



THE ANDERSON REVIEW

Summary of views from meetings with small
and medium sized enterprises (SMEs)

Contents

Executive Summary	2
General perceptions of guidance and regulation	4
Specific areas of regulation	6
Certainty over outcome	8
Accessibility	10
Clarity and complexity	12
Culture and communication	13
Summary	15
Appendix	16

1. Executive summary

1.1. **Background:** The 2008 Enterprise Paper asked Sarah Anderson to undertake an independent Review of how to improve the regulatory guidance that the Government gives to business.

1.2. As part of this Review, Sarah and the Anderson Review Secretariat met over 90 SMEs, at a number of group discussions and one-to-one interviews, between March and July 2008. These SMEs represented a range of different sectors and sizes, from sole traders to medium sized businesses with over 200 employees. The meetings were held across the country at several locations, including in:

- East Anglia
- North East
- North West
- South East
- West Midlands
- Yorkshire

1.3. **Aims:**

The primary aim of these meetings was for the Review to gain a better understanding of how businesses felt about guidance and how they went about achieving regulatory compliance. Specifically, these meetings looked to establish:

- how SMEs felt about government guidance in general;
- to what extent businesses felt they were able confidently to comply with regulation using government guidance;
- if there existed specific regulatory areas where businesses found guidance particularly difficult or complicated;
- to what extent businesses felt current government guidance provisions were effective.

1.4. **Findings:**

Businesses had positive views of some areas of government guidance.

- guidance available from regulators websites attracted positive comments.
- the telephone and web support available from HMRC was considered to be very good.
- comments from businesses which used the businesslink.gov.uk website varied from useful to very good.
- the guidance relating to the smoking ban was felt to have been very effective.

Businesses had concerns around certain areas of government guidance and regulation. Businesses:

- found that the volume of, and regular changes to, regulation and guidance made it more difficult for them to run their business effectively.
- highlighted employment and health and safety regulations as areas where they found compliance most difficult.

- found that even when guidance was available it was difficult to be certain that following it would mean they were complying with the law.
- had concerns about where and how to access guidance.
- found that guidance was often not written clearly, in plain English, and that this complexity made compliance problematic.
- said regulatory change was not communicated to them effectively and that inspectors focused on enforcement rather than on helping SMEs comply.

2. General perceptions of guidance and regulation

2.1. Participants at meetings and interviews were asked for their general views on government guidance. Many businesses expressed concerns about the regulations underlying government guidance.

2.2. **Volume:** A majority of businesses said they felt overregulated and that business regulations were subject to excessive change. Businesses said volume and regular changes in business regulation made it difficult to effectively operate an SME. One business said:

“It’s just more than a single human can possibly cope with.”
(North West SME Group)

2.3. Many businesses said they felt the cumulative volume of regulation they had to comply with placed an excessive burden upon them. One business woman said she spent between 4-5 hours dealing specifically with regulation every week. Other participating businesses felt this was not uncommon. Another business commented:

“It’s very, very difficult to do anything really, without filling in forms and bits of paper. That’s... the problem.”
(Construction SME)

2.4. **Change:** Regular changes in regulation were seen as a real problem for those micro and small business owners who had limited resources available to get up to speed with regulation. They felt they were playing ‘catch-up’ with what the government and Regulators wanted them to do to comply. As one participant said:

“I do...all my own finance and administration and even though I’ve become quite good at it, it changes by the day.”
(Recruitment SME)

2.5. Larger businesses found that, even when employing specialists, regular changes to regulation meant they still needed consultants to help them comply:

“Legislation changes so quickly, even our HR manager can’t keep up with it, so she has to get on the phone to our consultant.”
(Construction SME)

2.6. **Disproportionate Burden on SMEs:** There was a view among businesses that, when the Government introduces new regulations, it often does not consider that SMEs bear a disproportionate burden in terms of time and resources. As a micro business owner commented:

“If you’re Marks & Spencer you’ve got a cushion but if you’re me, you haven’t.”
(Recruitment SME)

