

Priority Regulatory Outcomes
A New Approach to Refreshing the
National Enforcement Priorities for
Local Authority Regulatory Services

Summary of Responses
to the Consultation

Prepared by the
Local Better Regulation Office



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Process and Respondents

On 7 February 2011, LBRO published a consultation on a new approach to national enforcement priorities 'Priority Regulatory Outcomes'. Under the Regulatory Enforcement and Sanctions Act 2008, LBRO has a statutory responsibility for preparing and publishing a list of matters to which local authorities should give priority. Before publishing a list, LBRO must consult on the list and publish details of the consultation responses. This response fulfils that responsibility.

The consultation was distributed to a wide range of stakeholders, including:

- all the local authorities in the UK;
- all the fire and rescue authorities in England;
- government departments;
- national regulators;
- professional bodies; and
- business and consumer organisations.

A number of regional meetings were held with local authorities to discuss the proposals, alongside discussions with national regulators, policy departments and business representatives. The consultation was also uploaded to our web site and publicised via the media.

The consultation closed on 6 May 2011. We thank everyone who took the time and trouble to comment. The 25 written responses break down as follows:

Local authorities/groups	10
Fire and rescue authorities	1
Government departments	1
Public bodies	3
Professional bodies	7
Business and consumer organisations	2
Consultant	1

Key Findings and Consequent Actions

Through the Localism Bill, the Local Growth White Paper and the recently published Open Public Services White Paper, the Government is committed to radical decentralisation of power to individuals and communities.

This consultation report represents a new approach to defining priorities for local authorities and has been drafted in collaboration with a range of stakeholders. The priority outcomes reflect issues that matter most to businesses and communities and provide a transparent framework that allows local delivery to support national ambitions, whilst empowering local regulatory services to use their discretion and autonomy to tailor approaches to meet the needs of their local communities.

Key findings

- Outcome-focused priorities are widely seen as fundamental to the decentralisation of power, allowing decisions to be made locally. The approach is seen as an appropriate way to promote coherence between local discretion and needs with those of the nation.
- The priorities identified in the consultation are seen as more comprehensive than the original national enforcement priorities set out in the Rogers' Review and the incorporation of issues missing from the original report (notably housing) has been welcomed.
- For the most part, it is felt the new approach reflects the wider range of interventions that are now being used to replace the more traditional approaches to enforcement. The phrase 'priority regulatory outcomes' captures the shift in regulatory activity to one supporting economic growth, and having regard to public health, well being and protection.
- The proposal that LBRO replace the term 'national enforcement priorities' with 'priority regulatory outcomes' is supported as being logical and appropriate, though there is some disagreement about a change in language.
- Respondents, for the most part, agree that the draft priority regulatory outcomes (PROs) recognise the need to balance the provision of support for businesses whilst protecting residents and consumers, and are wide enough to encompass the breadth of activity carried out by regulatory services.
- Some respondents raised concerns were raised regarding the broad nature of the PROs as they cover a wide breadth of enforcement activities. An outcome based approach can be less helpful to local authorities who have to undertake difficult prioritisation exercises over the current spending review. Some respondents also highlighted the need to be able to measure progress towards meeting priority regulatory outcomes.
- A number of comments were received regarding the scope of the exercise to identify PROs and in particular, planning and building control, housing stock and the protection of historic buildings were identified as exclusions. Specific comments were raised by the Department for Communities and Local Government (CLG) regarding the inclusion of fire and rescue authorities (FRAs) within the priority set.

LBRO response

- There has been a clear change of direction of Government policy since the original preparation of the national enforcement priorities and prescriptive priorities for local delivery are no longer appropriate. However, LBRO recognises the need to provide additional practical information and tools to assist local authorities in identifying the activities to prioritise locally that will best support achievement of these broad outcomes.
- Due to the predominately local nature of fire and rescue activity, as opposed to the sub-national and national impact of some other aspects of regulatory services, it will be important that the priorities emphasise the flexibility that local FRAs have to deploy their resources to address local community risks and priorities.
- The scope of priorities, and the duty on local authorities to have regard to the priorities when allocating their resources, is defined by the Regulatory Enforcement and Sanctions Act, Schedule 3. However, LBRO recognises that regulatory services work in a collaborative manner both locally and nationally across a number of professional disciplines and that appropriate reference should be made to other regulatory services that help to deliver these outcomes.
- A number of detailed comments were made regarding the wording and description of the priorities. LBRO will consider these comments and subject to Ministerial approval will publish a final set of priority regulatory outcomes in October 2011. It is anticipated that these priorities will support local authority business planning for the financial year 2012-2013.
- Alongside the final priority set, LBRO will publish guidance on the impact and outcomes tool and examples of dashboards of performance indicators generated using the toolkit to support local authorities to prioritise their activity to achieve these outcomes and to support the development of performance indicators to measure progress. LBRO is not mandating use of these tools nor the publication of performance information regarding the priority regulatory outcomes. However, these tools may be helpful to local authorities wishing to publish information locally for the benefit of citizens and service users.

Questions and Answers

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

General Question 1

Do the draft priority regulatory outcomes (PROs) accurately address the regulatory issues and risks facing England?

Respondents agree that the draft PROs recognise the need to balance the provision of support for businesses whilst protecting residents and consumers. The priority outcomes are wide enough to encompass the breadth and complexity of activity carried out by regulatory services, and respond to national needs whilst addressing local needs.

