach leads on the effectiveness of Regulators and transparency/quality of legislation.

A cross-Government target to deliver a 25% administrative burden reduction (by end 2012) was coordinated through DJEI. The overall reduction across Government is 20.4% (€317 million per annum) therefore, some work remains to be completed by those Departments that have not yet identified sufficient reductions.

The Minister for Business and Employment chairs the High Level Group on Business Regulation which identifies specific red tape issues through its business members and works to find practical solutions with the relevant Government Department and Agencies.

For 2014, the Group has prioritised work on:

- assessing the measurement of business burdens in selected Regulatory Impact Assessments;
- identifying possible simplification opportunities in Planning procedures (following public consultation carried out by the Department of the Environment, Community & Local Government); and
- assessing the potential for improvements in risk-based enforcement practices across a selection of enforcement agencies.

In addition to the High Level Group, the Irish Government has set up two parallel strands of communication which aim to both make businesses more aware of what is being done by Government, and to provide channels through which businesses can communicate their concerns and issues back.

In July 2012, DJEI launched the [www.businessregulation.ie](http://www.businessregulation.ie) web portal, aiming to bring together all of the main regulations that

impact on business in one place. In parallel, the Irish Government has also organised a number of events, entitled Taking Care of Business, which effectively mirror the online presence in concrete form.

In 2009, the Department of the Taoiseach published revised Regulatory Impact Analysis Guidelines. In the Republic of Ireland, it is mandatory to carry out a RIA for all new regulations. The DPER has now integrated RIA Guidelines into the Public Spending Code and developed a new, interactive online guide to RIA.

This range of cross cutting issues is complemented by a wide ranging programme of activity in Departments across the Irish Government.

## **EUROPE**

The European Union is currently working through a REFIT initiative – making EU law lighter, simpler and less costly.

The Commission has an Impact Assessment Board and the European Parliament and Council are both developing respective impact assessment capacities. There is a recognition in Europe for policy making to be evidence based with more active involvement of stakeholders in the entire policy cycle.

In addition the EU has a focus on a lighter regime for SMEs and exemptions for micro businesses where possible.

In 2014 the European Commission withdrew 53 pending legislative proposals and since 2005

almost 300 have been withdrawn, citing the need to assess in more detail the added value of the proposals.

Examples of administrative burden reduction measures already adopted include electronic VAT invoicing; simplification of accounting/financial reporting/ REACH (Chemical legislation), Public Procurement and new digital tachographs.

Additional initiatives for simplification and burden reduction are currently being progressed on a range of issues from identity and travel documents and business statistics through to energy labelling, aviation security charges, pregnant employees and carbon capture and storage.

In November 2014 the incoming Commission signalled greater emphasis on European better regulation initiatives by appointing Frans Timmermans as First Vice President with portfolio responsibilities for better regulation and inter-institutional relations amongst other issues.

Across Europe, Governments recognise that reducing the cost of regulation for business is crucial for growth. Many are emulating the UK's pioneering approach, with the French, Italian, Spanish and Portuguese governments introducing One-In, One-Out schemes to boost their competitiveness.

The Organisation for Economic Co-Operation and Development (OECD) suggests that around half of costly regulation in EU member states originates in Brussels, so it is not enough to reform national regulation alone. Well-designed, proportionate EU rules benefit the economy. They remove single market barriers, protect consumers and the environment.

The First Vice-President's priorities include a commitment to improving the Commission Impact Assessment process as well as undertaking and publishing a review of EU better regulation within his first 12 months of taking office. He also hopes to conclude an Inter-Institutional agreement on better law-making that will align and reinforce the European Institutions' regulatory activities.

# The Research and Emerging Findings

## 4

This Section reports on what research was undertaken and the emerging findings which will feed into the recommendations proposed from this Review, as set out in Section 5. The broad structure follows that of the Terms of Reference covering the wider more strategic Regulatory Framework, managing the Regulatory Stock and the operational activities of Regulatory Delivery.

Each of these three key areas of the regulatory landscape all contribute to the burdens experienced by businesses and, as such, can play a vital role in reform.

The Executive has an opportunity to set out a **Regulatory Reform Vision** for how it will address regulatory stock and **Make Better Regulations**. Furthermore it can show how it will **Measure its Success** to help address the perceptions of business and the reality of a competitive and efficient regulatory regime.

### REGULATORY FRAMEWORK

#### Principles

Stakeholder views expressed during the Review indicated no significant disagreement with the

existing Better Regulation principles of **proportionality, transparency, consistency, targeted** and **accountability**. These principles have been adopted in NI since its 2001 Better Regulation policy was endorsed by the Executive and are adopted in Whitehall and by the Scottish Government. While they inform the work of many policy makers and regulators across the Executive, it is imperative that these principles are re-enforced and universally adopted by those considering the introduction of new regulations, and by those responsible for enforcing regulations in NI.

#### BR Champion

During the Review, it quickly became apparent to the Review Team that the UK Government, Scottish Government and Welsh Assembly had moved further than the Executive in championing regulatory reform on a strategic, cross-Government basis. While noting some of the good work that has been carried out by specific Departments and individual Ministers, it is reasonable to conclude that NI efforts have been more ad-hoc. All stakeholders have

recognised the need for strong strategic leadership on this issue.

The role of a better regulation champion, while not quantified, does seem to have proved beneficial in both Scotland (Chair of Regulatory Review Group) and for the UK Government (Chair of the Better Regulation Executive). Each has cross-Government support and is well positioned with business, all layers of Government and is well linked into Europe and other nations operating regulatory reform initiatives.

### **Regulatory Reform Policies**

A key aspect of this Review has been to consider in an NI context the applicability of a number of the policies/initiatives adopted by the UK Government and, in some circumstances, other jurisdictions. The Review has considered the success of these initiatives and, based on the views of stakeholders, considered whether similar initiatives could be introduced in NI.

In common with the UK Government, the NI Executive requires all Departments to carry out a robust **assessment of the impact** that new regulation will have on business through the completion of a RIA.

Following a recent review, the NI Executive approved revised RIA guidance in the summer of 2014. Part of that review considered the quality of RIAs produced by Executive Departments and concluded that not all completed RIAs could be viewed as robust assessments of the impact a proposed policy would have on business, the third sector or the wider economy.

While the introduction of new RIA guidance in NI is very welcome, it is recognised by DETI, and highlighted by key stakeholders during the Review, that the new guidance needs to be supplemented by changes to the wider RIA process. Without such changes NI risks slipping further behind international best practice.

A key element of the RIA process in Whitehall is the Regulatory Policy Committee (RPC), an independent, non-departmental public body set up to assess the quality of evidence and analysis provided in RIAs by Departments in support of most of the proposed regulatory changes affecting business and civil society. The RPC particularly holds Departments to account for the impact policy changes will have on small and micro businesses under the Small and Micro Business Assessment.

Essentially, no new policy can be taken forward for Cabinet approval without first receiving a 'green' assessment of its associated Impact Assessment (IA) from the RPC. The RPC does not comment on the policy itself or even on the impact it could have on business, it simply assesses the quality of the IA and provides advice as to whether it is a robust, fair and sound assessment of the likely impact of the proposed regulation on business and wider civil society. Consultation stage IAs may receive amber ratings indicating the RPC's view that more robust evidence and analysis is required before the policy can be presented at Cabinet-level.

No such mechanism or independent assessment of the quality of RIAs has been established in NI. In addition to the UK

## Independent scrutiny of Impact Assessments and use of Regulatory Budgets, such as One In One Out are increasing in popularity as necessary tools in managing cost and flow of regulation

Government, four EU Member States, the Czech Republic, Germany, Netherlands and Sweden have appointed independent Watchdog bodies which are responsible for robust, independent assessment of IAs.

Other Member States including Finland, France, Poland and Slovakia are considering how best to incorporate assessment of IA review into their regulatory landscapes. Outside the EU, Iceland and Mexico have established independent assessment of IAs. The Swedish independent Watchdog recently announced that it has been working with the Norwegian Government to develop an independent body along similar lines to Sweden's Regelradet.

To complement the introduction of new RIA guidance, and as part of this wider Review of Business Regulation, DETI asked the Public Sector Reform Division (PSRD) of DFP to undertake an Innovation Lab to examine the feasibility of, and possible options with respect to, the introduction of an independent challenge/scrutiny function for RIAs in Northern Ireland. This innovative approach to considering a policy issue has worked extremely well in this particular circumstance. The Lab brought together representatives from policy makers, analytical professions, businesses, external experts and regulators in a concentrated environment to consider this single issue. Encouragingly the Lab participants sought agreement to consider the wider context of the core issue and therefore redefined the issue to consider improvements to the RIA process.

It therefore assessed the RIA process in 5 key themes – Scrutiny, Consistency, Engagement,

Embedding and Budget. A total of 14 recommendations resulted from this exercise and can be summarized as:

- Establish an independent scrutiny process to support RIAs;
- Introduce Regulatory Budgets to support a sustained programme of regulatory reform in Northern Ireland, which would be a key criteria for the independent scrutiny to focus on; and
- Introduce a better regulation champions network and make improvements to the RIA process to support more effective policy making and the development of more robust RIAs.

The Lab concluded that some kind of independent scrutiny may help to improve the quality and robustness of RIAs going forward. Ultimately, better RIAs will allow Ministers to make decisions based on a more complete understanding of the impact of regulatory changes.

The **Small and Micro Business Assessment (SaMBA)**, introduced by the UK Government in April 2014, requires Whitehall Departmental Impact Assessments to analyse and mitigate the potential impact of regulation on small and micro businesses. It replaces an earlier, non-statutory moratorium, exempting micro businesses from the need to comply with certain regulatory requirements. It also reflects the EU commitment to adapt regulation to place fewer burdens or lighten compliance requirements on micro and small businesses.

# Evidence based policy making is necessary to support effective policy decisions and implementation of better regulations

Where the assessment reveals disproportionate impacts on either small or micro businesses, Departments must either exempt them from the regulations or take all possible steps to mitigate the disproportionate impact. SaMBAs form a part of the IA process and will be specifically evaluated during independent assessment of IAs carried out by the RPC. Whilst it is too soon to comment substantively on their effectiveness in the UK, early evidence shows that the quality of SaMBAs has improved and Departments are able to explain more clearly the potential impacts of preferred policy options on small and micro businesses, as well as devising strategies to mitigate these.

In common with the rest of the UK, NI's business base is dominated by SMEs. Recent data from the NI Statistics and Research Agency show that 98.8% of NI's VAT and PAYE registered businesses have less than 50 employees, and 47% of businesses have turnover of less than £100,000<sup>8</sup>. It is important that Executive Departments and the NI Assembly are fully cognisant of small business's capacity to manage regulatory change.

The Innovation Lab into Regulatory Impact Assessments which was undertaken as part of this Review recommended strengthening of the RIA regime in NI.

Integral to the review of RIA Guidance undertaken by the NI Departments (through the leadership of DETI) was consideration of the

small and micro business community. The NI Executive approved new RIA Guidance in June 2014 and included in this pack of guidance is the Small and Micro Business Impact Test (SaMBIT). Departments should follow the Small and Micro Business Impact Test guidance<sup>9</sup> to demonstrate robust evidence that there will be no adverse effect on business from proposed legislation.

**Common Commencement Dates** (CCDs) were originally introduced in the UK in 2004. Aimed at giving businesses the ability to prepare to deal with regulatory changes to domestic legislation at predictable points in a year, CCDs for domestic regulation are 6 April and 1 October.

They are generally used for regulation that will have a direct impact on business, and for regulation implementing EU legislation. Measures simplifying existing rules can be introduced immediately rather than waiting for the next CCD. UK Departments are able to seek waivers to allow them to introduce measures outside the CCDs if they are unable to meet deadlines.

NI stakeholders consulted during the Review expressed scepticism about the effectiveness of CCDs for devolved regulation. Policy makers were concerned that adopting CCDs for devolved legislation in NI might lead to delays introducing legislation that would benefit business. This mirrors the views expressed in a

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<sup>8</sup> [http://www.detini.gov.uk/idbr\\_publication\\_edition\\_17\\_-\\_july\\_2014.pdf?rev=0](http://www.detini.gov.uk/idbr_publication_edition_17_-_july_2014.pdf?rev=0)

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<sup>9</sup> [RIA Guidance | Department of Enterprise, Trade and Investment \(DETI\)](#)

scoping exercise undertaken by DETI in 2012, canvassing attitudes towards CCDs.

Departments felt that NI businesses are likely to benefit more from clearly-stated, advance notice from Departments about when they intend to introduce new regulation in the forthcoming year, thus allowing business to plan compliance activities in advance. The low number of CCD compliant measures introduced in England, Scotland and Wales in the last 18 months also raises a question about how significant it is that devolved regulation is CCD compliant.

From 2011, the UK Government has required Whitehall Departments to include **review clauses** and **sunset clauses** in any new secondary regulatory measures that will have a significant impact on business. To date, over 200 new regulations have included sunset clauses automatically voiding the regulation after seven years, unless Departments take steps, which may include enacting new primary legislation, to preserve or reactivate the regulatory powers. Whitehall Departments are aware of the potential to lose regulatory powers and the need to enact new regulation to regain them.

Most devolved regulation in NI has not, to date, included formal review or sunset clauses. Local reviews of devolved regulation are more likely to have been triggered by regulatory review activity in Whitehall, or as the result of policy priorities of individual Ministers.

Business stakeholders were generally supportive of an approach that ensured new

regulations would be reviewed after a certain period.

There is a general presumption across Whitehall Departments that the UK Government will regulate to achieve its policy objectives only when analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to **alternative, self-regulatory or non-regulatory approaches**.

There is a second presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made for it. A number of business sectors have benefited from **voluntary schemes** offering **earned recognition** benefits like reduced inspection frequencies, or **voluntary codes of practice**. Other self-regulation schemes have been seen by those in authority as potential ways of influencing business behaviour as businesses not participating may suffer as a result.

Stakeholders had mixed reactions to the idea of non-regulatory alternatives. A significant number of business organisations supported the approach and some Regulators were willing to explore non-regulatory alternatives with those they regulate. Other Regulators expressed concerns that use of alternative methods of regulation could dilute the protections afforded to the public. It shouldn't always be the case however that regulation is the answer to an identified issue; in other words don't presume legislating will get the desired outcome.

## Just 12% agreed that government engages well with businesses before any new regulation is introduced - NICC quarterly Economic Survey June 2014

Some stakeholders suggested that, rather than looking for alternatives to regulation, closer co-operation between Regulators, policy makers and businesses involving those being regulated throughout the policy development process would deliver better outcomes as working together should lead to better policy making and a better understanding of the issues facing business by Government. Some business stakeholders noted that voluntary approaches may be more costly to run. The consensus view from the evidence collected is that interventions alternative to regulation are viable where they deliver operational benefits without compromising public protections.

Whitehall's **Guiding Principles for EU Legislation** were strengthened in 2013. They set out the principles underlying the Government's approach to EU measures. **The Transposition Guidance** accompanying the Principles sets out what Departments need to do to meet the Guiding Principles when transposing EU regulation. All Whitehall Departments are expected to apply both the Principles and the Guidance, and will be challenged if any new regulation is gold-plated.

NI Departments consulted during the Review are aware of both the Principles and the Guidance. Indeed, any devolved legislation that has been developed alongside regulation by equivalent Departments in England, Scotland and Wales is likely to apply the Transposition Principles. Contrary to business and wider perceptions, very little EU regulation has been gold-plated during transposition to domestic regulation, either historically or more recently. In 2013, in Whitehall, there was only one instance where

additional burdens were placed on business as a result of gold-plating. The gold-plating ensured greater protection for UK consumers and came at modest cost to business of £1.35 million per annum with a one-off cost of £0.23million.

