

Enforcement Concordat: Good Practice Guide for England and Wales

Consistent enforcement of regulation

CONSULTATION DOCUMENT

This consultation seeks views on a new good practice guide to applying the principles of the 1998 Enforcement Concordat. It asks general questions about the content and structure of the 'Good Practice Guide' and specific questions about how future compliance by enforcement bodies with the Enforcement Concordat should be monitored.

No: CCP 006/03

6 March 2003

Explanation of the wider context of the consultation, and what it seeks to achieve

This consultation seeks views on a new good practice guide to applying the 1998 Enforcement Concordat. The Enforcement Concordat sets out what business and others being regulated can expect from enforcement officers in terms of good enforcement policies and procedures.

The good practice guide, full title 'Enforcement Concordat: Good Practice Guide for England and Wales', aims to promote consistent and effective implementation of the Concordat by its signatories (termed 'enforcement bodies' which include central and local government enforcers) by offering good practice case studies of how the Concordat's principles of good enforcement can be applied in a way that benefits enforcers, business and consumers by bringing higher levels of voluntary regulatory compliance. The Good Practice Guide also details the steps an enforcement body should take once it has signed up to the Enforcement Concordat.

The consultation asks general questions about the content and structure of the 'Good Practice Guide' and specific questions about how enforcement bodies' compliance with the Enforcement Concordat can be measured.

Dates

Launch Date: 6 March 2003

Respond by: 28 May 2003

Foreword

“Good enforcement brings benefits to business, enforcers and consumers. Since the launch of the Enforcement Concordat in 1998 enforcers and business have been working to realise these benefits through the Concordat’s principles of good enforcement.

The principles of good enforcement are best carried out through a partnership approach to enforcement with enforcers and business working together to achieve regulatory compliance. This approach particularly helps small business to understand and meet its responsibilities more easily. It also helps achieve higher levels of compliance and gives greater consumer and employee safety.

Ultimately this also contributes to the economic vitality of our local communities. With compliance made easier, and with enforcers able to focus their resources on businesses who break the law, law-abiding businesses will be free to compete on a level playing field.

We therefore welcome this Good Practice Guide for England & Wales. It both celebrates the good work that is being done and demonstrates to all enforcement bodies what can be achieved by applying the Concordat’s principles of good enforcement.”

Melanie Johnson MP, Parliamentary Under-Secretary of State for Competition, Consumers and Markets

Nigel Griffiths MP, Parliamentary Under-Secretary of State for Small Business

Rt. Hon. the Lord Macdonald of Tradeston, CBE, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster

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Executive Summary

- 1 In 1998 the Cabinet Office launched the Enforcement Concordat, outlining the fair and consistent principles by which government enforcers should carry out their functions. Since its launch Whitehall Departments, government agencies and most local authorities have signed up to the Concordat, but to date implementation has been inconsistent, with interpretation of the principles varying between signatories.
- 2 Implemented effectively, the Enforcement Concordat benefits business, in particular small to medium enterprises, by making it easier and more cost-effective to comply with regulatory responsibilities. Enforcers also benefit by achieving higher compliance rates, which allows them to target law-breakers. As with all aspects of the Government's Better Regulation agenda, the resulting consistency of approach will improve consumer and employee safety.
- 3 The following draft document on which the Government is consulting, *Enforcement Concordat: Good Practice Guide for England and Wales*, considers how enforcers can apply the Concordat's principles within the context of their daily activities. It offers examples of good practice in implementing each of the Enforcement Concordat's polices. These form a non-exhaustive range of options for enforcement bodies to consider as they work to implement the Concordat's Principles of Good Enforcement. The *Good Practice Guide* also details the steps an enforcement body should take once it has signed up to the Enforcement Concordat, including determining lead responsibility, reviewing existing policies, consulting with business and drawing up an implementation plan. Finally it suggests possible monitoring systems, involving continuous assessment and consultation, and asks how future compliance with the Enforcement Concordat should be monitored.
- 4 Again in keeping with the Government's drive for Better Regulation and commitment to *Think Small First*, the Enforcement Concordat itself and the accompanying *Good Practice Guide* promote a non-burdensome voluntary code, rather than imposing further regulatory requirements. By encouraging a cooperative relationship between enforcers and business, while not detracting from the duty of the former to take formal action where necessary, the principles of the Concordat will bring about a level playing field for law-abiding businesses.
- 5 Views on the draft *Good Practice Guide* are sought from enforcer and business stakeholders, particularly on what other issues the Guide should cover, and the means by which compliance should be monitored in future.
- 6 The good practice content of the *Guide* is summarised in the table below:

Principles of Good Enforcement		Good Practice Implementation Options	
Policy	Procedure		
Standards	<p>Consult with business and stakeholders in setting standards for level of service and performance</p> <p>Monitor performance</p>	<p>Publish openly</p> <p>Collaborative auditing</p> <p>Look for feedback</p>	<ul style="list-style-type: none"> • Harnessing the web (p16) • Achieving a joined-up approach through a proactive 'reach-out' survey (p17)
Openness	<p>Provide information on regulations and enforcement practice</p> <p>Discuss compliance failures or problems with anyone experiencing difficulties.</p>	<p>Disseminate information widely</p> <p>Be approachable to business</p>	<ul style="list-style-type: none"> • Accompanying inspections with helpful information (p19) • Well-researched and relevant compliance guidance (p20) • Following-up contact with businesses to avoid repeat problems (p21)
Helpfulness	<p>Clear advice confirmed in writing</p> <p>Distinguish between advice and legal requirements</p> <p>Provide opportunity for discussion before formal enforcement action</p> <p>Give a clear explanation of the need for any immediate action</p> <p>Focus on preventative activity</p>	<p>Provide clear information on regulatory requirements</p> <p>Engage with business</p> <p>Co-ordinate with other enforcers where appropriate</p>	<ul style="list-style-type: none"> • Plain English Information Packs (p23) • Face-to-face advice and consultancy (p23) • Using technology for smart compliance (p24) • Assisting compliance with dedicated teams (p25) • Improving flow of information (p26) • Using Partnerships to improve business-enforcer relationships (p27) • Regular Contact with Stakeholders (p29) • Creating a higher profile for initiatives (p30) • Endorsing best

Principles of Good Enforcement		Good Practice Implementation Options	
Policy	Procedure		
			<p>practice by business (p30)</p> <ul style="list-style-type: none"> • One-Stop-Compliance-Shop (p31)
Complaints about service	Explain complaints procedure at the time any formal action is taken	<p>Collate complaints and action taken, build evidence base to guide future activity</p> <p>Easy to use accessible system</p>	<ul style="list-style-type: none"> • Using a Complaints/comment s database (p35) • Joined-up complaints process (p35) • User-friendly complaints and feedback systems (p36)
Proportionality	<p>Tailor enforcement action to risks to minimise costs of compliance.</p> <p>Prosecute when proportionate to bring serious offenders to account</p>	<p>Publish prosecution standards</p> <p>Target higher risk business activities for formal action</p>	<ul style="list-style-type: none"> • Explaining the Code for Crown Prosecutors (p38) • Priority-planning for low-risk activities (p38) • “Complaints-led Enforcement Policy” (p38) • Sectorally-targeted risk assessment (p39) • Identifying Problem Traders (p39)
Consistency	Have effective arrangements to promote consistency	<p>Liase with other enforcement bodies</p> <p>External auditing</p> <p>Internal process improvements</p> <p>Quality accreditation</p>	<ul style="list-style-type: none"> • Providing a single point of contact for large national businesses (p41) • Joined up benchmarking (43) • Sector specific business liaison (p43) • Co-ordination between enforcers for regional consistency (p43)

Principles of Good Enforcement		Good Practice Implementation Options	
Policy	Procedure		
			<ul style="list-style-type: none"> • Sharing information and experience (p43) • Improving services through evaluation from business groups (p45) • Using an 'Enforcement Management Model' (p45)