There are some conflicting views regarding specific priorities and a number of detailed comments were received. For instance, housing and housing stock was seen as a particular cause for concern. Comments were received that "*housing and the provision of good quality housing does not feature strongly*", whereas other respondents felt that "*the proposed priority outcomes cover housing regulation far more effectively than those of the Rogers Review*". English Heritage commented that while there is reference to the historical environment in the PROs, there is no consideration of how it might best be protected.

Some respondents felt the breadth of the draft PROs mean that in themselves they are not sufficiently helpful in prioritising at a local level. However, setting prescriptive priorities for local delivery from the centre does not reflect the Government's ambition to decentralise power. The role of central government and its agencies is to create the right conditions to ensure effective and accountable local delivery; it is not their role to intervene in local delivery to secure the desired outcomes.

The priority outcomes are intended to provide a transparent framework that allows local delivery to support national ambitions, and empower local regulatory services to use their discretion and autonomy to tailor approaches to meet the needs of their local communities. Achieving better outcomes depends on the careful allocation of resources across a range of activities and it is local authorities that are best placed to assess which activities will achieve the priority regulatory outcomes in their locality.

LBRO will work with local authorities to prepare practical tools to support local authorities to use these outcomes to prioritise activity to provide focus and measure progress against achievement of these outcomes. These tools will be published alongside the final priority set and accompanying report in October 2011.

General Question 2

Are they (PROs) suitably focused on emerging issues and future threats?

The resource pressure facing regulatory services is highlighted as a threat by some, but most respondents agree with the broad thrust that the PROs are suitably focused.

Specific comments were made regarding priority 5 (support enterprise and economic growth by ensuring a fair, responsible and competitive trading environment), which was welcomed as positive and reflective of the Government's priorities for economic growth.

In regard to priority 1 (protection the environment for future generations by tackling the threats and impacts of climate change), some respondents commented that the mitigation of climate change and adaptation to deal with the impact of climate change are important goals, with local government having a significant role. However, the National Association for Planning Enforcement argued that local planning enforcement plays a very significant role that is not reflected in the document and that planning enforcement should be considered for inclusion within the scope of future considerations.

For further information on the potential role of local authority regulatory services in climate change, please see the SOLACE publication [Climate Change: local government's role](http://www.solace.org.uk/documents/sfi/SFIBooklet34_ClimateChange_July2011.pdf) at http://www.solace.org.uk/documents/sfi/SFIBooklet34_ClimateChange_July2011.pdf.

One respondent raised concern regarding fire and rescue services and potential risks developing through an increased workload in areas such as road traffic incidents, road deaths and arson, and that there is insufficient emphasis in the priority set on these matters.

General Question 3

Are outcome-focused priorities the most effective way to promote local discretion and meet the needs of local people, whilst providing a framework to meet national needs, such as support for economic growth and the protection of vulnerable citizens?

There is extensive support from respondents for this proposition as a more sophisticated method than merely counting outputs, and one that is less prescriptive.

Respondents point out that outcome-focused priorities are fundamental to the decentralisation of power, allowing decisions to be made locally whilst balancing these needs against available resources. The approach is seen as an appropriate way of promoting coherence between local discretion and local needs with national needs.

A common focus on outcomes across the country would encourage consistency of approach and encourage local areas to work together when relevant.

Some see difficulty in measuring outcomes through the move away from simple quantitative outputs, and others commented on the need for additional tools to prioritise local activity to be able to provide some local focus about how to best achieve these outcomes. LBRO aims to address this concern through encouraging local authority use of tools such as the impact and outcomes toolkit to prioritise activity to achieve these outcomes. LBRO will also publish example dashboards of performance indicators prepared by local authorities to measure performance in achieving progress against broad outcomes.

General Question 4

Should the term 'priority regulatory outcomes' replace 'national enforcement priorities' to denote the list for English local authorities referred to in section 11(1) of the Regulatory Enforcement and Sanctions Act 2008?

The proposal that LBRO replace the term 'national enforcement priorities' with 'priority regulatory outcomes' is strongly supported by nearly all respondents.

Some feel the term 'enforcement' could have negative connotations, while the suggested new term is seen as consistent with the new emphasis on outcome-focused delivery rather than a prescriptive approach.

The new approach reflects the wider range of interventions that are now being used to replace the more traditional approaches to enforcement. The phrase 'priority regulatory outcomes' captures the shift in regulatory activity, to one supporting economic growth whilst ensuring effective protection of citizens, workers and the environment.

However, a few respondents were not convinced about the change in terminology. One respondent felt 'national enforcement priorities' is a more user friendly term; another responded it reflects the fact it is a national document.

On reflection, LBRO proposes to change the title of the priority set to 'priority regulatory outcomes'.

Annex 1: List of Written Responses Received

Alliance Against IP Theft
Association of Chief Trading Standards Officers
Association of Public Analysts
Bath & North East Somerset Council
British Brands Group
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Colchester Borough Council
Department for Communities and Local Government
Cumbria Public Protection Group
East Lindsey District Council
East Staffordshire Borough Council
English Heritage
Hampshire Fire & Rescue Service
Hirsh Planning
Institute of Historic Building Conservation
Intellectual Property Office
Knowsley Metropolitan Borough Council
Royal Town Planning Institute
Sussex Food Safety and Health & Safety Liaison Groups
The Government Chemist
Tonbridge & Malling Borough Council
Trading Standards Institute
Wakefield MDC Environmental Health Services
Worcestershire Regulatory Services