This Review did not find any evidence of recent gold-plating of devolved regulation. However, given the expressed desire of the Executive to position NI as the best place to do business it is imperative that we do not gold-plate legislation when transposing EU Directives for devolved issues.

A consistent theme which emerged during the initial scoping of the Review was the notion that the European institutions are one of the main sources of regulatory burdens on business and indeed one of businesses' main frustrations.

The Review committed to looking at ways in which both the public and the private sector in NI can better influence the development of regulations that are emerging from Europe. European engagement on policy matters appears to be decentralised across the Executive with individual Departments engaging the European Commission on the issues specific to their area of responsibility.

It is generally recognised that as a small-population with a devolved administration, as part of a member state, the most effective method of influencing the EU is ensuring that NI feeds into the UK negotiating position. This means making sure that good relations are kept between NI policy officials and their Whitehall counterparts. This does not appear to be

# When asked about the cost of complying with regulation almost three quarters (73%) agreed that the cost has increased for their business in the last five years

- NICC quarterly Economic Survey June 2014

consistently the case. NI is, however, uniquely placed in the mindset of the EU context and not withstanding its own profile can utilise negotiating routes through the UK Government, the Republic of Ireland Government and indeed directly, such as DARD, on progressing the Common Agricultural Policy (CAP).

There also appears to be inconsistent use of MEPs made by NI Departments in relation to upstream engagement on regulatory issues. Since the Lisbon Treaty became law in December 2009, the European Parliament is the co-legislative body for Europe, alongside the European Commission. As NI's elected representatives in the European Parliament, the three MEPs are ideally placed to put across NI's viewpoint on legislative proposals in Europe.

Business or trade association engagement on European issues also appears to be limited, and there appears to be a lack of information flowing to business informing them of legislative proposals that could lead to changes in regulation. When input is requested, there appears to be a lack of response from the business community. This is not an issue limited to NI alone. UK and Europe-wide there is a failure to get robust input and evidence from businesses on legislative proposals.

The Review has found that Better Regulation is not seen as a high priority issue in terms of European engagement. Departments and the Executive as a whole appear to focus on possible funding opportunities as demonstrated in the European Priorities exercise which is carried out by the Executive each year.

While there are structures in place to help policy makers better understand the European institutions, and the NI Executive has a presence in Brussels, more could be done to strengthen these structures and how they could be used effectively by NI policy makers and indeed NI businesses to influence EU policy.

## **Communications**

Communication, engagement, consultation and stakeholder involvement are critical at each and every stage of the regulatory process – from influencing policy through to devising policy, designing regulations through to how they should be delivered and the impact on business.

There are significant numbers of consultation documents issued by Government Departments and Regulators, arriving with business bodies and trade associations, seeking their views, comments and inputs. Business bodies feel there is a disconnect in this process and would very much welcome greater direct involvement and engagement with Departments and Regulators as they devise and develop policies. A business organisation could have upwards of several hundred consultations arrive for their consideration and from these, there is around 100 that they feel they must consider and respond to on behalf of their members and business sectors they represent.

The Regulatory Delivery section later in this Section will consider the communication issues concerning the outworkings of policy and regulations when businesses are directly impacted by the requirements imposed on them.

Consultations have identified a clear need to involve businesses early in the regulatory process. There is clear guidance in the Policy Toolkit, available to all civil servants in NI<sup>10</sup>, promoting early stakeholder engagement when formulating policy. The Review found that many Regulators have formed, or fed into, stakeholder groups regularly as part of their business models.

However, it appears that a more formalised process regarding regulation, and in particular changes in regulation, is required. There is a need to ensure businesses are informed of potential changes that may affect them as early as possible. Business should be encouraged to contribute their expert knowledge when regulatory policy is being formulated in order to provide a solution which achieves the intended outcome with the least possible burden on business.

The application of more robust early stakeholder engagement principles to NI Departments which introduce and amend devolved legislation and to NI Regulators which develop new or amended enforcement protocols, would resolve the concerns raised by business.

On UK-wide regulation, a Statement of New Regulation (SNR) is announced by the UK Government twice-yearly, led by BRE. The SNR details all of the planned upcoming changes in regulation. At the time of announcement of each SNR, businesses and trade associations are invited to a briefing with either the Minister or high-ranking officials in the Department.

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<sup>10</sup> <http://www.ofmdfmi.gov.uk/policy-toolkit>

Perhaps of greater value than the Statement itself is that the process embeds a regular communication loop running between officials and the business community, which also adds transparency to the process of making regulation.

While business perceptions of regulation appear negative, it was clear from engagements with individual businesses during the Review that their understanding of Red Tape includes a wide range of activities whereby they engage with government, as well as the rules and regulations they are expected to comply with, that are within the scope of this review.

As one business representative said, businesses consider regulation to be “anything that government does that impacts upon their activities”. In this broader context, multiple instances of government activity were reported which businesses found to be distracting, frustrating or burdensome.

Examples cited included a wide range of issues ranging from the instigation of public works without due consultation, to the complexity of application forms for those seeking out public funding; to (perceived) undue delay in decision-making and bureaucracy associated with tendering for government contracts.

It is also fair to say that businesses recognise the value of regulation as it is a contributing factor to competitive advantage in the marketplace. Regulation does, however, need to be well developed and, equally importantly, implemented in a manner which is effective and with as little burden as possible.

Regulation can be afforded a wide range of interpretations and definitions across society and the business community. Several examples have been quoted above and while it is difficult to make specific recommendations in this Review to address them; it is important to acknowledge the evidence of clumsy delivery of public services and the need to maintain a focus on high service delivery standards across the public sector.

### Measurement

There are two key measures on which the success of regulatory reform can be measured – cost reduction in the burden imposed on business and business perception.

Perhaps business perception is the key assessment of a government's success in real regulatory reform – if businesses can move from scepticism to advocacy then this can be strong evidence of improvements being made.

The Review worked with the Northern Ireland Chamber of Commerce to introduce a set of barometer questions into its Quarterly Economic Survey – Perceptive Insight<sup>11</sup> on which to benchmark the perceptions of Northern Ireland businesses. This Survey was carried out in May/June 2014, with results published in July 2014. The Northern Ireland Chamber of Commerce has agreed with DETI to include the



questions on an annual basis to afford the Department and the NI Executive the opportunity to assess the potential impact of regulatory reform on business.

The UK Government commissions a biennial Business Perceptions Survey, conducted for both the National Audit Office and Department for Business, Innovation & Skills, which includes better regulation questions. A baseline has been set on which trends are measured in terms of the success of regulatory reform.

An important consideration in the RIA process is to measure cost and benefit for the policies under consideration. It would be fair to say that there has not been a consistent or coherent approach to this part of the RIA process in Northern Ireland. The revised RIA Guidance, introduced in June 2014, aims to rectify this and places greater emphasis on the need to fully assess and monetise the cost/benefit of policy options.

It is important that the NI Executive adopts a stringent and consistent approach to cost/benefit analysis to aid its measurement of progress in regulatory reform.

<sup>11</sup> <http://www.northernirelandchamber.com/quarterly-economic-survey/qes-2014-quarter-2-results/31492/>

## REGULATION STOCK

Evidence gathered during the Review identified a number of key concerns that business has with respect to regulation. The 2014 Quarter 2 NICC Quarterly Economic Survey<sup>12</sup> included a number of questions related to NI business attitudes to regulation. The survey found that 73% have experienced rising costs when complying with business regulation over the last 5 years and that a majority (52%) of firms had concerns around how the regulations were developed, citing particularly concerns around engagement during the policy development process. This issue is addressed later in the report.

Encouragingly, 57% of firms considered the guidance available from Regulators to be good although 45% of respondents stated that it was not the regulations, but the way they were enforced that was a problem. The areas which were considered to be most burdensome were Health & Safety (41%); Employment Law (35%); and taxes (33%). These issues were also identified through the open call to evidence that formed part of the Review.

A further concern, highlighted by a number of stakeholders in consultation undertaken during the Review, is the lack of any robust data quantifying either the annual cost to business of complying with regulatory requirements or the additional compliance costs associated with new regulations or even any composite data relating to any reduction in compliance costs as a result of the Executive's regulatory reform

initiatives. A key recommendation must therefore be that mechanisms should be put in place that allow the NI Executive to quantify, on an ongoing basis, robust estimates of the costs or benefits associated with changes to NI's regulatory base.

## Review Model

To build on the approaches adopted by the UK Government for addressing regulatory stock, **Red Tape Challenge**, and improvements to regulatory delivery, **Focus on Enforcement**; the Review Team designed a single model to test in the NI context. It seeks to take these two issues forward in a single cohesive process, recognising that, from a business perspective, more often than not businesses do not make distinction between regulations and how they are implemented.

The model is set out in Figure 2. It begins with scoping Departments and Regulators to identify and map out the regulatory activity undertaken with a particular sector. From this, the information is presented to industry representatives and then a series of specific issues are identified from which to move forward to more detailed review.

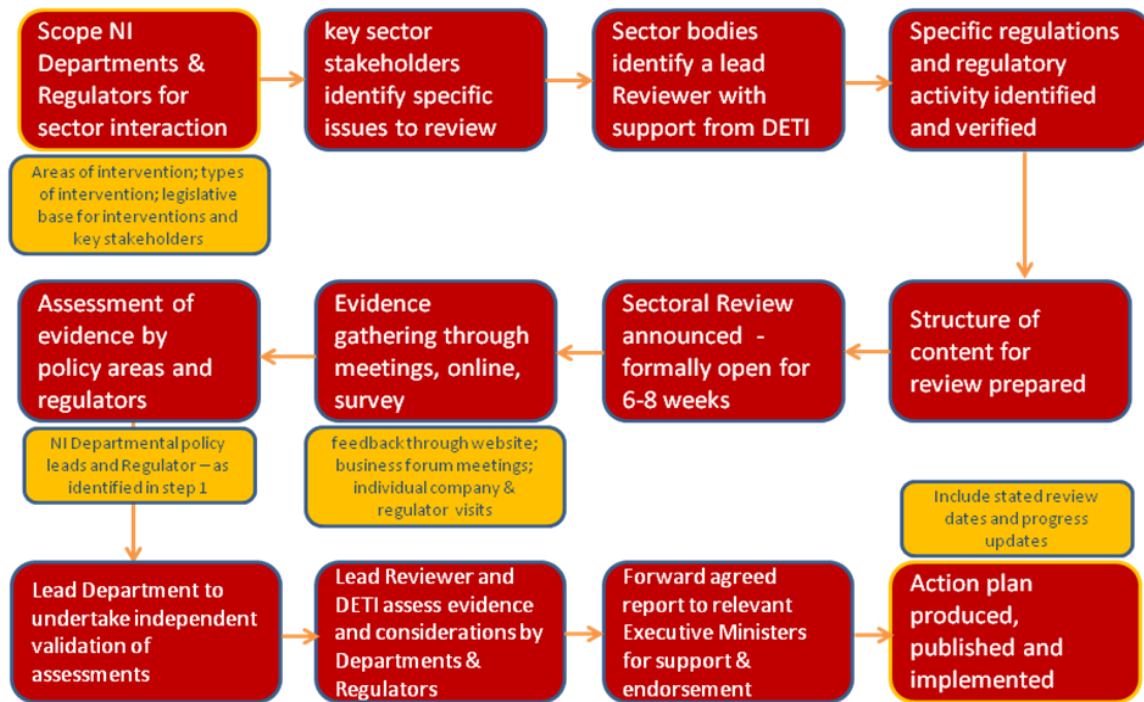
The premise of the model is to secure the buy-in of the business and industry representatives from the outset and to work together, ideally with industry representatives taking a lead role in the process. Departments and Regulators would then provide more specific information on the regulatory base for the activity and how it is delivered through the Regulators.

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<sup>12</sup> <http://northernirelandchamber.com/wp-content/uploads/2014/07/NI-Chamber-of-Commerce-Report-Q2-2014.pdf>

Figure 2

Outline model for Regulatory Reform Sector Issue Reviews



A series of tools and techniques are then adopted for industry to consider the issues, generate evidence and identify options for possible reform to support business, while continuing to meet the original policy intent.

Departments and Regulators would then have the opportunity to consider and prepare a response to the evidence and emerging findings and proposals from the review process, which once independently challenged could be put forward to Minister(s) for consideration as a formal government response to the specific sector review.

In order to test the model, three sectors offered to work with the Review Team – hospitality (through Pubs of Ulster, supported by NI Hotels Federation and the Federation of Small Businesses), construction (through the Construction Employers Federation) and the agri-food sector (through the NI Food & Drink Association). At the time of reporting the hospitality sector pilot is the most advanced and the following commentary is based on that pilot review.

It is evident from the various meetings and workshops held with businesses, trade associations and officials on the three issues identified by the industry (entertainment

licensing, liquor licensing and food hygiene) that to bring both the regulations and delivery approach by Regulators into a single model for review is the best way to progress.

Across the sector, there is a wealth of knowledge and experience but also a number of myths regarding legal requirements, how regulations are delivered and the impact on business. The transparency that comes with having individual businesses, policy makers, Regulators and trade associations around the same table discussing key issues proved beneficial and helpful. It is also evident that securing this joint partnership approach, with industry taking an active role, has proved to be extremely beneficial. Industry representatives have been committed and completely engaged and, as such, afforded greater opportunity to have robust and direct engagement with businesses, Regulators and policy makers.

The hospitality sector review undertook six workshops across NI – two each on the three issues. The workshops gave businesses the opportunity to air their thoughts, views, experiences, concerns and suggestions for how things could be done better. Good introductions were made between business bodies and Regulators and policy makers, which will be built on after this Review concludes, as they recognise the importance of more direct joint working to get the right message out to businesses in a timely and more effective way, helping to dispel myths, encourage forward planning and foster a partnership.

Useful and informative discussions took place and it proved a valuable opportunity for officials,

both policy makers and Regulators, to share knowledge, provide clarity and indeed establish better relations with trade associations. The hospitality sector review is continuing with further engagement and survey work to be undertaken by the trade associations, with their members, on emerging suggestions/recommendations from the workshops. This will help strengthen the evidence base and deliver a more robust analysis of regulations that could be removed/amended and regulatory practice that could be improved.

All three elements identified as part of the hospitality sector review are on specific issues which are under active consideration by the relevant NI Ministers and Departmental policy officials.

DOE has commenced a review of entertainment licensing, independent of the DETI-led hospitality sector review. While it would be inappropriate to pre-empt the outcome of the DETI pilot, there are emerging findings and possible suggestions/recommendations that would improve aspects of the entertainment licensing legislation to support legitimate business activity, while maintaining the policy intent and objective. The Review has afforded businesses the opportunity to have round table discussions on the issues which impact them most and which they consider could be improved. Several such improvements would require amendments to legislation. DETI has agreed to pass the findings of this aspect of the hospitality review to colleagues in DOE.

DSD is progressing a review of liquor licensing. Industry representatives were clear that they did

# Regulatory budgets is a mechanism for managing the flow of new regulation and imposing a cost cap so the regulatory stock is effectively reviewed

not wish to go over the ground that has already been covered by the DSD review. They wanted to focus on other related issues which would potentially improve the regulatory regime, reducing the burden on business while continuing to retain the policy objective. Businesses are mindful of the strong connection between entertainment licensing and liquor licensing, acknowledging that some businesses do test the boundaries of legitimate use to the potential detriment of those who follow the regulatory requirements more closely.

