

**Response to the
Consultation on the
National Enforcement
Priorities for Wales**

LBRO
Better Local Regulation



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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Process and List of Respondents

The Local Better Regulation Office (LBRO) and the Welsh Assembly Government published a consultation paper on the first set of national enforcement priorities for Wales on Tuesday 1st December 2009.

The consultation paper was publicised on the LBRO and Welsh Assembly Government websites and an electronic copy of the paper was sent directly to:

- local authorities in Wales
- national regulators
- government departments
- business and consumer organisations
- representative groups
- any person or organisation that required a copy

All recipients were actively encouraged to circulate the consultation more widely. The consultation period was twelve weeks and the consultation closed on Tuesday 23rd February 2010. 13 written responses were received and we are grateful to everyone who took the time and trouble to comment. The written responses break down as follows:

Local authorities/ local authority groups	4
Audit body	1
National regulators	3
Professional bodies	1
Business and consumer organizations	2
Charity	1
Citizens / individuals	1

Respondents

- Alliance Against IP Theft
- ASH Wales
- Cardiff County Council
- Ceredigion County Council
- Denbighshire Council
- Environment Agency Wales
- Food Standards Agency Wales
- Francis Voelcker
- Health and Safety Executive
- National Farmers Union Wales
- TSI Wales
- Wales Audit Office
- Wales Heads of Trading Standards

Key Findings and Consequent Actions

National enforcement priorities for local authority regulatory services, as introduced by the Regulatory Enforcement and Sanctions Act 2008, set out the Government's priorities for local regulatory delivery. The Local Better Regulation Office has a statutory duty to prepare draft national enforcement priorities for regulatory services for consideration and approval by Welsh Ministers.

LBRO has worked with the Welsh Assembly Government and key partners to prepare a first draft set of national enforcement priorities for Welsh local authorities. Under the Regulatory Enforcement and Sanctions Act, local authorities have a duty to have regard to the priorities in allocating resources to their regulatory services functions.

The consultation paper presented four draft priorities:

1. Reducing harm to individuals by promoting health improvement
2. Ensuring the safety and quality of the food chain to minimise risk to human and animal health
3. Promoting a fair and just trading environment for citizens and businesses
4. Improving the local environment to positively influence quality of life and promote sustainability

The responses received to the consultation were broadly positive concerning the proposed national enforcement priorities and their role in improving outcomes for citizens and businesses in Wales. Many respondents welcomed the outcome focused approach of the priorities and emphasised their value to collaborative approaches to service delivery across Wales. As a result of the comments received, LBRO and the Welsh Assembly Government will take the following actions:

- Clarify the definition and scope of a national enforcement priority within the final report.
- Amend the wording of the first priority to read '**protecting individuals from harm and promoting health improvement**'.
- Reflect the role that safety, including housing safety standards and the safety of employees at work, plays as a cause of ill health outcomes by revising the description of regulatory activity that contributes to delivering priority 1.
- Make a clearer reference to the contribution of food standards activity in achieving priority 2 and metrology activity in achieving priority 3.
- Ensure that priority 3 emphasises the importance of prosperity **and** protection for citizens **and** business by including appropriate reference to empowering consumers and supporting business.
- Reflect the role that animal health movements and identification play in contributing to a sustainable environment by revising the description of regulatory activity that contributes to delivering priority 4.
- Broaden the description of environmental issues addressed under priority 4 to include contaminated land, air quality and other emerging threats, such as flooding and reducing energy consumption.

Questions and Answers

Each question posed in the consultation is given below, together with our comments on the issues raised by the written responses received.

Question 1

Do the draft national enforcement priorities sufficiently address the regulatory risks facing Wales?

The majority of respondents felt the priorities did address national regulatory risks facing Wales, and that it was important to maintain a 'safety net' of protection across Wales. Some suggestions were made for amendments and additions to the regulatory activities listed that contribute to delivering the national priorities. These included the importance of safety-related issues and housing quality to health improvement outcomes, the role of weights and measures in ensuring a fair trading environment, and the importance of food standards in ensuring food quality.

Alternative wording was suggested to priority 1 to reflect the importance of protecting the safety of individuals in the workplace as part of a commitment to improving health and wellbeing and protecting individuals from harm. The wording of the priority will be amended to read 'protecting individuals from harm and promoting health improvement'.