The Enforcement Concordat: Good Practice Guide for England & Wales

Introduction

- 7 In March 1998 the Cabinet Office, in partnership with the Local Government Association (and other principal local authority Associations), business and consumer groups, published the central and local government Concordat on Good Enforcement (the Enforcement Concordat). Since then a significant number of Local Authorities, Government Departments and Government Agencies have signed up to the Enforcement Concordat (an up to date list is available on the Cabinet Office website at <http://www.cabinet-office.gov.uk/regulation/PublicSector/enforcement/Enforcement.htm>)
- 8 The *Enforcement Concordat: Good Practice Guide* offers enforcement bodies a range of options drawn from existing good practice, that can help in the effective application of the Enforcement Concordat's 'Principles of Good Enforcement'. It does not adopt a one-size-fits-all approach to implementation but instead presents practical examples of what has worked for various enforcement bodies. Use of this document should assist the effectiveness and transparency of enforcement activity and should also reassure business and others that the spirit of the Enforcement Concordat is being complied with.
- 9 Most businesses want to comply with the law. Successful businesses are crucial to the prosperity of local communities and they benefit from local enforcement policies which embrace the Enforcement Concordat's key principles of openness, helpfulness, consistency, proportionality, agreed standards of service and access to complaints procedures. None of the key principles detract from an enforcement body's ability or need to take firm action against those who flout the law or act irresponsibly.
- 10 The Enforcement Concordat is a natural complement to the Government's 'Better Regulation' agenda; it acknowledges the need for regulation but at the same time acknowledges that it is important that the minimum burden is imposed on business. The Enforcement Concordat therefore brings benefits to enforcement bodies, business, employees and consumers.
- 11 By applying principles of good enforcement enforcers should see an increase in the levels of voluntary regulatory compliance, which will allow them to focus their attention on pursuing those who break the law. For business this will help to create a level playing field of regulatory compliance and will help individual businesses to get compliance right first time. Consequently consumers will be able to safely purchase goods or services that comply with the relevant regulations, and the

safety of employees will be safeguarded. The net result of these benefits should be the enhanced economic vitality of local communities.

- 12 The remainder of the introduction offers background on:
- The role of the Enforcement Concordat
 - Defining Enforcement
 - The scope of the Enforcement Concordat
 - How the Enforcement Concordat fits into the wider policy context
 - Who owns the Enforcement Concordat
 - The Purpose of the 'Good Practice Guide for England and Wales'

The Role of the Enforcement Concordat

- 13 The Enforcement Concordat is a voluntary, non-statutory code of practice that a large number of local and national enforcement bodies have signed up to. Central and local enforcement bodies commit themselves voluntarily to its policies and procedures. The Enforcement Concordat articulates best practice that many enforcers had adopted in their dealings with business before 1998, and sets out what business and others being regulated can expect from enforcement officers employed by local authorities and other agencies, including central Government agencies, in terms of:
- setting clear standards
 - clear and open provision of information
 - how the enforcement body will help business by advising on and assisting with compliance
 - how to complain about the enforcement body's service
 - an emphasis on ensuring that enforcement action is proportionate to likely risks
 - the promotion of consistent enforcement
- 14 A copy of the text of the Enforcement Concordat is set out on pages 61-63 below.

Defining Enforcement

“Doesn’t enforcement mean formal proceedings and prosecutions?”

- 15 A key aspect of the Enforcement Concordat is its articulation of a broader definition of ‘enforcement’, one that includes advice and assistance to aid business compliance with regulations, as well as the traditional idea of formal proceedings and prosecutions. What the Enforcement Concordat tries to do by basing its principles of good enforcement on this broader definition is to encourage co-operation with business and fair and consistent enforcement practice by local authorities, government departments and government agencies, all of which should ultimately lead to higher levels of regulatory compliance.
- 16 Applying the principles of the Enforcement Concordat should help business to comply with regulation and meet their legal duties. However enforcers do need to be able to take action, including immediate action where necessary, and the Enforcement Concordat in no way limits the ability of the enforcement bodies formally to pursue and when proportionate to prosecute breaches of the law. Indeed it is important that firm action is taken to protect the public and to preserve fair competition. The partnership approach to compliance that is set out in the Enforcement Concordat will work best if it is backed up by a realistic threat of such action when circumstances demand.