The Food Standards Agency (FSA), through the Department of Health, Social Services and Public Safety (DHSSPS), is progressing a legislative base for the Food Hygiene Rating Scheme and a draft Bill is scheduled to be introduced to the NI Assembly. However some elements of the hospitality industry have expressed concerns about this scheme and what it might mean in implementation. The FSA has demonstrated its evidential base for the work it is progressing and has expressed a wish to work closely with the hospitality sector to address some key issues identified.

Encouragingly, the pilot review exercises in the hospitality sector have been very positive engagements, with businesses recognising the value of, and need for, regulatory objectives in each of the three activities covered.

The pilots with the agri-food and construction sectors are not as advanced, however there is an opportunity to progress these over the coming months and to learn from all three pilots.

## **Regulatory Budgets**

The idea of regulatory budgets has been raised by a wide range of stakeholders during the Review. The guiding principle is that a budget is set, either for individual Departments or the Executive as a whole, which would limit the cost to business of any new/amended regulations introduced over a specified period.

From January 2011, Whitehall Departments were expected to offset any increases in the cost of regulation by finding less burdensome measures of at least equivalent value to the new regulation coming in (One-In, One-Out). For measures introduced since January 2013 Departments are now expected to offset any increase in the cost of regulation by finding deregulatory measures of at least twice the value. The savings generated by individual Departments are reported publicly in the biannual Statement of New Regulation.

A number of EU Member States and Regional Authorities have introduced, or are considering introducing, statutory domestic off-setting programmes. They include Austria, Belgium (Flanders), France, Italy, Lithuania, Malta, Netherlands, Poland, Portugal, and Spain. Outside of the EU, Canada and Iceland have established domestic off-setting targets and South Korea announced in early 2014 that it would be setting up a regime based on the UK's domestic off-setting initiative.

The Innovation Lab, undertaken as part of this Review to explore the viability and feasibility of introducing a challenge function within the RIAs process, also recognised that any changes that lead to more robust RIAs will have a negligible

impact on the overall burden of regulation unless they are coupled with a clear commitment to limit the overall impact of business regulation. The report of the Innovation Lab also recommended the introduction of some sort of offsetting or regulatory budgeting in NI.

While there are various models for this concept, such an approach would require discipline, a more robust analysis of the potential impact of our actions and a more collaborative approach to regulatory interventions.

### **REGULATORY DELIVERY**

A key aspect of this Review has been the Regulatory Delivery work-strand which has investigated the manner in which regulation is delivered to business in Northern Ireland. This part of the Review sought evidence of good practice as well as evidence of systemic failures in delivery that apply across all industry sectors.

Evidence from Regulators was collected principally through focus-groups and a survey of officials with responsibility for front-line delivery. The evidence collection process was framed to test Regulators on their attitude towards an economic growth duty, and their approach to operational practices such as data-sharing, inspections and the application processes for licenses and/or permits applications.

In addition, two specific research projects were commissioned to investigate issues relating to the fees/charges associated with certain service provision and to explore the concept of a

Regulatory Hub to facilitate better sharing of, and access to, information.

### **Access to Information & Communication**

A key aspect of regulatory delivery concerns communication and information provision. How Regulators and policy makers communicate with those they are charged with regulating should help Regulators target their resources more effectively and support higher levels of compliance by business.

In addition the Review considered how Regulators and policy makers communicate and share information amongst them. There is a clear case to be made that more effective communication amongst Regulators can reduce burdens on business. In the 2012/13 UK-wide Business Perceptions Survey, 66% of businesses stated that having to provide the same information more than once (to separate Regulators) was a burden.

Stakeholder consultations revealed a plethora of communication methods used by Regulators when communicating with business. There is a general consensus from both business and Regulators that face-to-face discussion, while time-consuming, is a very effective form of communication, leaving least room for misinterpretation, and facilitating greater understanding between both groups.

There is limited use of dedicated telephone helplines by Regulators across NI, although the majority of Regulators insist that businesses can contact their officials directly. Businesses indicated that they would like to have more

regulatory helplines available to offer on-the-spot clarification of issues around compliance.

Many Regulators have email addresses for stakeholders to use in initiating contact. However, it is recognised that there are sometimes obligations to use the postal service where it is the method of communication prescribed in legislation (for delivering notice of non-compliance, for example).

No evidence was brought to the attention of the Review team that official published guidance by Departments and Regulators is fundamentally flawed. However, businesses did comment that the number of different places they must access to get separate pieces of guidance is in itself a significant burden. This point is illustrated in more detail below.

All NI regulatory bodies have an internet presence in some form. There is, however, a lack of consistency in terms of quality and also in how information is published on the web. Some Regulators have their own standalone website while others have dedicated pages within a larger Departmental site. Other Regulators have created joint information sites and the availability of additional guidance through sources such as NI Direct, NI Business Info and GOV.UK adds further complexity for business.

The majority of Regulators stated their desire to improve their web presence but cited resource constraints as preventing them from improving this aspect of the work. However the lack of consistency, clear signposting and the

complexity of information sources remain both confusing and time-consuming for business.

In principle many Regulators see benefits in using social media to communicate including immediacy of contact and facilitation of feedback. However, in practice there is very limited use of social media by NI Regulators primarily because of concerns surrounding the level of resource required to operate them as well as some issues regarding security. While businesses support the use of social media channels in principle, they did not raise their absence as a concern during the stakeholder consultations.

A number of innovative communication approaches were highlighted to the Review Team, including the use of YouTube by the Charity Commission for Northern Ireland (CCNI) which has published a video tutorial to help applicants complete their online registration<sup>13</sup>, or use of webinars to make presentations to a large group of businesses without the need to bring them all into one room. Further examples included the use of text alert systems to keep businesses updated with the progress of applications or to inform them when renewals of permits/licenses were due, and the use of Geographic Information Systems (GIS) which has led to fewer on-site inspections being required.

Business concerns in relation to communication with Regulators centre on not being engaged early enough in the policy making process,

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<sup>13</sup> <https://www.youtube.com/watch?v=50M3A3EoQRs&feature=youtu.be>

having to provide several Regulators with the same or similar information on multiple occasions and having to spend too much time finding and consulting various, separate sources of information for guidance on how to comply with the full range of relevant regulation.

It is considered that Inspectors are well placed to keep businesses informed on future developments in new regulations. One respondent proposed improving the value added to the inspection process by expanding its scope to include briefing a customer on legislation due in the next calendar year. The proposal has added relevance in the context of a concern raised by businesses that they are currently not aware of new regulation. There is a parallel to the Statement of New Regulation.

In terms of advice provision, the Review Team found a variable approach across the NI regulatory environment. The Team identified a number of areas of good practice which included independent advice centres, thematic online guidance and provision of funding to secure specialist and technical advice for complex areas. Belfast City Council's 'CityBusiness hub'<sup>14</sup> provides free, face-to-face advice and support for the local business community. Online directions to guidance relating to Environmental and Health and Safety regulations are available on the Nibusinessinfo<sup>15</sup> website.

Some Regulators have less well-developed advice provision, for various reasons, including

resource constraints or a lack of requirement (for instance in very niche areas with a handful of businesses affected meaning officials can provide advice on an ad hoc basis).

As part of the Review, DETI commissioned a research project to explore the possibility of introducing a "Business Regulation Hub" in Northern Ireland. The project considered whether introduction of a "Business Regulation Hub" would be viable in Northern Ireland and examined high-level options as to how such a system might be structured.

The research found that current online provision of services by Regulators varies greatly with some offering almost all of features which would be desired in the hub, and others offering no online services. Only 63% of Regulators offer downloadable forms, the most basic of online services. This seems to reflect other evidence received during this Review.

#### **Online Support and Information**

Businesses consistently mentioned **NI Environment Agency (NIEA)** as an example of a Regulator providing good online services. Their website allows businesses and service providers to fill in compliance declarations, register their business practices, apply for licenses and pay regulatory fees. It is called Apply Online and covers consent forms and licenses, but lacks a strong self-assessment process.

**Northern Ireland Tourist Board (NITB)** which requires tourist accommodation providers to provide NITB with a brief self-review statement in years between statutory inspections was cited as a good example of a current self-assessment process.

<sup>14</sup> <http://citybusinesshub.co.uk>

<sup>15</sup> <https://www.nibusinessinfo.co.uk/>

The research project examined systems which exist that could provide a platform to establish a “Business Regulation Hub” for Northern Ireland businesses and Regulators. There are three current sources of information which are viewed as ‘starting points’ for a potential hub: [www.nibusinessinfo.co.uk](http://www.nibusinessinfo.co.uk), [www.netregs.org.uk](http://www.netregs.org.uk) and [www.everythingregulation.org.uk](http://www.everythingregulation.org.uk).

The Case Studies and consultations presented in the research highlighted a number of benefits and efficiencies across the various systems to facilitate communication between businesses and Regulators but all have issues regarding awareness, how well-utilised they are, and/or clarity of role. Individual Regulators who have already implemented a hub-type system have reported significant benefits but it should be noted that those Regulators whose online services provision is currently more limited had some reservations over the idea of a hub and would prefer a hub to serve as a signpost to the relevant bodies to reduce confusion on the part of the businesses and the administrative burden required to keep it up-to-date.

Business representatives consider that an information-based signposting hub would go some way to meeting their needs, although they were keen to stress that it would require almost constant updating. In addition, it would need to be extensively promoted to get businesses to use it as small businesses still prefer to do most things on a face-to-face basis.

The research project has concluded that while there is interest in a single online service, there would need to be greater thought and consideration on a path to develop a single

business regulation hub. There would be technical issues with existing systems, however there is the potential for an incremental staged approach to progress to a more effective collaborative online service for business.

As signposting functionality already exists on [nibusinessinfo.co.uk](http://nibusinessinfo.co.uk), there is scope to further strengthen this service for all Regulators and regulatory activity.

A pilot scheme for Regulators to share data has commenced in the English midlands and is due to complete in quarter 4 of 2014. Although the benefits to business and Regulators have yet to be proven, the pilot does at least demonstrate that developing hub functionality is a technically viable ambition. The research project considers development of a universal system that accommodates all business requirements including self-assessment tools to be an extremely complex and expensive task. In summary, more work is required to identify a ‘hub’ solution at a level of functionality where the long-run value of the benefits delivered exceeds the costs of development.

### **Fees and Charges for Regulatory Services**

The Review commissioned research into the area of **fees and charges** imposed by Regulators on businesses in Northern Ireland and the use of cost recovery associated with the fees set. The aim of this research was to establish the facts in terms of current fees and charging arrangements levied by NI regulatory bodies via cost recovery programmes. Business representatives had said they believed there was inconsistency in the approach adopted by different regulatory authorities to the application

# Businesses want greater transparency for the fees and charges imposed

of fees and charges and didn't know how fees were set.

The approach to the research incorporated a combination of desk based review of information and consultations with representatives of organisations/regulatory functions in Northern Ireland. Specific regulatory consultees were identified and agreed with the Review Team in advance of the study. Consultations were also undertaken with representatives of government in other UK jurisdictions including Scotland and Wales. Questions/topics explored with consultees were based on the Terms of Reference for the research which contained a prescriptive list of key research questions. These questions were added to by the researchers to provide added depth to the consultation responses and a topic list was agreed with the Review Team and provided to consultees in advance. Consultations with research consultees took place in April and May 2014.

The research concluded that on the whole, given that fees and charges are set down centrally, primarily through legislation, consistency does exist in the application across different administrative boundaries in Northern Ireland. There is more or less a view to work towards a full cost recovery position as set out in the guidance *Managing Public Money*<sup>16</sup>. The research did observe however that there would be merit in greater transparency in how fees and charges are calculated. Equally there would be merit in more transparency in the service that businesses can expect for the fee/charge levied,

and administrative authorities could work together to demonstrate there is consistency in the standard of service where businesses may be operating in various locations in Northern Ireland.

It was also observed that individual Regulators in other devolved administrations are looking at alternative, more innovative solutions for fees and charges (in some cases not using legislation as the mechanism for setting fees), to allow a more reactive and responsive structure to operate, and linking with a risk based approach to regulatory delivery.

## **Regulatory Best Practice**

The UK Government's approach to regulatory reform has a strong emphasis on the work of Regulators in light of their position as the front-line of interaction with business. The Better Regulation Delivery Office works to drive better delivery of regulation, working with business, Regulators, local authorities and policy makers to make regulatory delivery more consistent, transparent and accountable.

Section 4 of this report summarises a number of the key regulatory delivery activities of the UK Government in progressing improvements.

Regulators' attitudes to **non-compliance** were explored in detail. The evidence collected indicates that officials' usual response in instances of non-compliance is to reach agreement with the customer on a set of remedial actions to an agreed timescale. The latitude afforded may vary between disciplines depending on the scale of the risk posed to the public interest.

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<sup>16</sup> <http://www.dfpni.gov.uk/afmd-mpmni>

### **Effective regulatory delivery**

During an inspection by Trading Standards Service, breaches of regulation were identified. The Inspecting Officer subsequently met with the owner, and immediately assured him that his objective was to help the owner restore compliant status. The owner stressed that the constructive attitude displayed by the inspector from the outset was a crucial factor in persuading him to commit to a programme of remedial action.

The Inspector and business owner agreed a series of remedial measures, and a timescale for completion that the owner regarded as reasonable and achievable. The Inspector directed the owner to sources of relevant guidance. As a result of the rapport established by the Inspector's attitude, the owner prioritised the actions that were required to restore compliance and completed them within the agreed timescale. The outcome of this engagement is that the owner now operates his business from a position where he is better educated about his responsibilities, and has an effective line of communication to trusted advice in his Regulator.

NI-based businesses appear open to the potential benefits from a Primary Authority scheme relationship by way of reduced time spent in compliance activities and advice from a single point of contact, although this was not a material issue raised by significant numbers of consultees during the Review. Many of the concerns addressed by PA relationships may also be addressed by the provision of consistent guidance, for example through a central information hub for business and training for Regulators.

The NI Regulators' Forum was originally designed to bring together all regulatory bodies working in NI (including those UK-wide agencies

that have a role in NI) throughout the year. The original intent was that it would become self managing, i.e. that Regulators would organise regular meetings and set their own agendas and topics for discussion. This never fully occurred, and currently these engagements take place irregularly with DETI setting the agenda and presenting on topics.

During this Review a general consensus amongst Regulators emerged that they would benefit from more opportunities to meet with the other NI Regulators to increase the sharing of good practice. Some noted instances in the past when they would have benefited from drawing on others' experiences to better implement changes but they did not have sufficient contacts at other Regulators, or knowledge of other ongoing work, to be able to do this.

### **Single Code for Regulators**

While the UK Regulators Compliance Code does not apply to Regulators in NI, it is acknowledged as a best practice benchmark, and is operated by UK national agencies and organisations active in Northern Ireland. Enquires during this Review have also identified a number of NI Regulators voluntarily adopting the key principles set out within the Code. In considering issues surrounding regulatory delivery, this Review has considered a number of specific policy initiatives identified within the Regulator's Code and other examples of best practice identified through our engagements.

The Regulators' Code confers on all non-economic Regulators an obligation to promote economic growth in the conduct of their

activities. There are several implications arising from the economic growth duty including:

- Regulators are expected to factor the economic growth duty into their strategic decision-making, and to demonstrate how they have adhered to their obligation by, for example, referencing the outcomes in their annual reports;
- The economic growth duty does not supplant Regulators' fundamental obligations to protect consumers and the environment;
- The growth duty does not implicitly sanction tolerance of illegal activity; and
- Regulatory officials must be trained to incorporate appropriate behaviours into their activities.