One respondent questioned the link to the Rogers Review and the national enforcement priorities published in March 2007. The Rogers Review was commissioned by the UK Government to provide local authorities in England with clarity regarding the Government's priorities for local delivery. The review published six national enforcement priorities for local authority trading standards and environmental health and made a series of recommendations.

The UK Government accepted the recommendations in full, including the recommendation that LBRO be responsible for updating and refreshing the national enforcement priorities. This recommendation was taken forward through the Regulatory Enforcement and Sanctions Act 2008. Section 11 of the RES Act states LBRO must prepare and publish:

- (a) a list specifying those matters to which a local authority in England should give priority when allocating resources to its relevant functions, and
- (b) a list specifying those matters to which a local authority in Wales should give priority when allocating resources to its relevant functions.

Reflecting the distinctive policy agenda of Wales, and recognising the fact that the priorities published by the Rogers Review did not consider Welsh perspectives, LBRO has worked with Welsh Assembly Government, local authorities and national regulators in Wales to prepare this first set of priorities for Wales. The priorities reflect the nationally important outcomes of One Wales and national regulatory issues in Wales.

Question 2

Will the proposed priorities help to deliver more effective protection for citizens and support enterprise and business growth in Wales?

The majority of respondents felt that the priorities will be useful in delivering more effective protection and supporting business prosperity and it will be important to embed the priorities in service planning and delivery. One group of respondents felt that the description of priority 3 could be clearer to emphasise the role of regulatory services to both empower consumers and support business.

One respondent questioned the definition of 'enforcement priority', feeling that the term enforcement is too narrow to reflect the breadth of activity that local authority regulatory services carry out to deliver effective protection and prosperity. The priorities reflect this breadth of activity, including advice and training provided to business, education and information provision to consumers, project work to gather intelligence, targeted risk-based enforcement and collaborative working with partners at a local, regional and national level. National enforcement priorities, wording used in the Regulatory Enforcement Sanctions Act, is a title that has resonance amongst the regulatory community, however, the final report will seek to be clearer in defining the scope of the priorities.

Question 3

Are outcome-focused priorities the most effective way to help local authorities address national regulatory risks and reflect local circumstances and local priorities?

Most respondents were highly supportive of the focus on outcomes, and felt that the use of outcomes enables local authorities to determine the most appropriate activities to address both local and national priorities. Outcome-focused priorities also provide the opportunity to change emphasis as new information on relative risks emerges and deliver regulation in a cost effective way. There was a view that outcome focused priorities allowed increased empowerment at a local level within a national context and national priorities.

One respondent questioned whether the priorities were too broad and asked what activity would be excluded from the priorities. Outcome-focused priorities are by their nature broad, setting out a common purpose for public services to work together collaboratively to achieve improvements for the benefits of citizens and businesses. Local authorities and their partners need to ensure that resources are concentrated on activities that will make the most difference and deliver change, and this assessment of appropriate activity should be based on evidence and need.

Another respondent felt that outcome-focused priorities are effective but there is a need for the priorities to be supported by measureable targets and indicators. LBRO and WAG accept this need, and will be working with local authorities, the Welsh Local Government Association and national regulators to examine the development of appropriate means to measure progress against the priorities.

Question 4

Will the national enforcement priorities support collaborative and joined up approaches to deliver better outcomes for Welsh citizens and businesses?

All respondents agreed that national enforcement priorities support collaborative approaches and it is important that the priorities are viewed as part of wider joined up approaches to deliver better outcomes for Welsh citizens and businesses.

Some respondents noted that the consultation does not make sufficient reference to other regulatory services within local authorities, such as planning and building control, that work alongside trading standards, licensing and environmental health services and make a valuable contribution to the outcomes described through the national enforcement priorities. The scope of the review is defined by the Regulatory Enforcement and Sanctions Act and the definition of regulatory services listed in the Act. However, LBRO and WAG recognise the importance of collaboration at the local level, and that services such as planning and building control are an integral part of local regulatory activity. The final report will be amended to reflect the contribution of other areas of regulation to achieving the outcomes of the national enforcement priorities.