Scope of the Enforcement Concordat

- 17 Good enforcement is often about building good partnerships between enforcers and business. The adoption and application of the Enforcement Concordat should be the responsibility of all enforcement bodies, national and local, working in partnership with the relevant business community. Indeed a wide range of national and local enforcement bodies have signed up to the Enforcement Concordat, and many businesses have played an active role in applying the Enforcement Concordat’s principles (see ‘What enforcement bodies can expect from business’ p47 below).
- 18 The Enforcement Concordat should be applied across all the regulatory functions of an enforcement body. For local authority signatories this means all regulatory services where these have an impact upon the business community. Key services in this respect are trading standards, environmental health, planning and building control, as appropriate depending upon the type of authority, but fire, highways, registration and inspection units, licensing departments and social work should all be considered for inclusion where appropriate. However this list is non-exhaustive, if an authority wishes to extend the Enforcement Concordat’s principles to services other than those listed above (such as housing benefit, car parking enforcement etc), it is encouraged to do so.

- 19 The *Enforcement Concordat: Good Practice Guide* covers England and Wales. The Scottish Executive and Northern Executive plan to draw on the *Good Practice Guide* in producing their own document for Scotland and Northern Ireland.

How does the Enforcement Concordat fit into the wider policy context?

- 20 The Enforcement Concordat has a valuable contribution to make to wider central and local government agendas, including:
- local authorities' new power to promote economic, social and environmental well-being - particularly in terms of economic regeneration in both urban and rural areas, the encouragement and development of new businesses and the desirability of sustaining vibrant businesses in the authority's area.
 - best value - in terms of service reviews, the authority's scrutiny policy, and the contribution that good enforcement practice can make to an authority's Corporate Performance Assessment.
 - local government modernisation - following the Enforcement Concordat's principles will assist local authorities in achieving consistency across services as well as ensuring easy access for businesses to help and advice.
 - the central Government better regulation initiative – regulation is intrusive but necessary, the Government has therefore undertaken to pursue a policy of better regulation by; only regulating when absolutely necessary and when similar ends cannot be achieved by less intrusive means (e.g. self-regulation, codes of conduct etc.); consolidating or deregulating where appropriate; and making existing regulation work better.
 - The Whitehall Group – as part of the Department of Trade and Industry (DTI) / HM Treasury cross-cutting Review of Services for Small Business the Whitehall Group, chaired jointly by HM Treasury and the Small Business Service (SBS), was set up with a view to creating a forum of senior officials from across government for sharing and delivering good practice concerning the interface between government and small business.

Who owns the Enforcement Concordat?

- 21 The *Enforcement Concordat: Good Practice Guide* is jointly published by the Department of Trade and Industry (DTI), its Small Business Service (SBS) and the Cabinet Office.
- 22 Cabinet Office is the lead government department for general policy on enforcement.

- 23 DTI maintains an interest in the Enforcement Concordat because good enforcement practice contributes to the DTI's goal of protecting the interests of both consumers and business.
- 24 SBS with its strong links to small and medium enterprises across the country has taken over (i) promotion of the Enforcement Concordat, and (ii) administration of the current and future signatories to the Enforcement Concordat. This enables SBS to promote the Enforcement Concordat's use by businesses and the public, as well as encouraging further regulatory and review bodies to sign up. SBS will therefore be the main future point of contact for all inquiries about the Enforcement Concordat.

Purpose of the 'Good Practice Guide for England & Wales'

- 25 The *Good Practice Guide* draws on the many existing examples of good practice in developing the Enforcement Concordat's partnership approach to regulatory compliance. The *Good Practice Guide* therefore complements the Enforcement Concordat by providing examples of good enforcement practice and procedure that some enforcement bodies may wish to follow.
- 26 'Policy, Procedures, Good Practice' (pages 15-46 below) sets out these examples of good practice in order to give enforcement bodies a range of possible options for putting the Enforcement Concordat's principles into practice. The document then goes on to address some of the key issues that are related to applying principles of good enforcement. 'What enforcement bodies can expect from business' (page 47 below) considers the role of business; 'Adoption and Implementation' (pages 48-51 below) suggests procedures for adopting and implementing the Enforcement Concordat (for enforcement bodies who have not already done so); 'Monitoring' (pages 52-54 below) looks at how enforcement bodies can monitor their performance in applying the Enforcement Concordat. Procedures for the review of the *Good Practice Guide* and the full text of the Enforcement Concordat are set out on pages 55-58 below.
- 27 However, neither the Enforcement Concordat nor the *Good Practice Guide* seek to be a legally binding document. The *Good Practice Guide* provides guidance only, and decisions about the taking of enforcement action to ensure regulatory compliance remain the responsibility of enforcement bodies.