It is recognised that the parallel responsibilities of Regulators, as defenders of the public interest and facilitators of economic growth, have potential to cause confusion for both Regulators and their stakeholders. It is important therefore that the purpose of regulation is clearly articulated so that all parties clearly understand a Regulator's intentions.

Fundamentally, there is a legal obligation on most Regulators to operate in the public interest, protecting vulnerable constituencies such as consumers and the environment. As such, Regulators have a responsibility to encourage the outcomes that policymakers intended when regulations were drafted. For Regulators the development of business-friendly programmes such as the Regulators' Code make for potentially conflicting priorities, in that Regulators are expected to promote the

interests of business and consumers simultaneously.

NIEA has removed any potential misunderstanding of its function in its stated intention to "make it easy for people to do good business and difficult for people to do bad business"<sup>17</sup>. It is considered that this unambiguous statement perfectly expresses the vision for regulation in NI.

While an economic growth duty is not formally adopted in NI, the evidence collected suggests that one operates in practice. Representations from senior Regulators to the Review's Advisory Panel reflected a constructive attitude to the businesses they regulate. A similar message was taken from the focus groups, albeit that those discussions related more to operational, rather than strategic, matters. Further, conclusive evidence was found in the front-line Inspectors' survey results, which showed 65% of respondents to be positively disposed towards helping their customers grow, indicating that a culture of help and support is already well embedded. In contrast, less than 20% of survey respondents made comments that challenged an economic growth duty.

Irrespective of Regulators' philosophy towards their customers, it appears that practical economics dictate an approach that encourages compliance and avoids legal enforcement. For example a focus-group representative observed that enforcement is a poor outcome, as

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<sup>17</sup> <http://www.doeni.gov.uk/niea/niea-business-plan-2014-15.pdf>

operationally it is time-consuming, and economically it is not viable, as financial penalties do not cover the cost of taking action.

### **Earned Recognition**

The concepts of Risk-Based Regulation and Earned Recognition are advocated in the Regulators' Code. Evidence collected indicates that most local Regulators adopt some form of risk-based inspection programme, manifested to business in the form of proportionate scrutiny and/or fees and charges.

Most NI Regulators adopt some form of risk-based regulation, though several observe a duty to treat all customers equally. The evidence indicated that in some cases the driver for adopting risk-based-regulation is a pragmatic response to financial reality, where the Regulator employs its scarce resources where they are needed most. While such an approach is entirely legitimate, and consistent with the Targeting principle, it does not communicate any sense of incentive to regulated firms to enhance their compliance performance.

No evidence was presented of any protection available that would act as an incentive for Regulators to implement business-friendly regulatory practice, without diminishing their legal responsibility to the public interest.

As regards Earned Recognition, the evidence shows that Regulators broadly support the principle, though not necessarily to the extent of adopting the practice. Earned Recognition was found to be explicitly adopted by just one local Regulator. Not surprisingly, those who are subject to regulation, businesses and third

sector bodies, were more supportive of Earned Recognition, particularly in sectors where accreditation of sector-wide schemes aimed at raising industry standards were already in operation.

### **Building Regulations Competent Persons Schemes**

The Department for Communities and Local Government (DCLG) and the Welsh Government (WG) have, for several years, approved a number of competent persons schemes (CPS) under the Building Regulations. Those businesses certified under an approved CPS are able to self-certify their work without recourse to a local authority building control officer thus reducing local authority inspection of the builder and benefitting customers by removing the need to pay building control fees. Building works covered by CPS include: electrical installations; heating and hot water systems; combustion appliances; and replacement windows and doors.

From June this year, DCLG/WG required all CPS to be accredited by UK Accreditation Service (UKAS) and this programme of accreditation has been successfully completed. DCLG/WG are no longer required to carry out separate assessments which reduces the regulatory burden on the CPS, most of which were already accredited by UKAS for other activities, whilst ensuring that the standards required by DCLG/WG continue to be met.

Regulators expressed mixed views on the value of external accreditations as a mitigating factor in a firm's risk profile. An example was provided of a business that held relevant International Organisation for Standardisation (ISO) accreditations through a period in which it was

# **Business representative organisations can play a vital role in helping develop policies through early engagement and ensuring implementation is appropriate for the industry being regulated – CEO, Pubs of Ulster**

found to be non-compliant. Conversely, external accreditations can help Regulators build confidence in the management of a business, which in turn translates to an improved risk score. Case Studies on the work of the UK Accreditation Service supporting better regulation are at Annex G.

In cases such as scientific sites, the rules on enforcement are legally prescriptive thereby negating the potential for regulatory discretion. Otherwise concern was expressed as to the speed at which circumstances in a business can deteriorate, such that a past record of compliance cannot guarantee future performance. There was also little support for the idea that compliance in one discipline is a forbear of compliance in another. No proposals were put forward by Regulators as alternative, practical incentives that could be offered to business in the absence of Earned Recognition.

## **Collaboration and Information Sharing**

The effective regulation principle of Consistency advocates that “Regulators should be consistent with each other, and work together in a joined-up way.”<sup>18</sup> In theory, joined up regulating should have advantages for business. For example sharing of logistical information should avoid simultaneous inspections.

Consultations revealed that there are varying levels of information sharing amongst Regulators. Some Regulators have formal links achieved through Memoranda of Understanding, Data Sharing Agreements or Partnership

Agreements. There is a significant amount of information sharing between Regulators through informal links and networks ranging from ad hoc discussions of specific issues to on-the-ground contact between officials.

There appeared in many cases to be good collaboration between NI Regulators and their counterpart agencies in GB and RoI (and in some cases, EU counterparts too) but less communication across the many different regulatory functions operating in NI.

The Regulators’ Code advocates sharing information between Regulators on the principle of ‘*Collect once, use many times*’. At first glance there appear to be many benefits for business in the adoption of this article, such as a rationalisation of information requests received and a co-ordinated approach by all Regulators with whom the business engages.

In practice however, the evidence collected indicates that Regulators are reluctant to share data. The front-line Inspectors’ survey indicated that some potential benefits of data-sharing may be difficult to realise. 50% of respondents insisted that they would establish their own view of a customer’s competence, irrespective of the findings advised by another regulatory function. The following response is typical: “*Thanks for the info [received from another regulatory function] but I have a job to do and will be carrying out my inspection as usual*”.

The evidence collected by the Review also demonstrates the practical difficulties that Regulators face if they are to implement data-sharing protocols. Principal among these is a

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<http://www.eesc.europa.eu/resources/docs/designdelivery.pdf>

fear of the Data Protection Act (DPA), as in when sharing data with a counterpart Agency, a Regulator loses control of it with the result that the data may be used for a purpose other than that for which it was collected. One response to the front-line inspectors' survey observed that *"This data protection monster has us all running scared about sharing any information now"*.

The great majority of Regulators advised that they would welcome additional guidance on DPA. The Information Commissioner's Office in NI is willing to assist. It has also been suggested that this guidance should cover Freedom of Information legislation (Fol), as concerns were raised by Regulators that Fol inhibits good relations with businesses. Businesses feel they cannot have truly open conversations with Regulators in case details of these meetings (and by extension commercially sensitive material) are made public under an Fol request.

If collaboration amongst Regulators is to improve then clarification of Regulators' responsibilities under Data Protection legislation is urgently required. This clarification should also extend to distinguishing between protection afforded under the Act to corporations, sole traders, partnerships and individuals.

One project brought to the attention of the Review team, called Addressing Bureaucracy<sup>19</sup>, was carried out by the Voluntary and Community Unit in DSD. While the project was concerned primarily with government funding for the third

sector, there are significant parallels with the regulatory field, particularly around the provision of information to separate areas of the public sector. One of the key strands of this project was to assess and audit the stock of information requests made by Agencies of the organisations they were funding. It was found that some information requested was often no longer relevant as forms had been amended in a piecemeal manner to reflect policy changes, leaving irrelevant fields untouched.

A series of recommendations were proposed to significantly streamline the information needs, sharing, validation and consistency in the various organisations that provide funding to the third sector.

In Whitehall, BRDO has recently undertaken a Challenge Fund initiative under the 'Pathfinder' scheme aimed at identifying new and innovative approaches to improving collaboration between Regulators and businesses in order to support growth. Pilot funding is available to projects which can demonstrate innovative approaches to improve the regulatory delivery approach whether this involves individual Regulators, groups of Regulators, local authorities or indeed also working with local business groups.

### **Appeals**

Where a business and Regulator cannot agree compliance status, the evidence indicates that Inspectors will offer to escalate the case to their line management to aid resolution. Failing resolution, customers also have a right to lodge an appeal. The effective regulation principle of Accountability prescribes that appeals processes should be "well-publicised,

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<sup>19</sup> <http://www.dsdni.gov.uk/addressing-bureaucracy-report.pdf>

## In Q3 2014 a greater number of respondents consider **regulation** to be a **driver of cost changes** than was the case in Q3 2013 – FSB Voice of Small Business Index Q3 2014

accessible, fair and effective”. It is acknowledged that, in cases of non-compliance, correspondence from Regulators to customers will highlight details of the appeals procedure. Nonetheless analysis of Regulators’ websites shows that the appeals process is navigable from the home page in only a minority of cases. Further there is no evidence that the “fair and effective” criterion in the Accountability standard has been tested.

### **Licensing/Permitting**

Evidence from the focus groups and business bodies suggests that several Regulators are making good progress developing their license and permit application forms. For example the NIEA has commenced a review of its entire environmental permitting regime.

It is recognised that some licence or permit applications are governed by statute or, of necessity, require the use of specialist terminology. However, a desk-top review of licence application forms found some failures that can be easily resolved:

- Requests for specific data without accompanying links to potential sources of the required information;
- Cross-references to other departments or agencies that do not specify relevant contact points in the counterpart organisation; and
- References to web-links that are no longer valid.

A specific issue emerged in relation to the requirement to publish details of certain licence or permit applications in newspapers, the costs for which are usually borne by the applicant. In

many cases such a requirement is specified in legislation, but there was a consensus view that online notification offered a more cost-effective alternative.

### **Change Fund**

Triggering the regulatory community to develop projects which are innovative and dynamic can significantly support regulatory delivery and indeed to effect public sector reform. Incentives sometimes need to be provided to encourage this. The UK Government undertook a Challenge Fund approach with a limited resource allocated to it – offering financial support for Regulators and business bodies to collaborate on possible solutions to help reduce the burden on business. The need to be more innovative in how we deliver services and the need to put in place measures that will secure a more sustainable public service provision for the future. Whilst public services must operate as efficiently as possible, reform is not all about cost containment. Upfront investment may be necessary to stimulate innovation in service delivery, improve outcomes for citizens and achieve longer term benefits. The Review understands that the draft NI Executive Budget for 2015/16 announced a Change Fund of £30 million to be set up for 2015/16. The key overarching criteria will be that bids should cut across departmental boundaries, be preventative in nature and deliver medium to long term savings for the Executive. The Fund will be available to finance upfront investment which are innovative; involve collaboration across departments or agencies; or focus on prevention.

In the current fiscal climate, such an approach does not necessarily need to translate into a significant financial commitment; however in the wider context of public sector reform a challenge fund of this nature has the potential to harness innovative thinking that could reduce the impact of regulation on business and also improve the effectiveness and efficiency of regulatory delivery in NI.

### **Empowering Regulators (including Training)**

Managers in regulatory agencies face a difficult task when setting training and development goals for their staff. Apart from ensuring their knowledge of relevant legislation and enforcement policies, they must also find ways to embed a culture of customer service within the organisation.

Customer orientation training will help officials deliver regulatory delivery in a manner consistent with the principles of good regulation, for the mutual benefit of customer and Regulator. Proposals received from inspectors suggest that some would welcome training to help them better understand their customer's perspective - *“some training in the area of business would be beneficial to understand how our legislation works in practice or perhaps what makes our legislation difficult to be complied with”*. BRDO works with UK Regulators on a Competency Framework designed to identify development needs for staff.

The BRDO has developed resources to help build capacity in regulatory officials. The regulatory development needs analysis<sup>20</sup> tool is

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<sup>20</sup> <http://www.rdna-tool.bis.gov.uk/>

available for line managers to identify generic customer-service development needs, whilst the 'guidance for Regulators - information point' (grip) portal has resources available to enhance core regulatory skills. While Regulators are best-placed to assess training needs that are related to their respective disciplines, the Regulators forum should adopt the common framework on core regulatory skills in order to assist consistency of delivery across the regulatory community in NI.

In addition the Skills for Justice organisation delivers a range of services to support organisations align development programmes against nationally recognised skills sets and standards. It has undertaken work in core skills sets which would be relevant to a group of Regulators in delivering their functions and responsibilities.

Acquisition of core regulatory skills is only one element of an enhanced customer-service orientation. Regulators and policy makers also need regular exposure to the private sector if they are to nurture empathy for enterprise.

### **Summary**

The findings discussed above relate to the manner in which regulations are developed and enforced in NI. The evidence collected shows no systemic failure in regulatory delivery (for regulation within the scope of the Review), nor were any generic, regulatory failures advised to the Review Team by the business community through the electronic mailbox or external engagement. The Review has sought therefore to identify areas where existing practice can be improved.

to make it easy for people to do good  
business and difficult for people to do  
bad business – NI Environment Agency

# Conclusions & Recommendations

## 5

It is evident that the Northern Ireland regulatory regime is in many ways similar to others – it is complex, with many policy makers, and Regulators delivering a varied and complex range of regulatory requirements, designed to protect our citizens and the environment we enjoy. Furthermore there is a vast array of businesses, sectors and industries operating legitimately and wishing to comply with these requirements.

The Review Team has been told on many occasions that businesses welcome good regulation, which is well designed, well communicated and delivered in a timely efficient and as least burdensome manner as possible.

The Northern Ireland administration is currently faced with very difficult financial and service delivery issues. Resource pressures are immense and this Review believes the recommendations in this Report will make a significant contribution to supporting reform both of the regulatory landscape but also of the

public sector. It recognises that more needs to be done for less, and more than ever we must be innovative in how we do what is required of us and make **better** regulations within the context of a unified and coherent approach.

It is important that all work in devising policy and delivering services is carried out within an effective and coherent framework – regulation is no different.

The five principles of Better Regulation are well recognised and accepted in regulatory communities across the European Union and farther afield. This Review identified an additional three principles which will provide a foundation for a more effective regulatory environment.

This Review believes these can be enhanced to add value to the regulatory reform agenda in Northern Ireland and therefore **recommends the adoption of this new set of eight Principles of Regulatory Reform:**

- **Proportionality**
- **Consistency**
- **Transparency**
- **Accountability**
- **Targeted**
- **Collaboration**
- **Support**
- **Focus on growth**

Within the context of the eight Principles of Regulatory Reform this Review puts forward a

series of high level recommendations. These are supported by additional recommendations, all of which will provide the necessary structures to support an innovative, far reaching and effective regulatory reform agenda for Northern Ireland. The ultimate aim is to deliver a marked reduction in the burden on business from business regulation, while also securing public sector reform in policy making and service delivery.

