

# Business Case

**Project Name:** Retail Enforcement Pilot (REP)

**Written By:** Chad Woodward

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## Document Control

### Version Control

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0.1	23/2/07	Rob Stephens	-	Initial draft
0.2	27/3/07	Rob Stephens	-	Detailed updates
0.3	16/4/07	Rob Stephens	-	Updates following full REP team meeting
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### Distribution

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0.5	16/05/07	Steering Group

## High Level Business Case

<b>Retail Enforcement Pilot (REP)</b>		<b>BRE</b>
<b>Contact Details :</b>	<b>Senior Responsible Owner (SRO)</b> <b>Karen Hill</b> <b>020 7276 2178</b> <a href="mailto:karen.hill@cabinet-office.x.gsi.gov.uk">karen.hill@cabinet-office.x.gsi.gov.uk</a>	<b>Project Manager (PM)</b> <b>Chad Woodward</b> <b>020 7276 2267</b> <a href="mailto:chad.woodward@cabinet-office.x.gsi.gov.uk">chad.woodward@cabinet-office.x.gsi.gov.uk</a>
<b>Risk Potential Assessment (RPA) score: 36</b>		
<b>Priority Highly desirable</b>		
<p><b>1.0 Strategic fit</b></p> <p><b>1.1 Need for change</b></p> <p>The Retail Enforcement Pilot has demonstrated early practical delivery of the Hampton agenda in terms of reducing administrative burdens on business and improving delivery of regulatory enforcement services and outcomes. REP has provided a framework for collaborative working between Local Authorities and national regulators which has:</p> <ul style="list-style-type: none"> <li>• helped reduce the burden on compliant businesses;</li> <li>• promoted targeting of risk based activity across the regulatory piece;</li> <li>• increased the efficiency of Local Authority (LA) regulatory services; and</li> <li>• enhanced worker and consumer protection.</li> </ul> <p>Phase 1 of the pilot pre-dated, but was consistent with, the Hampton Report, and worked with two Local Authorities and a number of other stakeholders to develop and trial a more effective approach to the delivery of regulatory enforcement. The success of this work resulted, in Nov 06, in HMT funding a Phase 2 that extends the pilot to up to 70 LAs. Further roll out of the initiative to more LAs and additional sectors is dependent on the outcomes of Phase 2.</p> <p>LAs develop enforcement structures and business guidance to help deliver national policy or other regulatory requirements, but often working in isolation from one another. The initial project brief of the Pilot was to promote partnership between enforcement agencies (central and local government) concerned with the retail sector in order to:</p> <ul style="list-style-type: none"> <li>• agree common standards across Local Authorities;</li> <li>• promote best practice; and</li> <li>• set up a one stop shop to ensure visits to retailers are planned to avoid multiple visits, that conflicting requirements are resolved between enforcers and to direct calls for advice and guidance to the right place.</li> </ul> <p>The Pilot identified four main areas of regulatory services – trading standards, environmental health (food safety, health and safety) and fire authorities, all of which</p>		

undertake planned inspections of a common retail 'client'. A business champion (CEO of Kingfisher Group) and significant contributions from the British Hardware Retailers Federation, British Retail Consortium and the DTI sponsored Small Business Service, ensured strong business input into the project.

Five risk assessment models were being used to assess retail premises so Kings College Centre for Risk Management was commissioned to produce a single risk model drawing together the three common elements of the current systems.

- They all require the same basic information about the nature and operations of the business. Streamlining this offered significant process wins for the Authorities, the regulators and business (the regulated).
- The inherent hazard presented by what the business does. Hazard may vary significantly across disciplines, and the model fully respects this, drawing on current hazard categorisation.
- A common assessment of how effective the business is in controlling hazard - often referred to as "confidence in management".

Local Authorities used this risk assessment model as a means of planning which of their regulatory services had the most significant "risk" based interest in the businesses due to be visited, usually over a 12-month business planning cycle. This determined the lead inspector and provided Local Authorities with a tool to decide where their activities would be best targeted, based on the relative risk and evidence of business performance.

Alternative performance reporting arrangements had to be negotiated for Pilot areas to avoid participants being criticized for not meeting the current activity based, rather than productivity based, performance criteria. A permanent change to LA reporting requirements will be required if wider take up of the method is adopted.

The results of Phase 1 of the Pilot are contained in "Interim Report of the Retail Enforcement Pilot dated 22 Dec 06. This business case relates to Phase 2 of the Pilot.