Policy, Procedures, Good Practice

- 28 The aim of good enforcement is to facilitate and improve compliance with regulation, through the appropriate use of help, advice and formal action. The Enforcement Concordat sets out 'Principles of Good Enforcement' in terms of 'Policies' and 'Procedures' that can help enforcement bodies to achieve this aim. The Policies (Standards, Openness, Helpfulness, Complaints about Service, Proportionality and Consistency) are intended to guide the activities of enforcement bodies, whilst the Procedures offer practical ways of applying the Policies in their everyday work. Taken together they constitute Principles of Good Enforcement.
- 29 To illustrate the value of applying Principles of Good Enforcement through Policies and Procedures this chapter takes each 'Policy' in turn, quotes the full text that signatories to the Enforcement Concordat have agreed to, then:
- looks at the reasoning behind it
 - suggests practical procedures for its application (these form a non-exhaustive list of possible ways forward for enforcers).
 - illustrates how it can be applied through examples of good practice.
- 30 For some time now many enforcement bodies have been successfully applying the Enforcement Concordat's Principles. Therefore this section draws heavily on the experience of enforcers by offering real life examples of good enforcement practice.
- 31 The examples given are indicative rather than prescriptive, they demonstrate what can be done by enforcers rather than what should be done. The aim is to illustrate a range of possibilities for applying the Enforcement Concordat's Principles out on the street and in the day-to-day dealings of enforcement officers with business and others.

Standards

The Enforcement Concordat states:

“In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.”

- 32 It is important that businesses know what level and style of service and/or interaction they can expect from enforcement bodies. Being transparent about standards of service, and involving the business community in drawing them up, will help enforcement bodies to foster more productive working relationships with businesses that want to comply with their regulatory requirements. It will also serve to make it clear to businesses who break the law that enforcement bodies will not shrink from pursuing them to the full extent of the law, if it is proportionate to do so.

PROVIDING AND DISTRIBUTING INFORMATION

- 33 An effective way to achieve transparency about standards of service is to publish an enforcement policy (in line with the Enforcement Concordat) to inform business what it can expect from enforcement officers. This should be made available by enforcers both in print form and on their website.

Harnessing the web

Many enforcement bodies have published enforcement policies on their websites, examples include:

- *West Sussex County Council*
<http://www.tradingstandards.gov.uk/westsussex/pdf/TSEnforcement.pdf>
- *Cheltenham Borough Council*
<http://www.cheltenham.gov.uk/libraries/templates/ourservice.asp?FolderID=194>
- *Hampshire County Council*
<http://www.hants.gov.uk/regulatory/bsp/enforcea.html>

- *Durham County Council*
<http://www.durham.gov.uk/durhamcc/usp.nsf/pws/consumer+services+-+enforcement+policy>
- *Wandsworth London Borough Council*
<http://www.wandsworth.gov.uk/envsvs/esenforcement.htm>

LOOKING FOR FEEDBACK

- 34 One method of monitoring performance against the standards set by enforcement bodies is to conduct business/user surveys. The results of these can help to highlight areas of success and areas for improvement.

Achieving a joined-up approach through a proactive ‘reach-out’ survey

Basingstoke and Deane Borough Council took the decision to conduct a survey of business attitudes to the enforcement of Food Safety regulations, in order to assess their service and determine future priorities.

Businesses were approached both through a questionnaire included in the Food and Safety Group’s bi-annual newsletter, and through the business focused seminars that are held six times a year on health and safety topics.

The responses were analysed together with those from other authorities in Hampshire undertaking similar exercises. The results indicated that the strategy of “business friendly” enforcement, which had been in place for some time, is recognised by business, and this was used to inform the Food and Safety Group Service Plan for 1999/2000 principally in the area of information delivery to businesses. Most businesses wanted to comply with health and safety legislation but many found the level of information daunting.