**Table 1**

RECOMMENDATIONS		SUPPORTING DETAIL
1.	<b>Appoint an independent NI Better Regulation Champion, which has the full support of all NI Ministers. It should be a public appointment by the Enterprise, Trade &amp; Investment Minister with the Champion reporting to the NI Executive's Sub Committee on the Economy.</b>	<p>This role would include:</p> <ul style="list-style-type: none"> <li>• provide strategic leadership and ensure implementation of any agreed actions to be taken forward following this Review</li> <li>• monitor the delivery of specific reform commitments made by Departments</li> <li>• engage regularly with businesses and the third sector</li> <li>• chairing the Regulators Forum</li> </ul>
2.	<b>Adopt a Regulatory Budget scheme to manage the flow of regulations. In the first period of operation the aim should be to achieve a neutral balance for the cost of regulation on business</b>	<ul style="list-style-type: none"> <li>• The One In One Out principle is increasingly being adopted by EU Member States</li> <li>• Northern Ireland should devise a system which is fit for purpose within the NI context.</li> </ul>
3.	<b>Progress sector specific reviews in a rolling programme</b>	<p>A Model has been devised and is being tested through a series of pilots.</p> <ul style="list-style-type: none"> <li>• Complete pilot reviews</li> <li>• Assess the model</li> <li>• Put a call out to business for issues to be reviewed</li> <li>• Devise and run a rolling programme of reviews</li> </ul>
4.	<b>Introduce improvements to the policy making and Regulatory Impact Assessment (RIA) process, including the appointment of an independent scrutiny committee to assess and provide opinion on all RIA's produced by NI Departments (see also Table 2)</b>	<ul style="list-style-type: none"> <li>• The Independent Scrutiny Committee will assess the economic and business impact (not comment on policy intent)</li> <li>• It will provide additional assurances to Ministers in making decisions on new regulations</li> <li>• Early engagement with business and other stakeholders is needed and more innovative approaches to considering solutions to policy issues</li> </ul>

		<ul style="list-style-type: none"> <li>• Dedicated Better Regulation staff to be in each Department to support policy makers</li> </ul>
5.	<b>Publish an Annual Statement of Regulation</b>	<ul style="list-style-type: none"> <li>• Report on previous successes (measurement of achievement of regulatory reform)</li> <li>• Inform on new regulations due to come into force within the next 12 months</li> <li>• Inform of new policies from the NI Executive and EU being devised and developed</li> </ul> <p>The release of this publication should be supported by briefing sessions with Northern Ireland's business bodies and trade associations to improve dialogue and more effective engagement.</p>
6.	<b>Revitalise the Regulators Forum</b>	<p>Under the Chair of the Better Regulation Champion the Regulators Forum can:</p> <ul style="list-style-type: none"> <li>• improve collaboration to reduce burden on business</li> <li>• agree consistent guidance on issues to support each other and provide clarity to businesses</li> <li>• progress a work plan of activity, with a number of the supporting level recommendations from this Review forming an integral part of a work plan</li> </ul>

The Review considers that there are additional actions the NI Executive should adopt which would further improve the regulatory regime in Northern Ireland. Once again these cut across policy makers, central departments, regulators and local authorities.

Furthermore it is recognised by the Review that the business community itself must step up to the table and play a more active role in progressing a regulator reform agenda.

Business and trade associations and organisations have a responsibility to their respective memberships to help them prepare for regulatory change as well as representing them in seeking a more effective and less burdensome regulatory delivery system.

The following recommendations are therefore put forward to address specific concerns raised during the review but which have the potential to make a significant contribution to both regulatory and public sector reform.

**Table 2**

RECOMMENDATIONS		SUPPORTING DETAIL
1.	<b>All new devolved regulation should include review clauses</b>	To ensure timely re-examination of its relevance and the continued need to enforce those regulatory requirements seven years after implementation
2.	<b>Map out the various elements of the EU influencing routes available to Departments and NI businesses and undertake an awareness campaign to embed these structures</b>	<ul style="list-style-type: none"> <li>• Businesses are mindful of the flow of regulation that emanates from Europe and want NI to play its part in influencing this</li> <li>• NI can use routes through the UK Government and where appropriate through the ROI Government</li> <li>• Businesses have a role to play themselves in helping to influence European policies</li> </ul>
3.	<b>Review the impacts of the regulatory reform measures of the UK Government and other jurisdictions to gauge the value of the various measures introduced and to consider whether to introduce them in NI for devolved legislation</b>	<ul style="list-style-type: none"> <li>• The Better Regulation Champion is best placed to take forward such work with Better Regulation officials in DETI and the UK Government.</li> <li>• Initial focus can be on the Deregulation Bill and Small Business Enterprise and Employment Bill after they come into effect in the UK</li> </ul>
4.	<b>Appoint a proportionate independent external committee to scrutinise Regulatory Impact Assessments from all NI Departments</b>	<p>This Committee would:</p> <ul style="list-style-type: none"> <li>• work within the structures of the Regulatory Budgets scheme;</li> <li>• effect improvements in the RIA process – evidence and analysis and engagement with stakeholders</li> <li>• collate data from completed RIAs to allow for the calculation of a more robust estimate of the impact of regulation on the NI economy</li> </ul>
5.	<b>Better regulation support staff are introduced in NI Departments</b>	<p>Such roles will be pivotal in:</p> <ul style="list-style-type: none"> <li>• supporting Departmental staff in policy making</li> <li>• building centres of knowledge and expertise</li> <li>• being a communication link to the BR Champion and DETI Better Regulation Unit</li> </ul>
6.	<b>Adopt all the recommendations of the Innovation Lab set up to consider independent scrutiny of RIAs – See Annex F for Innovation Lab report and detailed recommendations.</b>	The Innovation Lab extended its consideration and put forward 14 recommendations covering Regulatory Budgets, Independent Scrutiny and the RIA process.
7.	<b>Set up a Change or Challenge Fund as a means of generating innovative approaches to improved regulatory delivery</b>	<ul style="list-style-type: none"> <li>• Explore options to use the DFP Change Fund</li> <li>• This provide seed funding for pilot projects which support collaboration between public and private sector</li> <li>• Should have potential for scaling up and deploying across the regulatory community</li> </ul>

		<ul style="list-style-type: none"> <li>Should have key aim of reducing the business burden</li> </ul>
8.	<b>Introduce a single guidance note on a mechanism for setting regulatory fees/charges</b>	Businesses want transparency in the setting of the fees and this will help ensure there is consistency of approach in how these are administered and the expected service delivery
9.	<b>Review the costs and benefits of alternative methods of advertising public notices for regulatory activity</b>	<ul style="list-style-type: none"> <li>Advertising costs are a significant burden more often than not passed onto applicants. Businesses wish to see more flexibility in order to reduce costs</li> <li>There are likely to be solutions complementary to those existing ones used</li> </ul>
10.	<b>Progress work on a single online Business Regulation Hub</b>	<p>This can be achieved through a staged digital improvement programme and should include:</p> <ul style="list-style-type: none"> <li>business access to information and guidance</li> <li>access to all forms and documents from regulators</li> <li>allow online transactions with regulators</li> <li>facilitates greater sharing of information between regulators</li> <li>allow businesses to upload standard information requirements from regulators</li> </ul>
11.	<b>As a minimum standard all Regulators should provide functionality to download 100% of documentation directly from their websites.</b>	Regulators should strive for functionality that permits the completion of documentation online
12.	<b>Continue to work with the NI Chamber of Commerce on an annual survey on business perceptions of regulation in Northern Ireland</b>	<p>This should be based on the survey questions posed in Quarter 2 of 2014 as part of this Review.</p> <p>In addition the BR Champion should consider other opportunities with specific industry sectors to measure their perceptions, along similar lines to the NICC survey</p>
13.	<b>Voluntary adoption of a complementary economic growth duty by all regulatory functions operating in NI</b>	<ul style="list-style-type: none"> <li>While many already have regard for economic growth, all should consider to adopt this principle and take the opportunity to report on how they aim to make this contribution and how they have performed</li> <li>NIEA has the intention - “to make it easy for people to do good business and difficult for people to do bad business”</li> </ul>
14.	<b>Single online space for Regulators for guidance, templates and agreements</b>	This consolidation would help to establish better information sharing protocols such as templates for Memoranda of Understanding, data sharing agreements and disclaimer notices
15.	<b>Information Commissioner issues refreshed guidance to assist Regulators wishing to share information</b>	To remove uncertainty with Regulators on their legal requirements

In addition to this set of recommendations the Review has identified areas of work which the Regulators Forum could usefully consider and wishes to highlight the list of recommendations resulting from the Innovation Lab.

### Regulators Forum

While there is evidence of some levels of collaboration between Regulators and also between policy makers it is recognised that a greater emphasis placed on collaboration between all stakeholders will secure more effective development and delivery of regulatory requirements and demands on business. Businesses have the experiences of being required to comply with the regulations; Regulators with the experiences and knowledge of securing compliance and policy makers knowing the wider context of the regulatory objectives. Each can play a constructive part in a collaborative approach to good regulation.

A Regulators Forum, under the Chair of the Better Regulation Champion, with greater focus

and impetus could be a very effective channel for progressing reform on regulatory delivery across the entire regulatory landscape in Northern Ireland.

It is of great importance that those directly involved in regulatory delivery are provided with the opportunities to develop their skills, knowledge and expertise to bring to the protection of Northern Ireland society. Equally they need to feel empowered and aware of the impact of their actions in maintaining the right protection for Northern Ireland citizens. There is an opportunity to bring together into a single programme of activity support and development opportunities for both policy makers and regulatory delivery officials.

The Review has identified areas which could constitute a forward plan of action for the Regulators Forum.

**Table 3**

REGULATORS FORUM WORK ACTIVITY	
1.	<p><b>Examine and consider how good practice delivery models already in operation across NI could be extended beyond their current (geographical or regulatory) area</b></p>
	<p>Share those areas of good practice already being used in NI and deploy across all Regulators</p>
2.	<p><b>Evaluate the appeals processes of NI Regulators and introduce consistency of approach, transparency and visibility of information for businesses</b></p>
	<p>Focusing on:</p> <ul style="list-style-type: none"> <li>• validating customer experiences where possible; and</li> <li>• providing guidance for Regulators to devise appropriate appeals policies, in line with the regulatory reform principles</li> <li>• information on their appeals process is prominently displayed on their home page</li> </ul>

3.	<b>Investigate suitable organisations which can validate or accredit Regulators risk management and enforcement policies and set up a protocol against which their individual policies can be validated.</b>	For example UK Accreditation Service
4.	<b>Work with relevant professional/sector bodies to identify schemes that might be adapted to allow greater use of Earned Recognition across NI</b>	As part of a more effective risk management approach to regulatory delivery Regulators should make greater use of Earned Recognition for those consistently compliant businesses
5.	<b>Ensure that the information that is being requested from businesses is relevant and proportionate</b>	Consider and learn from the Addressing Bureaucracy project undertaken by Department for Social Development
6.	<b>Licence and Permit application processes to be designed from the perspective of a ‘first-time-applicant’</b>	This should cover all forms and accompanying guidance and be tested with businesses through relevant business and trade associations. The design should make it: <ul style="list-style-type: none"> <li>• easy to find help;</li> <li>• easy to understand;</li> <li>• easy redirection to redirect to material from other sources; and</li> <li>• easy to access any supplementary information requested.</li> </ul>
7.	<b>Consider how existing contact databases in the NI public sector could be adapted to help identify Regulator contact details</b>	Those at operational level would welcome access to contact details of counterparts in other Regulators
8.	<b>Devise and adopt a common framework on core regulatory skills in order to assist consistency of delivery across the regulatory community in Northern Ireland</b>	This work should include engagement with professional bodies and other skills authorities with expertise in the whole gamut of skills needed
9.	<b>Develop a programme of activity with relevant, external bodies which would help staff better understand the challenges facing those whom they regulate</b>	To better understand the business perspective on regulation, for example through a trading places scheme with big business or awareness training sessions with trade associations and small businesses

### Innovation Lab

The Innovation Lab, commissioned through Public Sector Reform Directorate in the Department of Finance & Personnel, was tasked with considering options for independent scrutiny of Regulatory Impact Assessments. They considered that there would be greater merit in assessing the wider policy context of

better regulation and regulatory impact assessments. The Lab therefore put forward a series of 14 recommendations to the Review. The report from the Lab is available through Annex F, however listed below is a list of the recommendations.

**Table 4**

<b>INNOVATION LAB ON REGULATORY IMPACT ASSESSMENTS</b>		
1.	<b>Establish an Independent Scrutiny Unit for Regulatory Impact Assessments</b>	<ul style="list-style-type: none"> <li>• This is a key aspect of improving RIA quality</li> <li>• This will increase the credibility of the RIA</li> </ul>
2.	<b>Launch the new guidance for Regulatory Impact Assessment in a more high profile manner</b>	<ul style="list-style-type: none"> <li>• Relaunch with high-level buy-in made clear will demonstrate the importance of RIAs to the policy process</li> </ul>
3.	<b>Establish Better Regulation Units within each Executive Department</b>	<ul style="list-style-type: none"> <li>• This will increase awareness and understanding of the process throughout NICS</li> </ul>
4.	<b>Establish a Better Regulation Champions network</b>	<ul style="list-style-type: none"> <li>• This will create high-level buy-in involving Permanent Secretaries Group and Policy Champions Network</li> </ul>
5.	<b>Introduce revised Regulatory Impact Assessment training to complement and embed the new guidance</b>	<ul style="list-style-type: none"> <li>• This should be part of the policy training programme and will help embed the process</li> </ul>
6.	<b>Embed the culture of engagement by emphasising the value of early and regular engagement</b>	<ul style="list-style-type: none"> <li>• This should increase the quality and focus of engagement and improve consistency across and within departments</li> </ul>
7.	<b>Introduce the use of new engagement methodologies including digital and social media</b>	<ul style="list-style-type: none"> <li>• This will move the focus from consultation and include engagement</li> </ul>
8.	<b>Undertake an assessment of policy critical stakeholders to identify gaps in network</b>	<ul style="list-style-type: none"> <li>• This will address the issue of poorly focused consultation</li> </ul>
9.	<b>Establish an easily assessable central store of RIA information and examples</b>	<ul style="list-style-type: none"> <li>• Top standard RIAs can then be identified to use as exemplars</li> </ul>
10.	<b>Identify and replace those areas of guidance that are subject to interpretation</b>	<ul style="list-style-type: none"> <li>• This will increase clarity and lead to more consistent RIAs</li> </ul>

11.	<b>Create a single policy making toolkit, containing RIA, that will take practitioners step by step through the process</b>	<ul style="list-style-type: none"> <li>This will contribute to improved quality and consistency</li> </ul>
12.	<b>Create a comprehensive data protocol to allow for optimum use</b>	<ul style="list-style-type: none"> <li>This will give a stronger evidence base on which to build an RIA</li> </ul>
13.	<b>Establish a monitoring unit within DETI to evaluate the entire RIA process</b>	<ul style="list-style-type: none"> <li>This will constantly review the new RIA procedures to ensure they are working and to identify any improvements that can be made</li> </ul>
14.	<b>Introduce a regulatory budget for Northern Ireland Executive Departments</b>	<ul style="list-style-type: none"> <li>A regulatory budget will cap the costs of new regulation to business through the removal of other regulation costs if any new regulations are introduced</li> </ul>

## IMPLEMENTATION

The Advisory Panel and Review Team would wish to reiterate their awareness of the current public sector resource climate in Northern Ireland. It can be increasingly difficult to affect change with such fundamental resource issues to the fore for many decisions which impact on staff, service delivery and ultimately the protection of our citizens.

We believe the recommendations put forward, resulting from the Review are made in a way which will support public sector reform and afford the NI Executive the opportunity to be innovative and far reaching in how it can affect meaningful change in the regulatory landscape and the resulting burden this imposes on NI businesses. There is a strong mix of recommendations which are strategic, operational, longer term visionary and quick

wins. Each however are component elements of what the Review envisages could be a leading edge, visionary and competitive approach to regulation. As such the recommendations are closely aligned with the vision of the Northern Ireland Economic Strategy.

The Review Team has considered how the recommendations in this report might be delivered in practice and have suggested which NI Departments and organisations could take a lead role. This is included in Annex E.