- 2.7. Many businesses felt policy makers did not understand the burden placed upon small businesses by government regulation. Businesses said they felt policy officials were often orientated toward the theoretical benefits of policy rather than actually understanding how a small business operates and helping it to comply with regulation. As one business put it:

“I don’t think any of the regulations, frankly, are written with the SME in mind.”
(Financial Services SME)

- 2.8. There was some evidence to suggest that businesses felt government was introducing regulations in order to get businesses to do their work for them. An example was collecting student loan repayments. One group participant said this was a burden that large businesses would not notice but that would affect SMEs. Businesses also said they were concerned about fire assessments. Many saw this as government pushing work onto businesses and some questioned how a small business would be better placed to do this than a fire inspector. Some businesses commented:

“All of a sudden you’ve got to do your own fire assessment... it’s just more money, more money and it just seems to be going on and on.”
(Restaurant SME)

“You have to write your own...[fire assessment] now, so that’s a great burden.”
(Hotel SME)

3. Specific areas of regulation

3.1. Businesses specifically identified employment and health and safety regulations as areas where they found complying with regulation and using government guidance difficult.

3.2. **Employment Regulation:** Of all the regulatory areas discussed with business, employment regulation was seen as the most difficult to understand, keep up-to-date with and comply with. One participant described it as the “bane” of a businessman’s life. Many SMEs said that they had experienced difficulties with employment regulations, particularly around maternity leave, long-term sick leave and redundancies and dismissals. Employment law was identified as a central concern for businesses with small workforces and limited resources, who felt government and policy makers did not understand the effect their decisions had on them. These concerns had a number of effects on SMEs. Sole traders expressed reluctance to take on employees. As one business owner said:

“Every month I will speak to a group of business clubs...who will find every way they can not to take on staff and the reason is that the burden of taking on staff is huge.”

(Small Business Counselling SME)

3.3. Some businesses with bigger workforces said they had experience of employment tribunals. The perception of tribunals was mixed, with some reporting that they had been through the process and had been successful while others said they had lost cases. Most said that the time spent involved in tribunals, irrespective of the result, was a large resource drain for SMEs. One participant suggested that many businesses did not understand the tribunal’s process. They said that:

“Civil servants may not understand small business but you can certainly give guidance to tribunal chairman [and]...look at the process.”

(Small Business Counselling SME)

3.4. Businesses also said they felt government and policy makers did not appreciate the difficulty SMEs had in ensuring that they recruited high quality staff, since each staff member (especially for micro and small businesses) represented a high proportion of the overall workforce. Some SMEs said that they had taken on staff who had turned out not to have been up to the required standard, but that the regulatory constraints and complexity surrounding replacing these staff had made running their business difficult.

3.5. Some businesses also commented on their specific concerns surrounding the employment of foreign workers and the difficulties they had about being certain that they had complied with relevant regulations. Businesses said regulations had been introduced that small businesses might not be able to keep up with, but if found non-compliant, would still face large fines for breaking:

“Finding and keeping staff. It’s very difficult and made more difficult now by the regulations on employing foreign staff.”
(Hotel SME)

- 3.6. **Health and Safety Regulation:** Health and safety regulation and guidance was highlighted as another regulatory area that businesses said they found difficult to comply with:

“Ah, the health and safety legislation ...it’s just becoming more of a burden as every year goes by.”
(Construction SME)

- 3.7. A number of businesses commented that they could not feel certain that they were complying with these regulations because they found health and safety legislation complicated and subject to regular change:

“Health and Safety is the minefield for us.”
(Printing SME)

- 3.8. Another view among businesses was that uncertainty over regulation and guidance meant they approached health and safety regulation on a “need to know” basis. Some SMEs said they knew what they had to do to comply with certain specific regulations but also acknowledged that there was a lot of peripheral uncertainty:

“That’s the danger...if you don’t know what you’re doing, you just blag something.”
(Human Resources SME)

- 3.9. One business commented that they were pleased with the approach of the new Health and Safety Executive Chair and felt that certain regimes were being relaxed, which they found encouraging. However, others felt changing health and safety requirements were more about keeping inspectors in business.