As a result of these comments the Food and Safety Group led by the health and safety lead officer undertook to produce a more “joined up” approach to the information being produced. This will entail a fine-tuning of existing information and training material, and the addition of a self-audit checklist, a small business information pack (cross referenced to the checklist) including where appropriate references to Health and Safety Executive leaflets and priced publications together with information about targeted training sessions.

It is expected that this approach will not only assist business to comply with their duties under the legislation but will also reduce the direct officer involvement with the business through a better informed and prepared business community. Overall the process of

consulting business has increased confidence in the approach that the service has been taking as well as informing future action. The Group Service Delivery Plan has been written following consideration of the survey results.

From the local authority point of view the project has resulted in a better-informed and focused regulatory service.

<http://www.basingstoke.gov.uk/business/foodsafety.asp>

- 35 Liaison with other enforcement bodies is also a valuable way of assessing performance against service standards, for example through benchmarking groups (see Consistency below for more details).

Openness

The Enforcement Concordat states:

“We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.”

- 36 As well as openly consulting on and publishing their standards of service, enforcement bodies should also be open and transparent about the nature of their enforcement activities, and the laws that they enforce. Businesses need to have a clear understanding both of what their legal obligations are and what services enforcement bodies offer to help them meet these obligations.
- 37 Openness therefore means enforcement bodies clearly communicating what they do, which will in turn help businesses to understand what is expected of them. This can be done by distributing general information on legal requirements, discussing compliance issues with specific businesses, and fully explaining formal action when it is taken. It also means making a clear distinction in all contact with businesses (e.g. advice or guidance) between what they are legally required to do, and what is desirable but not compulsory.

DISSEMINATING INFORMATION ON REGULATIONS

- 38 Publishing advice leaflets, placing information on websites, publishing newsletters. Using business liaison/collaboration fora to distribute information on new legal developments, enforcement initiatives etc.. See ‘Helpfulness’ below for more examples of good practice.

Accompanying inspections with helpful information

Moray Council Trading Standards Service sends all businesses who are the subject of inspection visits a letter which outlines Moray’s commitment to working in partnership with business to achieve regulatory compliance (and pointing recipients towards the advice pages on its website). The letter also summarises the Enforcement Concordat, and includes a short questionnaire which aims to assess Moray’s compliance with the Enforcement Concordat.

<http://194.217.0.19/inform/published/councilservices/1370/1392.html>

Well-researched and relevant compliance guidance

Office of Fair Trading (OFT) guidance on unfair tenancy terms. OFT publishes a wide range of material to help businesses comply with legislation for which they have enforcement responsibility. A good example of advice for traders in their 'Guidance on unfair terms in tenancy agreements' (OFT356) published in November 2001 with the accompanying consumer leaflet, 'unfair tenancy terms'.

Before preparing this material OFT consulted a wide range of stakeholders on the guidance, including NACAB and Shelter, the Housing Forum of the ODPM (which includes the trade), and the Law Commission. After consultation the guidance was written to explain why OFT considers some types of standard contract terms in tenancy agreements to be unfair under the Unfair Terms in Consumer Contracts Regulations 1999. This was needed because the relationship between the Regulations and landlord and tenant law was extremely complex and poorly understood, and there was widespread non-compliance as a result.

The guidance is intended to clarify the position, to explain OFT's views and the basis on which OFT would if necessary take enforcement action. But the aim was also to put landlords, letting agents, and publishers of standard contracts in a position where they could successfully review and revise their contracts themselves without OFT intervention. The guidance also reduces the need for landlords to seek specialist legal advice. It is also intended to be of help to trading standards services as co-regulators and to help promote consistent enforcement among them. Furthermore it aims to assist housing advisers in advising on tenants' rights, and to be of help to tenants themselves.

It will be reviewed periodically to reflect OFT's developing views on unfair terms in tenancies, and the views of those who use the guidance. Landlords have asked for examples of unfair terms and how they have been revised. These were not available for the original guidance but we plan to publish some as an annex to the main guidance.

Benefits: the guidance applies to assured and assured shorthold tenancies. The ODPM estimates that there are 1.4 million private assured tenancies in England with a total rental annual rental value of £5.7 billion. The estimated number of all private rented sector landlords is about 600,000 and some 13,000 letting agencies.