The Advisory Panel and Review Team challenges the NI Ministers to consider these recommendations and put in place the building blocks for a solid regulatory reform programme as part of a future Programme for Government, which will deliver meaningful change and support a prosperous and united community.



# Annexes

## **Annex A**

Advisory Panel & Review Team

## **Annex B**

Terms of Reference

## **Annex C**

NI and UK National Regulators

## **Annex D**

Strategic Principles of Regulatory Reform

## **Annex E**

List of Recommendations

## **Annex F**

Links to Reports from Innovation Lab and Research Projects

## **Annex G**

UK Accreditation Service

## **Annex H**

Glossary

## **Annex I**

Participants in Review



### Advisory Panel & Review Team

#### Lord Curry of Kirkharle

Donald Curry is a lifetime crossbench peer, appointed to the House of Lords in October 2011. A businessman and farmer, he has served as **Chairman of the Better Regulation Executive** since January 2010. Chair of Leckford Estates, owned by Waitrose and a former Chair of NFU Mutual Insurance Society, Lord Curry runs a 440 acre arable farm in Northumberland. Lord Curry has been an advisor to Government on sustainable food and farming.

#### George Lucas

George Lucas was Managing Director of the Corus Steel plc operations in Ireland formerly Gamble Simms Steel Ltd from 1986-2006. During this time he was instrumental in developing and implementing key business strategies that not only brought strong growth and financial returns but also a significant reduction in accident rates. Mr Lucas is **Chair of the Health and Safety Executive NI**. From 2006 - 2010, he worked as a strategy development consultant with Corus Steel plc (acquired by Tata Steel in 2006) across Great Britain and Ireland. Mr Lucas holds a MSc in Management from Trinity College, Dublin and has completed the Programme for Executive Development at IMD, Switzerland.

#### Francis Martin

Francis Martin is **Partner at BDO Northern Ireland**. A Chartered Accountant and is a former Chair of the Institute of Management Consultancy in NI. Mr Martin is a board member and Past President of the NI Chamber of Commerce and is current Vice President of the British Chambers of Commerce, the London based umbrella organisation for all accredited Chambers in the UK. Mr Martin also currently sits on the Agri-food Strategy Board, established by DETI and DARD to develop a long-term strategy to grow the NI Agri-food sector.

#### Alan Shannon

Alan Shannon has recently **retired as a NICS Permanent Secretary**, after a long public sector career across a number of NI Departments including being Permanent Secretary for the Department for Social Development for over six years. Most recently, Mr Shannon was Permanent Secretary for the Department for Employment and Learning before retiring in May 2013.

#### Review Team

**Philip Rodgers**, formerly Economic Policy Unit, DETI (currently Apprenticeships & Economic Inactivity Unit, DEL)

**Martin Graham**, Economic Policy Unit, DETI

**Diana MacDowall**, Better Regulation Executive, Department for Business, Innovation & Skills

**John Cairnduff**, Northern Ireland Chamber of Commerce & Industry

**Jamie Warnock**, formerly Economic Policy Unit, DETI (currently Head of Civil Service Office, OFMDFM)

**Kim Coates**, Economic Policy Unit (from September 2014)

# Terms of Reference

## NI Executive Review of Business Regulation Terms of Reference

### Introduction

1. On 14 June 2013, the Prime Minister, First Minister, deputy First Minister and the Secretary of State for Northern Ireland announced a package of proposals to build a stronger economy in Northern Ireland (NI) and secure a shared future for all its people. *Building a Prosperous and United Community* represents the UK Government and the Executive's shared commitment to help the NI economy fulfil its potential.
2. The measures outlined will build upon the wide range of actions that the Executive has already committed to take forward in order to rebalance the NI economy and rebuild the local labour market. These measures are detailed in the NI Economic Strategy and complimentary Economy & Jobs Initiative published by the Executive in 2012.
3. The NI Economic Strategy recognises that, in order to secure the Executive's vision for the local economy, it is vital that NI grows its private sector and makes it easier to do business. As the Executive seeks to position NI as one of the best regions in Europe to start and grow a business, it accepts the need for sustained action to improve the regulatory environment in order to create the conditions that will allow businesses across the whole economy to flourish.
4. Regulation is essential to maintain a fair and competitive market place which supports legitimate business and protects society and the environment. With regulation, however, comes a cost on business to work towards and demonstrate their compliance with the regulatory requirements imposed by Government. Such regulation can come from a range of sources including the NI Executive, the UK Government or indeed the European Union.
5. The Government and the Executive wish to ensure that all regulations are fair and effective and strike the right balance between protecting consumers, employees and the environment and freeing people and businesses from unnecessary bureaucracy. Where regulations are ineffective or unnecessary, complying with them will cost time and money and has the potential to restrict economic growth.

### NI Executive Review of Business Regulation

6. As part of *Building a Prosperous and United Community*, the Executive is committed to conducting a review of business red tape in NI in consultation with our business people. The aim of this review is to identify recommendations which, when implemented, will contribute to **reducing the regulatory burdens facing business in NI.**
7. Regulation of itself is a valid contributor to a fair, safe and competitive business environment – however inconsistent or inappropriate regulation can cause problems or additional burdens for businesses. Furthermore, unsuitable or overzealous delivery/implementation of good regulation can in itself cause additional burdens.
8. In supporting this review, the Government will share best practice from its *Red Tape Challenge* and *Focus on Enforcement* initiatives, as well as those other principles and standards they have adopted into their better regulation framework.

9. The review will make recommendations which will identify a longer term strategic direction for the Executive in order to deliver a more effective regulatory regime which supports business and economic growth. This will include a plan of work which the Executive can progress in order to reduce the red tape burden on NI business.

#### **Scope**

10. The proposed scope of this review covers current legislation both primary and secondary which falls principally within the devolved field (i.e. deals with transferred matters) and which places a regulatory burden on business; and the regulatory functions of Northern Ireland Ministers, Departments and public bodies.
11. It is recognised that much regulatory activity originates from Whitehall or Brussels; however where the policy decision on how to apply rules lies within the remit of Northern Ireland Ministers and Departments the process for making these decisions is in scope of the review.
12. It is further recognised that the regulatory delivery landscape is complex and there are national regulators which operate in NI and indeed some who regulate under devolved legislation and who may use devolved regulators in support of implementing regulatory requirements.
13. The NI Better Regulation Review will consider three strategic areas, but perhaps equally importantly it will collect the views of the local business community about NI regulation and NI regulatory management :

#### **Regulatory Framework**

- The Review will consider the processes and structures currently used within NI Departments in progressing regulatory policies and business views on their suitability. It will make recommendations for a plan of action to improve business engagement and challenge and deliver a more effective and consistent structure across the NI Executive for developing, delivering and implementing regulatory requirements.
- The Review will assess the potential application of current initiatives used by the UK Government to manage its regulatory stock in the NI context (such as sunset clauses; special measures for micro businesses; common commencement dates; one in one out) and make recommendations for a plan of action to simplify, rationalise and consolidate the regulatory burden on business in NI.

#### **Delivery/Implementation of regulation**

- The Review will identify areas of regulatory delivery/implementation and enforcement which are considered to be particularly burdensome on business and constraining the performance of the NI economy. It will make recommendations for a plan of action to deliver an efficient and more effective approach to implementation by regulators;
- The Review will assess the potential for applying UK regulatory delivery initiatives in NI (such as reforms of regulatory appeals; Regulators Compliance Code and Primary Authority Scheme);
- The Review will consider the benefits and costs of placing a statutory duty on NI regulators to have regard for economic growth in their actions.

#### **Regulation**

- The Review will seek views on broad areas of regulation which are considered to pose a disproportionate burden on NI business. This could cover those regulations impacting upon particular sectors of the local economy (e.g. the hospitality sector or

manufacturing) or thematic regulations that cut across all sectors of the economy (e.g. environmental or health & safety regulation);

- The Review will assess the potential to review and improve NI regulations, perhaps through a programme similar to the UK Government's Red Tape Challenge or a process for tailoring Red Tape Challenge findings to the NI context.

14. The review will build upon a number of pieces of work which the Executive is already progressing including ongoing reform proposed through the Environmental Better Regulation Bill; a review of NI employment law and planning reform. In addition work has progressed on a number of other related matters including a review of the Regulatory Impact Assessment guidance and extending scope of the Better Regulation agenda to include all regulators and local authorities in Northern Ireland.

15. It will also build upon the ongoing engagement between the Executive and key stakeholders including the **Regulatory Reform Group** (which has membership of senior civil servants from most NI Departments and representatives from a wide range of business and trade bodies<sup>(20)</sup>); the **Regulators Forum** (which brings together most regulators operating in NI in an environment that supports sharing experiences, best practice and raising issues of common concern) and a more general **Better Regulation Stakeholders Forum** (which is largely a forum for disseminating information to departmental officials, business bodies, regulators and others with an expressed interest in better regulation matters).

#### **Delivery**

16. The proposed delivery model to be adopted for this review is for a Review Team to be established which will be guided by an Advisory Panel.

17. The Advisory Panel will provide direction to the review team and act as a sounding board for suggestions/ideas of the review team to ensure any recommendations are practical, realistic and be able to be delivered by the NI Executive. The Advisory Panel will consist of an external individual with business experience and knowledge of business regulation and the Government's approach to tackling regulatory burden; a public sector representative from the NI Civil Service and two senior NI business representatives.

18. The Review Team will be lead by DETI and consist of officials drawn from the NICS; an official(s) on a short term secondment from the UK Government and a representative(s) from the NI business community, also on short term secondment.

#### **Timing**

19. It is envisaged that this review will commence in December 2013. The review will complete in Spring 2014 and report by end June 2014.

20. The review will put forward recommendations for the NI Executive to consider as the basis for a longer term programme of actions to address key issues, which will deliver a step change in the regulatory landscape in Northern Ireland to support economic and business growth while protecting society and the environment.

### NI and UK National Regulators

#### Regulators Operating in Northern Ireland only

Building Control Service  
Charities Commission for Northern Ireland (CCNI)  
Company Law  
Council for the Curriculum, Examinations and Assessment (CCEA)  
Fisheries (DARD)  
Quality Assurance Branch (DARD)  
Rivers Agency (DARD)  
Drinking Water Inspectorate Northern Ireland (DWINI)  
Driver & Vehicle Agency (DVA)  
Employment Agency Inspectorate (EAI)  
Environmental Health Service  
Equality Commission  
Forest Service Northern Ireland (DARD)  
Health & Safety Executive Northern Ireland (HSENI)  
Housing Division (DSD)  
Insolvency Service  
Law Society for Northern Ireland  
Licensing Forum Northern Ireland  
Northern Ireland Authority on Utility Regulation  
Minerals and Petroleum Licensing  
Northern Ireland Environment Agency  
NI Fire & Rescue Service  
Northern Ireland Social Care Council  
Northern Ireland Statistics and Research Agency (NISRA)  
Northern Ireland Tourist Board (NITB)  
Pharmaceutical Society Northern Ireland  
Planning Service  
Ports & Public Transport Division (DRD)  
Private Landlords (Register)  
Single Farm Payment Branch  
Registrar of Landlords  
Regulation & Quality Improvement Authority (RQIA)

Roads Service (DRD)  
Single Use Carrier Bag Levy Regulator (DOE)  
The Education and Training Inspectorate in Northern Ireland  
The General Council of the Bar In Northern Ireland  
The Turf Club  
Trading Standards Service  
Veterinary Service (DARD)  
Sports Northern Ireland

#### Regulators Operating UK-Wide

Architects Registration Board  
Animals in Science Regulation Unit  
British Hallmarking Council  
Civil Aviation Authority  
Claims Management Regulation Unit  
Competition and Markets Authority  
Competition Commission  
Companies House  
Financial Reporting Council  
Financial Conduct Authority  
Food & Environment Research Agency  
Food Standards Agency  
Gambling Commission  
Gangmasters Licensing Authority  
Groceries Code Adjudicator  
Human Fertilisation & Embryology Authority  
Human Tissue Authority  
HM Revenue & Customs  
HMRC National Minimum Wage  
Information Commissioners Office  
Intellectual Property Office  
Maritime & Coastguard Agency  
Office of National Statistics (ONS)  
National Measurement Office  
Medicines & Healthcare Products Regulatory Agency  
Office of Communications (OFCOM)  
Office of Fair Trading

Office of the Regulator of Community Interest  
Companies  
Office of Nuclear Regulation  
Pensions Regulator  
Security Industry Authority  
Veterinary Medicines Directorate  
Vehicle Certification Agency

### Strategic Principles of Regulatory Reform

Departments should already apply the following Better Regulation principles

- **Proportionality;**
- **Transparency;**
- **Consistency;**
- **Targeted;** and
- **Accountability.**

The Review recommends the inclusion of

- **Collaboration**
- **Support**
- **Focus on Growth**

Departments, local authorities and Regulators should apply these principles consistently and to all devolved regulation in NI. Before designing and implementing devolved regulation they should, where possible, have early engagement with all relevant stakeholders - from policy makers, professional support services (such as Departmental solicitors, economists and statisticians), through to Regulators, local authority officials and business representatives. Departments should also engage early and often with stakeholders on EU matters, including EU institutions, NI MEPs and work through the Office of the Northern Ireland Executive in Brussels, UKREP and, where appropriate, the Republic of Ireland EU representation.

It is important that Departments and Regulators consider improving collaboration with others in the regulatory community in Northern Ireland – to learn from others experiences, identify where working together would reduce the burden and provide a more effective and efficient service to businesses. In so doing they should continue to develop the approach and ethos of being supportive to businesses and working with them to secure compliance, allowing them to focus enforcement and prosecution activity on those who deserve such action to be taken against them.

Effectively applying the principles above will contribute to a contribution to economic growth whether from Regulators or policy makers in Departments. Regulatory reform is a key building block of the Northern Ireland Economic Strategy and to have a focus on growth, which should not detract from the principle policy intent and objective, rather complement it and support wider economic growth while continuing to protect the environment, employees and citizens and our communities.

In addition, Departments should follow the UK Government Guidance on adopting and transposing EU regulation <https://www.gov.uk/government/publications/guiding-principles-for-eu-legislation> and should not gold plate EU regulation when transposing to devolved regulation.

Departments in NI should also ensure that regulation is considered as a last resort not the first option, and more importantly that regulation is considered as the way to achieve devolved policy objectives only once analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative, self-regulatory or non-regulatory approaches. Regulation should not impose costs

and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made for it. Departments and Regulators should also consider seriously voluntary schemes offering earned recognition benefits like reduced inspection frequencies, or voluntary codes of practice.