“I just get the feeling that there's a...pile of health and safety people, and once they’ve done one load of legislation, it's almost like, well, we need to keep the job, so therefore we need to think of something else.”
(Catering SME)

4. Certainty over outcome

4.1. Businesses were asked if, by following government guidance, they felt certain they had achieved regulatory compliance.

4.2. A majority of businesses said that, in some regulatory areas, establishing whether or not they were actually complying with regulation in the eyes of the Regulators and the law was difficult:

“Regulation is still a bit ambiguous...and badly written...so you’re never actually sure if you’re going to comply.”
(Travel SME)

“It’s the fog. It’s the fog of uncertainty and the killer of business is uncertainty.”
(HR Consultancy)

4.3. Businesses said a lack of certainty created a sense of fear and confusion. One participant at the North West group said they thought this fear was a driver in businesses selling up, because they perceived that they would be caught out as unintentionally non-compliant. Other participants said this uncertainty had a detrimental effect on entrepreneurial innovation:

“We’re frightened of being the innocent victims of stuff that was designed...not for us.”
(Farming SME)

“Guidance is a minefield. I may well be compliant and I want to be, but is it in the right way?”
(Environmental Advisor SME)

4.4. Businesses said that the way the Government and Regulators gave advice and guidance did not provide certainty that if businesses followed it they would comply with the law.

“It’s very difficult to get them to make a definitive statement.”
(Recruitment SME)

4.5. Businesses had concerns with the Government issuing guidance that SMEs were supposed to follow, but which could not guarantee to SMEs that they would be compliant:

“[Government particularly] shouldn’t be allowed to issue advice if it isn’t willing to take responsibility for those who follow it.” (SME, East Anglia Group)

“The risk is always with the business to comply. Government creates the regulation but is very unwilling to accept its element of risk.”
(SME, South East Group)

- 4.6. Businesses were asked what kind of guidance they would want from government in an ideal situation. The responses generally centred on the need for government to set out simply what compliance with the law looked like:

“If I ticked all ...of those things in good faith because I think I’ve complied and I get an indemnity, I think...that’s quite attractive.”

(Farming SME)

“If there was a phone number you could ring, or a web form you could fill in that says, can you tell me whether this is the right way to do it...is this legal... that would be really useful.”

(Finance SME)

- 4.7. **Disclaimers:** SME groups discussed whether disclaimers placed on guidance documentation affected their view of government guidance. Some businesses were less concerned with disclaimers and only wanted something clear and simple to follow. However, many business owners agreed that documentation that guaranteed certainty over outcome and did not have disclaimers would be beneficial. Businesses found that disclaimers compounded their uncertainty about whether they had complied with the law. One medium sized business said that if guidance was a lengthy document that included with disclaimers on it he was unlikely to read it but would hand it over to his lawyers. For those SMEs that did not have legal support, disclaimers presented a significant problem. There was general agreement that the placing of disclaimers on guidance by government and Regulators was not acceptable:

“[It is] not good enough, absolutely not good enough...I wouldn’t do it to my users. I don’t expect government to do it to its users.”

(Recruitment SME)

5. Accessibility

- 5.1. Businesses were asked where they went to get guidance on their legal obligations and how they felt the Government could improve access to this information.
- 5.2. There was no single channel that businesses used to access their information and guidance. A number used internet sources, including departmental and regulatory websites, businesslink.gov as well as just using search engines such as Google. There were some positive comments around some of the Regulators' sites. One participant mentioned that the HSE site had a lot of good information, although they found it quite difficult to navigate. Similarly the North West group considered that HMRC's service, both over the phone and through their website, was very good.
- 5.3. With regard to the internet, some businesses said they wanted guidance to be in one place. Others said that if guidance could not be consolidated, there should at least be a single starting point from which they could navigate to other sites to find all the necessary guidance they needed. The general consensus was that searching the internet for guidance could be hit and miss and a more focused provision would be much better for business:

“I'm looking for a single authoritative source of information that provides certainty and is definitive.”
(Travel SME)

- 5.4. Most businesses had heard of ACAS, though some thought it was mainly for dealing with large industrial problems. Some had used the phone line for information on employment law with mixed success.
- 5.5. A number of the businesses we spoke to, particularly the larger ones, used some kind of specialist or legal assistance to access further information on regulatory compliance. Usually this would take the form of advice from lawyers or business consultants, usually at a high cost.

“I employ law firms on an annual basis, so we've got help lines...as a small organisation we just couldn't manage it ourselves.”
(Catering SME)

- 5.6. Many businesses did not know where to find free guidance information or even if it existed, and therefore felt they had to employ a specialist to provide what they needed. Some businesses felt that they would have used guidance material if they knew where to access it and that it would give them certainty over outcome.

“I suppose it's just the complexity of it...if you don't employ a specialist or you aren't a specialist yourself it's very difficult to find out where to get the information because it's always changing.”
(Catering SME)

- 5.7. **Business Link:** Businesses expressed mixed opinions on the Business Link services that the Government offers to business. A number of those that had used the online provision businesslink.gov had found the site useful. As one participant said:

“The ...website is really good”
(Finance SME)

- 5.8. However, the same was not generally seen as true of businesses’ experience of the face-to-face advice service. A number of businesses reported bad experiences with advisors. One SME considered that they had given the advisors more advice than they had received. Another said they thought Business Link advisors were:

“Slightly well meaning people who haven’t really made it in business themselves.”
(Recruitment SME)

- 5.9. Some of those who had not used any of the Business Link services said that they were simply unaware of their existence. However, there were also a number of participants who had not used the service because they had formed the opinion that Business Link was not a very good brand. This was usually because they had been informed by friends and fellow business owners of bad experiences with advisors and this had stopped them from exploring further. As one group member put it:

“I’ve got no experience with it being crap other than loads of people in the pub telling me its crap.”
(Farming SME)

6. Clarity and complexity

- 6.1. Groups were asked a number of questions regarding how they found understanding regulations and following government guidance.
- 6.2. The view of the majority of businesses we spoke to was that regulations and guidance were not clear enough. SMEs said that putting guidance in plain, accessible language would be beneficial in helping them understand what they needed to do to comply. Another suggestion was for government to produce flow charts to illustrate simply what had to be done:

“Personally I would like something that is in easy English that you can understand before you have to go to the lawyer.”
(Internet Based SME)

“Just tell me what I need to know.”
(SME, South East Group)

- 6.3. Businesses mentioned a number of examples of very complex pieces of guidance and regulation. As outlined previously, a number of people expressed concerns about employment law and specifically about guidance on foreign worker regulations, which discouraged them taking on additional employees. One small business owner spoke about requirements under the Control of Substances Hazardous to Health (COSHH) regulations, which placed very complex requirements on them to use simple cleaning products. He mentioned that this complexity in regulatory guidance made non-compliance in certain areas more likely.
- 6.4. Another issue businesses found difficult was the complexity of conflicting regulatory requirements emanating from different Regulators and departments. One participant gave the example of having received conflicting advice relating to fire, health and safety and disability discrimination regulations. Another business said that, within his sector, he had to follow regulations relating to forestry, agriculture, waste management, haulage and construction and different government inspectors would often give him conflicting guidance on compliance. This complexity and lack of clarity was seen by businesses as a significant reason for consulting with business consultants or other specialists:

“There is a strong contrast between the complexity of the regulation and the generality of the guidance which forces businesses towards consultants.”
(Chemicals SME)

7. Culture and communication

7.1. Groups discussed how they found out about changes in regulation and how they interacted with Regulators.

7.2. **Communicating Change:** A majority of businesses felt there was not enough warning about regulatory change and that keeping up to date with change was one of the biggest problems that they faced:

“There isn’t any organisation of the introduction of new requirements. It just happens sometimes...quite fast and people don’t know its coming.”