It is assumed that:

- Phase 2 of the pilot will roll out to LAs in FY 07/08.
- The results of Phase 2 will be evaluated and promulgated in FY 08/09.
- A decision on whether to proceed with further roll out will be taken based on the results of Phase 2.
- No further direct funding will be provided by HMT.
- REP and LBRO funds in FY 07/08 can be adjusted if necessary to complete and evaluate Phase 2 in FY 08/09.

The constraints on the project are that:

- By Dec 08 it must generate sufficient evidence on which a decision on rollout can be made.
- The publicly declared timescales in which it has to meet the expectations of the stakeholder community.

- The project's limited resources will make managing the Phase 2 stakeholder community difficult.
- The current practices and mindset of the LAs will make adoption of the new concept difficult to embed.
- LBRO will not be in a position to contribute to debate on the future of REP until autumn 2007.

## **1.2 Strategic Fit**

The BRE was established in the Cabinet Office to take forward the development of regulatory matters. REP is one element of the BRE's Regulatory Services Programme that is driving forward improvements in regulation and the outcomes should enable LAs and regulators to provide a better service to businesses.

## **1.3 Objectives**

The objectives of the Pilot are to:

- Provide mechanisms that will assist LAs in meeting the Hampton vision, primarily a risk-based approach to regulation that ensures no inspections are carried out without a specific reason.
- Focus enforcement resource effort on high-risk and non-compliant businesses, thus enhancing consumer and worker protection.
- Promote partnership between enforcement agencies (central and local government) concerned with the retail sector.
- Release capacity to enable regulators working in LAs to provide a more focused and efficient service to businesses and customers, including the provision of education and advice services.

The objectives of Phase 2 of the Pilot are to:

- Prove the efficacy of the concepts developed in Phase 1 in environments representing the full range of LA types.
- Complete the development of outstanding elements of the REP concept from Phase 1, e.g. the automated feedback loop.
- Demonstrate the efficacy of using a range of IT devices in data capture.
- Developing and, where appropriate, putting in place mechanisms and processes that would facilitate further rollout of the concept.
- Provide evidence for robust evaluation of the model, including long-term sustainability and affordability for LAs.
- Develop a procurement strategy for services and IT infrastructure.
- Market the concept across the whole stakeholder community, including those LAs not as yet involved with pilot activity.

The deliverable from Phase 2 of REP is:

- A report on the conduct and results of Phase 2 that will enable an informed decision to be made on whether to proceed with further roll out.

A statement of the current high level risks is included in the register at the Appendix.

#### **1.4 Critical Success Factors (CSFs)**

The CSFs for Phase 2 of the Pilot are:

- The stakeholders, represented by the Steering Group, confirm that Phase 2 of the Pilot has produced credible information on which stakeholders could make a decision on whether or not to extend rollout.
- When canvassed at the end of the Phase, a substantial majority of participating LAs continue to adopt the piloted approach to retail regulation.
- The piloted approach encourages a culture change amongst LA regulatory services that results in more Hampton-like behaviours and improved business satisfaction.

### **2.0 Exploring Options**

#### **2.1 Exploring Options**

Phase 1 of the Pilot demonstrated that the basic concept was viable and Phase 2 will evaluate it more formally across a wider range of LA environments. Phase 2 will, inter alia, include work on:

- Establishing the relative efficacy of paper and IT-based methods.
- Tuning the basic model to maximise its effectiveness at the point of delivery (the retailers).
- Informing other initiatives in encouraging “joined up” regulation eg DEFRA’s Whole Farms initiative.

#### **2.2 Option Sifting**

Only two options will be considered; do nothing or extend the REP concept. Doing nothing would continue the less than optimum current approach to retail regulation whereas adopting the REP concept may encourage Local Authorities and other stakeholders to pursue more Hampton-like behaviours.

#### **2.3 Option Appraisal**

The purpose of Phase 2 of the Pilot is to provide the evidence on which decisions can be made.

#### **2.4 Conclusion**

There is no recommended option until Phase 2 of REP has been completed. The results of the Pilot will be evaluated under the auspices of the Steering Group, the membership of which has been designed to represent the large congregation of stakeholders, including particularly retail businesses, regulators and the end-retail customer.

### **3.0 Value for Money.**

#### **3.1 Commercial Aspect**

While any purchasing will be undertaken through the individual LAs at financial levels which fall below the thresholds set out in the relevant procurement regulations, recent Commission guidance has confirmed that sub-threshold procurements are still subject to basic Treaty principles and require advertisement. As the procurements will be part of a nationwide, coordinated project and, when aggregated, will be of significant value, the Pilot has been advertised in the Official Journal of the European Union (OJEU).