## List of Recommendations

RECOMMENDATIONS		SUPPORTING DETAIL	Suggested Lead Department
1.	<b>Appoint an independent NI Better Regulation Champion, which has the full support of all NI Ministers. It should be a public appointment by the Enterprise, Trade &amp; Investment Minister with the Champion reporting to the NI Executive's Sub Committee on the Economy.</b>	<p>This role would include:</p> <ul style="list-style-type: none"> <li>provide strategic leadership and ensure implementation of any agreed actions to be taken forward following this Review</li> <li>monitor the delivery of specific reform commitments made by Departments</li> <li>engage regularly with businesses and the third sector</li> <li>chairing the Regulators Forum</li> </ul>	DETI
2.	<b>Adopt a Regulatory Budget scheme to manage the flow of regulations. In the first period of operation the aim should be to achieve a neutral balance for the cost of regulation on business.</b>	<ul style="list-style-type: none"> <li>The One In One Out principle is increasingly being adopted by EU Member States</li> <li>Northern Ireland should devise a system which is fit for purpose within the NI context.</li> </ul>	All Key input from DFP and DETI
3.	<b>Progress sector specific reviews in a rolling programme</b>	<p>A Model has been devised and is being tested through a series of pilots.</p> <ul style="list-style-type: none"> <li>Complete pilot reviews</li> <li>Assess the model</li> <li>Put a call out to business for issues to be reviewed</li> <li>Devise and run a rolling programme of reviews</li> </ul>	All
4.	<b>Introduce improvements to the policy making and Regulatory Impact Assessment (RIA) process, including the appointment of an independent scrutiny committee to assess and provide opinion on all RIA's produced by NI Departments (see also Table 2)</b>	<ul style="list-style-type: none"> <li>The Independent Scrutiny Committee will assess the economic and business impact (not comment on policy intent)</li> <li>It will provide additional assurances to Ministers in making decisions on new regulations</li> <li>Early engagement with business and other stakeholders is needed and more innovative approaches to considering solutions to policy issues</li> <li>Dedicated Better Regulation staff to be in each Department to support policy</li> </ul>	OFMDFM Key input from DFP and DETI

		makers	
5.	<b>Publish an Annual Statement of Regulation</b>	<ul style="list-style-type: none"> <li>Report on previous successes (measurement of achievement of regulatory reform)</li> <li>Inform on new regulations due to come into force within the next 12 months</li> <li>Inform of new policies from the NI Executive and EU being devised and developed</li> </ul> <p>The release of this publication should be supported by briefing sessions with Northern Ireland's business bodies and trade associations to improve dialogue and more effective engagement.</p>	All
6.	<b>Revitalise the Regulators Forum</b>	<p>Under the Chair of the Better Regulation Champion the Regulators Forum can:</p> <ul style="list-style-type: none"> <li>improve collaboration to reduce burden on business</li> <li>agree consistent guidance on issues to support each other and provide clarity to businesses</li> <li>progress a work plan of activity, with a number of the supporting level recommendations from this Review forming an integral part of a work plan</li> </ul>	DETI Key input from all Regulators

RECOMMENDATIONS		SUPPORTING DETAIL	Suggested Lead Department
7.	<b>All new devolved regulation should include review clauses</b>	To ensure timely re-examination of its relevance and the continued need to enforce those regulatory requirements seven years after implementation	All
8.	<b>Map out the various elements of the EU influencing routes available to Departments and NI businesses and undertake an awareness campaign to embed these structures</b>	<ul style="list-style-type: none"> <li>Businesses are mindful of the flow of regulation that emanates from Europe and want NI to play its part in influencing this</li> <li>NI can use routes through the UK Government and where appropriate through the ROI Government</li> <li>Businesses have a role to play themselves in helping to influence European policies</li> </ul>	OFMDFM
9.	<b>Review the impacts of the regulatory reform measures of the UK Government and other jurisdictions to gauge the value of the various measures introduced and to consider whether to introduce them in NI for devolved legislation</b>	<ul style="list-style-type: none"> <li>The Better Regulation Champion is best placed to take forward such work with Better Regulation officials in DETI and the UK Government.</li> <li>Initial focus can be on the Deregulation Bill and Small Business Enterprise and Employment Bill after they come into effect in the UK</li> </ul>	All Key input from DETI

10.	<b>Appoint a proportionate independent external committee to scrutinise Regulatory Impact Assessments from all NI Departments</b>	<p>This Committee would:</p> <ul style="list-style-type: none"> <li>• work within the structures of the Regulatory Budgets scheme;</li> <li>• effect improvements in the RIA process – evidence and analysis and engagement with stakeholders</li> <li>• collate data from completed RIAs to allow for the calculation of a more robust estimate of the impact of regulation on the NI economy</li> </ul>	<p>OFMDFM Key input from DFP and DETI</p>
11.	<b>Better regulation support staff are introduced in NI Departments</b>	<p>Such roles will be pivotal in:</p> <ul style="list-style-type: none"> <li>• supporting Departmental staff in policy making</li> <li>• building centres of knowledge and expertise</li> <li>• being a communication link to the BR Champion and DETI Better Regulation Unit</li> </ul>	<p>All to consider and share resource if deemed appropriate</p>
12.	<b>Adopt all the recommendations of the Innovation Lab set up to consider independent scrutiny of RIAs – See Annex F for Innovation Lab report and detailed recommendations.</b>	<p>The Innovation Lab extended its consideration and put forward 14 recommendations covering Regulatory Budgets, Independent Scrutiny and the RIA process.</p>	<p>All Key input from Policy Champions Network</p>
13.	<b>Set up a Change or Challenge Fund as a means of generating innovative approaches to improved regulatory delivery</b>	<ul style="list-style-type: none"> <li>• Explore options to use the DFP Change Fund</li> <li>• This provide seed funding for pilot projects which support collaboration between public and private sector</li> <li>• Should have potential for scaling up and deploying across the regulatory community</li> <li>• Should have key aim of reducing the business burden</li> </ul>	<p>DETI &amp; DFP</p>
14.	<b>Introduce a single guidance note on a mechanism for setting regulatory fees/charges</b>	<p>Businesses want transparency in the setting of the fees and this will help ensure there is consistency of approach in how these are administered and the expected service delivery</p>	<p>OFMDFM and DFP</p>
15.	<b>Review the costs and benefits of alternative methods of advertising public notices for regulatory activity</b>	<ul style="list-style-type: none"> <li>• Advertising costs are a significant burden more often than not passed onto applicants. Businesses wish to see more flexibility in order to reduce costs</li> <li>• There are likely to be solutions complementary to those existing ones used</li> </ul>	<p>OFMDFM and DFP</p>
16.	<b>Progress work on a single online Business Regulation Hub</b>	<p>This can be achieved through a staged digital improvement programme and should include:</p> <ul style="list-style-type: none"> <li>• business access to information and guidance</li> <li>• access to all forms and documents from regulators</li> </ul>	<p>DFP and DETI</p>

		<ul style="list-style-type: none"> <li>allow online transactions with regulators</li> <li>facilitates greater sharing of information between regulators</li> <li>allow businesses to upload standard information requirements from regulators</li> </ul>	
17.	<b>As a minimum standard all Regulators should provide functionality to download 100% of documentation directly from their websites.</b>	Regulators should strive for functionality that permits the completion of documentation online	All
18.	<b>Continue to work with the NI Chamber of Commerce on an annual survey on business perceptions of regulation in Northern Ireland</b>	<p>This should be based on the survey questions posed in Quarter 2 of 2014 as part of this Review.</p> <p>In addition the BR Champion should consider other opportunities with specific industry sectors to measure their perceptions, along similar lines to the NICC survey</p>	DETI
19.	<b>Voluntary adoption of a complementary economic growth duty by all regulatory functions operating in NI</b>	<ul style="list-style-type: none"> <li>While many already have regard for economic growth, all should consider to adopt this principle and take the opportunity to report on how they aim to make this contribution and how they have performed</li> <li>NIEA has the intention - “to make it easy for people to do good business and difficult for people to do bad business”</li> </ul>	All
20.	<b>Single online space for Regulators for guidance, templates and agreements</b>	This consolidation would help to establish better information sharing protocols such as templates for Memoranda of Understanding, data sharing agreements and disclaimer notices	Regulators Forum with support from DFP and DETI
21.	<b>Information Commissioner issues refreshed guidance to assist Regulators wishing to share information</b>	To remove uncertainty with Regulators on their legal requirements	OFMDFM to liaise with ICO

REGULATORS FORUM WORK ACTIVITY		Suggested Lead Department
22.	<b>Examine and consider how good practice delivery models already in operation across NI could be extended beyond their current (geographical or regulatory) area</b>	Regulators Forum

23.	<b>Evaluate the appeals processes of NI Regulators and introduce consistency of approach, transparency and visibility of information for businesses</b>	Focusing on: <ul style="list-style-type: none"> <li>validating customer experiences where possible; and</li> <li>providing guidance for Regulators to devise appropriate appeals policies, in line with the regulatory reform principles</li> <li>information on their appeals process is prominently displayed on their home page</li> </ul>	Regulators Forum
24.	<b>Investigate suitable organisations which can validate or accredit Regulators risk management and enforcement policies and set up a protocol against which their individual policies can be validated.</b>	For example UK Accreditation Service	Regulators Forum
25.	<b>Work with relevant professional/sector bodies to identify schemes that might be adapted to allow greater use of Earned Recognition across NI</b>	As part of a more effective risk management approach to regulatory delivery Regulators should make greater use of Earned Recognition for those consistently compliant businesses	Regulators Forum
26.	<b>Ensure that the information that is being requested from businesses is relevant and proportionate</b>	Consider and learn from the Addressing Bureaucracy project undertaken by Department for Social Development	Regulators Forum
27.	<b>Licence and Permit application processes to be designed from the perspective of a 'first-time-applicant'</b>	This should cover all forms and accompanying guidance and be tested with businesses through relevant business and trade associations. The design should make it: <ul style="list-style-type: none"> <li>easy to find help;</li> <li>easy to understand;</li> <li>easy redirection to redirect to material from other sources; and</li> <li>easy to access any supplementary information requested.</li> </ul>	Regulators Forum
28.	<b>Consider how existing contact databases in the NI public sector could be adapted to help identify Regulator contact details</b>	Those at operational level would welcome access to contact details of counterparts in other Regulators	Regulators Forum
29.	<b>Devise and adopt a common framework on core regulatory skills in order to assist consistency of delivery across the regulatory community in Northern Ireland</b>	This work should include engagement with professional bodies and other skills authorities with expertise in the whole gamut of skills needed	Regulators Forum
30.	<b>Develop a programme of activity with relevant, external bodies</b>	To better understand the business perspective on regulation, for example through a	Regulators Forum

<b>which would help staff better understand the challenges facing those whom they regulate</b>	trading places scheme with big business or awareness training sessions with trade associations and small businesses	
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<b>INNOVATION LAB ON REGULATORY IMPACT ASSESSMENTS</b>			<b>Suggested Lead Department</b>
31.	<b>Establish an Independent Scrutiny Unit for Regulatory Impact Assessments</b>	<ul style="list-style-type: none"> <li>This is a key aspect of improving RIA quality</li> <li>This will increase the credibility of the RIA</li> </ul>	OFMDFM with input from DFP and DETI
32.	<b>Launch the new guidance for Regulatory Impact Assessment in a more high profile manner</b>	<ul style="list-style-type: none"> <li>Relaunch with high-level buy-in made clear will demonstrate the importance of RIAs to the policy process</li> </ul>	DETI with input from Policy Champions Network
33.	<b>Establish Better Regulation Units within each Executive Department</b>	<ul style="list-style-type: none"> <li>This will increase awareness and understanding of the process throughout NICS</li> </ul>	All to consider and share resource if deemed appropriate
34.	<b>Establish a Better Regulation Champions network</b>	<ul style="list-style-type: none"> <li>This will create high-level buy-in involving Permanent Secretarys Group and Policy Champions Network</li> </ul>	All
35.	<b>Introduce revised Regulatory Impact Assessment training to complement and embed the new guidance</b>	<ul style="list-style-type: none"> <li>This should be part of the policy training programme and will help embed the process</li> </ul>	DETI and DFP (Centre for Applied Learning)
36.	<b>Embed the culture of engagement by emphasising the value of early and regular engagement</b>	<ul style="list-style-type: none"> <li>This should increase the quality and focus of engagement and improve consistency across and within departments</li> </ul>	All
37.	<b>Introduce the use of new engagement methodologies including digital and social media</b>	<ul style="list-style-type: none"> <li>This will move the focus from consultation and include engagement</li> </ul>	All with key input from Policy Champions Network and DFP
38.	<b>Undertake an assessment of policy critical stakeholders to identify gaps in network</b>	<ul style="list-style-type: none"> <li>This will address the issue of poorly focused consultation</li> </ul>	All
39.	<b>Establish an easily assessable central store of RIA information and examples</b>	<ul style="list-style-type: none"> <li>Top standard RIAs can then be identified to use as exemplars</li> </ul>	DFP and DETI

40.	<b>Identify and replace those areas of guidance that are subject to interpretation</b>	<ul style="list-style-type: none"> <li>This will increase clarity and lead to more consistent RIAs</li> </ul>	DETI to consider
41.	<b>Create a single policy making toolkit, containing RIA, that will take practitioners step by step through the process</b>	<ul style="list-style-type: none"> <li>This will contribute to improved quality and consistency</li> </ul>	Policy Champions Network
42.	<b>Create a comprehensive DATA protocol to allow for optimum use</b>	<ul style="list-style-type: none"> <li>This will give a stronger evidence base on which to build an RIA</li> </ul>	OFMDFM, DFP and DETI
43.	<b>Establish a monitoring unit within DETI to evaluate the entire RIA process</b>	<ul style="list-style-type: none"> <li>This will constantly review the new RIA procedures to ensure they are working and to identify any improvements that can be made</li> </ul>	DETI
44.	<b>Introduce a regulatory budget for Northern Ireland Executive Departments</b>	<ul style="list-style-type: none"> <li>A regulatory budget will cap the costs of new regulation to business through the removal of other regulation costs if any new regulations are introduced</li> </ul>	All

### Links to Reports from Innovation Lab and Research Projects

The Review commissioned three pieces of additional work to support it in considering the burdens experienced by business from regulation.

**Fees and Charges** – business representatives had suggested that there was inconsistency and a lack of transparency in how fees and charges are set and believed that these could not be justified by the work undertaken for the charges imposed.

**Business Regulation Hub** - The Review considered that to have the utopia of a single, fully integrated business regulatory service which supported Regulators and Businesses in meeting compliance requirements would be an ideal place to be. Recognising however that with 70+ Regulators operating in Northern Ireland and a complex public sector structure with a wide and varied business base to achieve such a system would be a longer term aspiration that would require early stage exploratory work.

**Independent Scrutiny of Regulatory Impact Assessments** – The Review recognised the potential significant contribution independent scrutiny of Regulatory Impact Assessments could bring to improving the quality and robustness of the policy making process in Northern Ireland for those areas which impact on business. Equally it recognised that to introduce such a step in the process would undoubtedly support public sector reform. To this end it sponsored the first Northern Ireland Civil Service Innovation Lab on a key policy issue.

Links to reports resulting from each of these three additional pieces of work are available on the DETI website and they have been major contributors to the deliberations of the Review and helped in shaping emerging findings and recommendations.

All reports are available at [www.detini.gov.uk/betterregulation](http://www.detini.gov.uk/betterregulation)

### UKAS ACCREDITATION SUPPORTING BETTER REGULATION

The United Kingdom Accreditation Service (UKAS) is the sole national accreditation body recognised by government to assess, against internationally agreed standards, organisations that provide certification, testing, inspection and calibration services. UKAS is appointed and monitored by the Department for Business, Innovation and Skills and is peer assessed by its international counterparts. Government can therefore have confidence in UKAS accredited organisations to carry out those conformity assessment tasks required to support Government policy.

Accredited conformity assessment:

- offers a business friendly alternative to regulation;
- reduces costs for Government by moving delivery of policy to the private sector;
- supports risk based regulation by providing information to help target Government intervention where it is most needed;
- reduces the regulatory burden on business and reduces the inspection costs incurred by regulators, whilst at the same time ensuring robust outcomes in terms of compliance and behaviours.

Examples of where this approach is already established are:

#### Environmental Management Systems

ISO 14001 is an internationally recognised standard for environmental management systems. It was developed by industry for industry and is used by businesses to manage their environmental obligations. To provide an independent verification of compliance, businesses can choose to be certified by UKAS accredited certification bodies. Accreditation by UKAS provides an assurance of the competence of the certification bodies to assess compliance against ISO 14001.