(HR SME)

7.3. A number of businesses used private providers or trade magazines to keep up to date with changes in regulation. However, many of those without access to these services were unsure exactly where or how the Government would communicate regulatory change to them.

7.4. One group in East Anglia raised the example of the ‘Smoke Free England’ campaign, which accompanied regulation on the smoking ban, as a good example of communicating regulatory change. They highlighted this as being effective at informing businesses of the coming change and directing them to guidance material.

7.5. **Regulatory Culture:** SME groups said that regulation should be more heavily focused on the wilful wrongdoers and not those who were trying to get it right but who sometimes made mistakes. One business said:

“[There is] almost an assumption that the company’s always in the wrong and I think a lot of legislation is framed that way.”

(Finance SME)

7.6. A number of businesses said Regulators concentrated too much on those making an honest effort rather than on rogue businesses. One group said they felt money laundering regulation was particularly complex and seemed to concentrate on catching people out rather than helping businesses to do the right thing. Businesses said they wanted inspectors to be proportionate when considering enforcement.

7.7. Some businesses said that they found Regulators to be very good at pointing out what was wrong but that they would rarely confirm that arrangements put in place to resolve problems were correct. A member of the North West group gave an example of guidance regarding guard rails. These rails, which used to be required for all drops over a certain height, now may be required for lower drops ‘in some circumstances,’ however, these are not specified.

7.8. **Inspectors:** There were mixed views towards inspectors. Some business owners said that they liked visits from inspectors, as they would point out where businesses were not complying and give them an opportunity to correct their mistakes. One business owner, who was against excessively clamping down on unintentionally non-compliant businesses, said that while there was an assumption that businesses were anti-

inspector; this was often not the case at all. Another said that they liked health and safety inspectors who could tell you what you needed to do to comply. However, there were others who had concerns surrounding inspections. One questioned the need for the volume and variety of inspectors from different agencies. Excessive inspection was seen by some as distracting and more likely to result in occurrences of inconsistent advice and guidance. One business gave an example of the variety of inspections they receive:

“we get the AA, we used to have the RSC...we get the Tourist Board inspections...weights and measures can come in, the fire office can come in and safety and then food.”
(Hotel SME)

- 7.9. Some businesses questioned whether it would be better to have inspectors who were focused on their sectors and allied trades rather than a large number of separate inspections.

8. Summary

- 8.1. A majority of businesses want to comply with their regulatory obligations. However, businesses consider themselves over-regulated and find that the pace of regulatory change makes compliance difficult.
- 8.2. Businesses said they wanted to use guidance to help them comply with regulation, but had some concerns about existing government guidance provisions. They wanted guidance which gave them greater certainty that they had complied with the law. They also wanted improved accessibility to guidance and for it to be provided in a clear and easy to understand format. Businesses said they had concerns over inconsistencies between conflicting guidance and wanted Regulators to work with them to help them to comply, rather than having an excessive emphasis on enforcement.

9. Appendix

We spoke to over 90 SMEs in the following locations and businesses sectors. Businesses spoke to us under conditions of anonymity and whilst we do not list them by name we would like to thank them for their invaluable contributions:

Locations

- East Anglia
- North East
- North West
- South East
- West Midlands
- Yorkshire

Business Sectors

- Accountancy SMEs
- Business, Finance and Insurance SMEs
- Property SMEs
- Construction and Engineering SMES
- Advertising, Design and Marketing SMEs
- Recruitment and HR SMEs
- Catering, Food and Restaurant SMEs
- Hotel SMEs
- Research SMEs
- Travel SMEs
- Farming SMEs
- Manufacturing SMEs
- Energy SMEs
- Contractor SMEs
- Chemicals SMEs
- Not for Profit SMEs