Those expressing an interest are being provided with further details, together with a questionnaire seeking information about the supplier's financial standing and technical and other relevant experience. Any supplier expressing an interest in providing services to LAs in Phase 2 will be required to provide the full service offering, ie. hardware, software and services (training). Responses to this questionnaire will be evaluated by the BRE to produce a short list of potential suppliers that will be passed to the Phase 2 LAs, with the intention that it be used as the basis for them running mini competitions to procure any goods and services needed to support the pilot. The combination of the advertisement by the BRE and the competition of the local authority will ensure that the procurements are EU compliant.

Carrying out a procurement in the manner set out above will enable the BRE to scope the level of interest in providing the required services long term as part of any further roll out. Having developed the potential market, the intention is to procure a multi party supplier/customer framework agreement for use by local authorities if any further roll out takes place.

The specification work undertaken so far needs to be developed further. The Public Contracts Regulations 2006 provide that where a contract is let for research and development purposes then, provided that the benefits do not accrue exclusively to the authority letting the contract, that contract is excluded from the requirements of the procurement regulations. The BRE will let a research and development contract to one or more suppliers to work with them in developing the required specifications on the basis that the benefits will not accrue to the BRE alone, but instead to all LAs. TSol are leading on tidying up the existing and somewhat ambiguous intellectual property situation resulting from supplier activity during Phase 1.

LAs participating in Phase 2 will receive financial assistance from BRE to help them meet the additional costs of running the Pilot in their area. The amounts, the services and products that the LA must supply in return, and other management information, will be enshrined in Memoranda of Understanding (MOU) between BRE and the LA.

#### **4.1 Affordability**

Funding of Phase 1 of the Pilot was provided under DTI auspices.

Reflecting the mention of Phase 2 of the Pilot in the Chancellor's pre-budget speech, HMT have provided £1.5M in FY 07/08. There will be some annularity issues to resolve as Phase 2 is now expected to extend into FY 08/09. For example, the

evaluation phase.

## **4.2 Achievability**

The key resources allocated to the Pilot are as follows:

- SRO: Karen Hill (BRE, part time)
- Project Lead: Clive Jones (BRE full time)
- Project Manager: Chad Woodward (BRE, full time)
- Project Support: Xavier Baby (BRE, full time)
- Local Authority super-user: Janet Faulkner (Warwickshire CC, full time, funded by BRE),
- Local Authority super-user: Clive Cain (Bexley DC, full time equivalent, funded by BRE)

In addition, specialist advice is being obtained as required from TSol and OGC. Local Authorities taking part in Phase 2 are providing appropriate resources to enable them to meet their obligation to manage activities within their area of interest.

Commercial providers will be selected through a competitive process run by the relevant Local Authorities and the selection criteria will include an assessment of the supplier's competence and capability.

Contingency measures as such have not been developed. If the Pilot shows that the approach is not viable, sustainable and appropriate, then no further rollout will be initiated. Other ways of encouraging Hampton-like behaviours will probably then be explored, but outside this project.

## Appendix - Risk Register

Serial No	Brief Description	Owner	Assessment				
			Like-lihood	Impact			
1	Accuracy of risk allocation inhibits agreement of lead service	The Project	H	H			
2	Lack of automated feedback loop means insufficient sharing of data across services.	The Project	H	H			
3	Software suppliers are unable to deliver a sustainable and affordable product for LAs to use.	The Project	M	H			
4	The resources available for Phase 2 prove inadequate in the BRE or LAs.	The Project	M	H			
5	Phase 2 does not provide sufficient leadership driving a cultural change towards Hampton like behaviours.	The Project	M	H			
6	There is a formal challenge to the procurement arrangements used in Phase 1 or Phase 2.	The Project	L	M			
7	Credibility of the performance assessment framework.	The Project	M	H			
8	The Audit Commission, FSA and HSE do not provide the derogations necessary for Phase 2.	The Project	L	H			
9	Achieving roll-out to 70 LAs in Phase 2	The Project	L	M			

Notes:

1. Serial No: For ease of identification, each risk is allocated a number in sequence.
2. Date Identified: The date the risk is first identified and placed in the Register.
3. Assessment: A grading of Low, Medium or High is allocated to each attribute as follows:
  - Likelihood: An assessment of how likely the risk is to materialise,
  - Impact: An assessment of the impact (financial, political, resource etc) on the project should the risk materialise.
4. Response: The type of response being made to the risk:
  - Transfer or sharing (eg insurance, outsourcing)
  - Tolerate (monitor the risk but accept there is little that can be done about it)
  - Terminate (remove the risk by doing things differently)
  - Treat
    - Containment (action taken to reduce the likelihood of the risk occurring)
    - Contingent (pre-planned action to reduce the impact should the risk occur)
5. Activity Log: Shows all action, including reviews, taken in dealing with the risk.