The Environment Agency recognises the value of accredited certification to ISO 14001 in providing an indication of a business' commitment to meeting its environmental obligations. Businesses with accredited certification to ISO 14001 receive credit under the Integrated Pollution and Prevention and Control legislation resulting in reduced environmental levies for businesses and reduced inspection requirements for the regulator.

UKAS is currently taking part in a working group with the environment agencies of all four countries to explore how the certification of ISO 14001 environmental management systems can be developed to provide a more specific assurance of legal compliance.

#### Microgeneration Certification Scheme

With the growth in products for the domestic generation of renewable energy (eg micro-wind turbines, solar panels etc) there were demands for regulation to protect consumers from ineffective products and installation. Instead of regulating, the Government introduced the Microgeneration Certification Scheme (MCS). Under the MCS, manufacturers and installers of microgeneration products are required to be certified as compliant by independent certification bodies which, in turn, are required to be accredited by UKAS.

The MCS is operated for the Government by Gemserve Ltd, a private company. The standards and scheme requirements are drawn up in Working Groups comprising product and installer representatives, consumer groups, trade associations and technical experts from across the microgeneration and renewable industry. In order to access the Government's finance schemes and incentives for renewable energy, both the installed product and the installation company must be MCS certified. The scheme, underpinned by UKAS accreditation, gives confidence to

consumers and Government alike of the effectiveness of microgeneration products and installations.

### **Building Regulations Competent Persons Schemes**

The Department for Communities and Local Government and the Welsh Government have, for several years, approved a number of competent persons schemes (CPS) under the Building Regulations. Those businesses certified under an approved CPS are able to self-certify their work without recourse to a local authority building control officer thus reducing local authority inspection of the builder and benefitting customers by removing the need to pay building control fees. Building works covered by CPS include: electrical installations; heating and hot water systems; combustion appliances; and replacement windows and doors.

From June this year, DCLG/WG required all CPS to be accredited by UKAS and this programme of accreditation has been successfully completed. DCLG/WG are no longer required to carry out separate assessments which reduces the regulatory burden on the CPS, most of which were already accredited by UKAS for other activities, whilst ensuring that the standards required by DCLG/WG continue to be met.

### **Farm Assurance Schemes**

Farm Assurance Schemes (eg Red Tractor) are used by the FSA (Food Standards Agency) and DEFRA as an indication of compliance with EU legislation on animal feed, animal health and animal welfare. Whilst it is recognised that the assurance schemes are not targeted specifically on these aspects, a number of assessments carried out by DEFRA and FSA have concluded that they cover the legislative requirements in a credible and transparent way. Arrangements are also in place for the assurance schemes and enforcement agencies to share information which helps to target effort and inform judgments. Inspection visits can therefore be reduced for members of these schemes to the benefit of the enforcement agencies and the members themselves.

Farm Assurance Schemes are operated by organisations such as Assured Food Standards, Quality Meat Scotland, Farm Assured Welsh Livestock and Northern Ireland Beef and Lamb Farm Quality Assured Scheme. All these schemes require the independent certification bodies that carry out the assessment and certification of the scheme members to be UKAS accredited in order to ensure that the standards set are met in a consistent manner.

UKAS  
September 2014

[www.ukas.com](http://www.ukas.com)  
[www.ukas.com/about-accreditation/about-ukas/working\\_with\\_government.asp](http://www.ukas.com/about-accreditation/about-ukas/working_with_government.asp)

### Glossary

**ARI: Accountability for Regulatory Impact** – a scheme under which non-economic regulators who are planning a significant change in policy or practice should assess and quantify the impact of that change on business.

**BIS: Department for Business, Innovation & Skills** – the UK government department for economic growth, investment in skills and training, and reducing the impact of regulation.

**BRDO: Better Regulation Delivery Office** – part of the Department for Business, Innovation & Skills (BIS), which is working towards a regulatory environment in which businesses have the confidence to invest and grow and citizens and communities are properly protected

**BRE: Better Regulation Executive** – part of the Department for Business, Innovation & Skills (BIS). It is in charge of regulatory reform across the British Government.

**BRIA: Business Regulatory Impact Assessment** – a system in place in Scotland to assess the impact of any policy that will affect business or the third sector to ensure that any impact on business, particularly small enterprises, is fully considered before regulations are made.

**BRUs: Better Regulation Units** – a team within a department who are experts on regulatory control systems.

**CAA: Civil Aviation Authority** – the specialist aviation regulator in the UK.

**CAP: Common Agricultural Policy** – the European Union’s agricultural policy.

**CCDs: Common Commencement Dates** – a Westminster policy in which Westminster based regulation bearing on business will be commenced only on either 6 April or 1 October.

**CCNI: Charity Commission for Northern Ireland** – the independent regulator of Northern Ireland charities.

**COSLA: Convention of Scottish Local Authorities** – the national association of Scottish Councils.

**DARD: Department of Agriculture and Rural Development** – the Northern Ireland government department with responsibility for food, farming, and environmental policy and the development of the rural sector.

**DEL: Department for Employment and Learning** – the Northern Ireland government department for promoting learning and skills, preparing people for work and supporting the economy.

**DETI: Department of Enterprise, Trade and Investment** – the Northern Ireland governmental department responsible for formulating and delivering economic development policy in terms of Enterprise, Social Economy, Innovation, Energy, Telecoms, and Tourism in Northern Ireland, and for ensuring a modern regulatory framework to support business and protect consumers.

**DHSSPS: Department of Health, Social Services and Public Safety** – the Northern Ireland governmental department whose mission is to improve the health and social well-being of the people of Northern Ireland.

**DJEI: Department of Jobs, Enterprise & Innovation** – the Republic of Ireland government department responsible for competitiveness and jobs, innovation and investment, commerce, labour relations and EU affairs and trade policy.

**DOE: Department of the Environment** – the Northern Ireland government department responsible for the natural environment, the built environment, land use planning, road safety, regulation of drivers, vehicles and vehicle operators and local government.

**DPA: Data Protection Act** – legislation that controls how personal information is used by businesses, organisations and the government.

**DPER: Department of Public Expenditure and Reform** - the Republic of Ireland government department responsible for overseeing the reform of the public sector.

**DSD: Department for Social Development** – the Northern Ireland government department with responsibility for urban regeneration, community and voluntary sector development, social legislation, housing, social security benefits, pensions and child support.

**EAG: Economic Advisory Group** - a focused group of experts, from economics, business and skills, established by The Minister of Enterprise, Trade and Investment, to provide independent advice aimed at challenging and developing public policy and strategic thinking on the Northern Ireland and UK economy.

**ERWIN: Everything Regulation, Whenever It's Needed** - an online resource for Environmental Health, Licensing and Fire Safety business-related information across England and Wales, aimed specifically at the retail sector.

**FoE: Focus on Enforcement** – a Whitehall initiative involving a series of reviews to identify where enforcement can be improved, reduced or done differently in many different sectors.

**FoI: Freedom of Information** – a ‘right to know’ legal process that allows members of the public to access government-held information by request.

**FSA: Food Standards Agency** – the UK body responsible for the protection of public health in relation to food.

**GIS: Geographic Information Systems** – a computer system designed to capture, store, manipulate, analyze, manage, and present all types of spatial or geographical data.

**HF&RS: Hampshire Fire and Rescue Service** – the statutory fire and rescue service for Hampshire.

**HSENI: Health and Safety Executive Northern Ireland** – the lead body responsible for the promotion and enforcement of health and safety at work standards in Northern Ireland.

**HMRC: Her Majesty's Revenue and Customs** – a non-ministerial department of the UK Government responsible for the collection of taxes, the payment of some forms of state support, and the administration of other regulatory regimes including the national minimum wage.

**IAs: Impact assessments** – an evidence-based assessment of the consequences, both positive and negative, a policy will have on a variety of areas, including regulation and business. IA is the UK Government equivalent of the NI RIA.

**ISO: International Organisation for Standardization** – an independent, non-government membership organization which develops voluntary International Standards.

**MOU: Memorandum of Understanding** – describes a bilateral or multilateral agreement between two or more parties

**NICC: Northern Ireland Chamber of Commerce** – a membership organisation for Northern Ireland business, providing events, export services, support services, policy and government liaison.

**NICS: Northern Ireland Civil Service** – the permanent bureaucracy that supports the Assembly, the Executive and the institutions of government.

**NIEA: Northern Ireland Environment Agency** – an agency of the Department of the Environment, responsible for conservation of both the natural and built environment.

**NIFRS: Northern Ireland Fire and Rescue Service** – the statutory fire and rescue service for Northern Ireland.

**NITB: Northern Ireland Tourist Board** – a non-departmental public body responsible for the development of tourism and the marketing of Northern Ireland as a tourist destination to visitors within Northern Ireland and from the Republic of Ireland.

**OECD: The Organisation for Economic Co-operation and Development** – an international economic organisation which aims to provide a forum in which countries can work together to develop and promote policies to strengthen market economies backed by democratic institutions and focused on the wellbeing of all citizens.

**OFMDFM: Office of the First Minister and Deputy First Minister**

**ONEIB: Office of the Northern Ireland Executive in Brussels**

**PA: Primary Authority** - a Whitehall initiative that enables businesses to form a statutory partnership with one local authority, which then provides robust and reliable advice for other local authorities to take into account when carrying out inspections or addressing non-compliance.

**PSNI: Police Service of Northern Ireland** – the police force that serves Northern Ireland.

**PSRD: Public Sector Reform Division** – a newly-established division within Department of Finance and Personnel (DFP) to provide support to Northern Ireland Departments in the implementation of reform across the public sector.

**REACH: Registration, Evaluation, Authorisation and Restriction of Chemicals** - a European Union regulation addressing the production and use of chemical substances, and their potential impacts on both human health and the environment.

**REFIT:** the European Commission's Regulatory Fitness and Performance programme.

**RIAs: Regulatory Impact Assessments** – a tool which informs policy decisions, designed to assist with consideration of potential economic impacts that new regulation may bring. This is the NI equivalent to the UK Government's IA.

**RPC: Regulatory Policy Committee** – an advisory non-departmental public body which provides the government with external, independent scrutiny of new regulatory and deregulatory proposals.

**SaMBA: The Small and Micro Business Assessment** - requires Whitehall Departmental Impact Assessments to analyse and mitigate the potential impact of regulation on small and micro businesses.

**SAMBIT: Small and Micro Business Impact Test** – Northern Ireland requirement to assess the impact specifically on small and micro businesses.

**SBEEB: The Small Business, Enterprise and Employment Bill** – a bill announced in the Queen’s Speech on 4 June 2014 covering a range of initiatives relating to small business, including some better regulation initiatives.

**SMEs: Small and Medium-Sized Enterprises** – businesses which, under European Union definitions, employ under 50 people (small) or under 250 (medium).

**SNR: Statement of New Regulation** – biannual statement of regulatory savings generated by individual Departments.

**VAT: Value Added Tax**

## Annex I

### Participants in the Review

#### List of contributors to Report

Andrew Ingredients Ltd  
Ballymena Borough Council  
Bangor Chamber of Commerce  
Belfast City Council  
Centre for Competitiveness  
Charity Commission for Northern Ireland  
Chartered Accountants Ireland Ulster Society  
Co-Operative Travel  
Construction Employers Federation  
Consumer Council  
Council for Curriculum, Examinations and Assessment  
Craigavon Borough Council  
Employment Agency Inspectorate, Department for Employment and Learning  
Employment Law, Department for Employment and Learning  
Strategy and Employment Relations, Department for Employment and Learning  
Governance Policy & Resources Group, Department for Regional Development  
Transport NI, Department for Regional Development  
Communication, Policy and Strategic Support, Department for Social Development  
Agri-Food Support Services Unit, of Agriculture and Rural Development  
Better Regulation, Department of Agriculture and Rural Development  
Fisheries, Department of Agriculture and Rural Development  
Forest Service, Department of Agriculture and Rural Development  
Information Management, Department of Agriculture and Rural Development  
Rivers Agency, Department of Agriculture and Rural Development  
Single Farm Payment, Department of Agriculture and Rural Development  
Veterinary Service, Department of Agriculture and Rural Development  
Central Management, Department of Culture, Arts and Leisure  
Equality and All-Ireland Branch, Department of Education  
Department of Justice  
Drinking Water Inspectorate, Department of the Environment  
Driver and Vehicle Agency, Department of the Environment  
Environmental Policy, Department of the Environment  
Human Resources and Organisational Change, Department of the Environment  
Marine Division, Department of the Environment  
Planning Policy, Department of the Environment  
Planning Service, Department of the Environment  
Single Use Carrier Bag Levy, Department of the Environment  
Transport Regulators Office, Department of the Environment  
Vehicle Policy, Department of the Environment  
Access and Agri-Food, Department of Enterprise, Trade and Investment  
Company Law, Department of Enterprise, Trade and Investment  
Consumer Affairs, Department of Enterprise, Trade and Investment  
Energy Division, Department of Enterprise, Trade and Investment  
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Employment Agency Inspectorate  
Enterprise NI  
Equality Commission  
Federation of Small Businesses  
Food Standards Agency  
Gangmasters Licensing Authority  
Health and Safety Executive Northern Ireland  
HM Revenue and Customs  
Trading Standards Service  
Information Commissioners Office  
Institute of Directors  
Invest NI  
Irony Products Ltd  
Larne Enterprise Development Company  
Law Society Northern Ireland  
Malone Lodge Hotel  
Manufacturing NI  
McGimpsey Brothers (Removals) Ltd  
Momentum NI  
Northern Ireland Committee of the Irish Congress of Trade Unions  
Northern Ireland Council for Voluntary Action  
Northern Ireland Federation of Housing Associations  
Northern Ireland Food and Drink Association  
Northern Ireland Independent Retail Trade Association  
Corporate Services, Northern Ireland  
Environment Agency  
Environmental Protection, Northern Ireland  
Environment Agency

Innovative Strategies Division, Northern Ireland  
Environment Agency  
Natural Heritage Division, Northern Ireland  
Environment Agency  
Water Management Unit, Northern Ireland  
Environment Agency  
Northern Ireland Fire & Rescue Service  
Northern Ireland Office  
Northern Ireland Social Care Council  
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Statutory Publications Office, Office of the First Minister and Deputy First Minister  
Office of Qualifications and Examinations Regulation  
Pharmaceutical Society Northern Ireland  
Pubs of Ulster  
Quarry Products Association  
Regulation and Quality Improvement Authority  
Rivers Agency  
Security Industry Authority  
Single Use Carrier Bag Levy, Department of the Environment  
Southern Group Environmental Health Committee  
Statutory Publications Office, Office of the First Minister and Deputy First Minister  
Ulster Farmers Union  
Utility Regulator  
Weir & Co Chartered Accountants

#### **Hospitality Sector Reviews**

NI Retail Consortium  
ASDA  
Winemark  
Wineflair  
John Hewitt

Hudson Bar  
James St South  
NI Hotel Federation  
The Merchant Hotel  
Belfast City Council  
Licensing Forum NI  
Environmental Health Service  
Department of the Environment  
Beannchor  
NI Courts and Tribunal Service  
Department for Social Development  
The Coachman  
Da Vinci Ramada Hotel  
Badgers Bar  
Licensing, Derry City Council  
Licensing, Strabane District Council  
GH Hospitality Services  
Encore Cake An Rroll Bakery, Omagh  
City Hotel, Londonderry  
Derry City Council Environmental Health Service  
Food Standards Agency  
Shu  
Fitzwilliam Hotel  
Chief Environmental Health Officers Group NI



# Notes

# Notes



**November 2014**

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