The guidance was widely distributed and is in considerable demand. As of January 2003 nearly 3,000 hard copies of the guidance and 28,500 of the leaflet have been distributed. Shelter, not an

enforcement body, explains unfair terms in its comprehensive guide to student housing and accommodation student 'Housing Rights Guide' and promotes the benefits of reading the OFT leaflet. As a result of the guidance most of the major trade associations and those businesses that publish standard tenancy agreements have revised their terms to comply with the requirements of the Regulations.

<http://www.of.gov.uk/>

BEING APPROACHABLE TO BUSINESS

- 39 Being open to discussing potential and actual compliance failures, i.e. both before and after formal enforcement action has been taken. For example, in cases that do not require immediate action but that are the subject of formal action some enforcers inform the business of their intention to take action, and offer them the chance to discuss the specific compliance issue and put it right before action is taken.

Following up contact with businesses to avoid repeat problems

West Yorkshire Trading Standards and Kirklees Council have adopted a practice of offering follow up visits after any formal action resulting from compliance failures. The aim is to offer advice and education on how businesses can ensure that they do not repeat the infringement.

<http://www.westyorks.trading-standards.org.uk/downloads/enforcement%20policy%202002.pdf>

Helpfulness

The Enforcement Concordat states:

“We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice /information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.”

- 40 Applying the policy of Helpfulness essentially means providing information to businesses on what they need to do to comply with regulatory requirements. The best enforcement services are therefore responsive, open, polite, helpful and provide persuasive evidence that in enforcement matters prevention is better than cure (this does not of course prejudice their ability to take formal action against those that break the law).
- 41 Helpfulness can take the form of provision of information and advice and providing a regularised form of contact between enforcement bodies and the business community.

PROVISION OF INFORMATION ON REGULATORY REQUIREMENTS

- 42 A key aspect of helpfulness is the provision of clear information on regulatory requirements by enforcement bodies. This can entail creating an advice function within (or alongside) an enforcement body to work in tandem with the formal enforcement function, or at the simplest level it can entail publishing guides for local businesses to assist them in meeting regulatory requirements. This should
 - help to enhance the image of enforcers with business (as providing assistance as well as pursuing rule-breakers), and
 - raise awareness of regulation among businesses which should mean that less time will be spent on explaining basic requirements.
- 43 The dissemination of information can take the form of publishing guidance notes on legislation, written in clear accessible language (technical material should be written with the layman in mind), and drawn up in consultation with key members of the business community so as to cover the key areas of concern for business. All guidance or information

should be available in a range of media, print (leaflets, newsletters), telephone (to request leaflets etc) and electronic (websites). This allows business and the general public to get a range of information on regulations that may affect them at their leisure and without the need to come into formal contact with an enforcement body.

Plain English Information Packs

- *Aberdeenshire Council are launching a 'Business Information Pack' as part of their 'Business Friendly Initiative' that will guide businesses through regulatory requirements and provide points of contact for Council Services. The pack has plain language advice and information on most of the major regulatory services and will be expanded to cover all Local Authority regulatory activities. Initially published in hard copy Aberdeenshire Council are exploring ways of publishing it electronically (via website or possibly CD-ROM).*
<http://www.aberdeenshire.gov.uk/web/business.nsf/html/57EPH2?OpenDocument>
- *East Hertfordshire DC Environmental Health Unit have developed a 'Guide to Law & Practice' to help local businesses meet their legal obligations, its ring-bound format allows for easy updating (cost £5,000 for 750 sent to SMEs).*
http://www.eastherts.gov.uk/business/regulations/regulations_and_your_business.htm
- *Winchester City Council have produced a simple guide for local businesses on Health & Safety at Work.*
http://www.winchester.gov.uk/enviro_health/health&safety/index.shtml

Face-to-face advice and consultancy

- *Creating a separate regulatory advice function can also have good results. Kirklees Business Partnership has enjoyed great success with its Regulatory Advice Team which provides advice, training and consultancy services on regulatory issues to small and medium sized businesses (in particular they offer 2 hours free consultation to any business to assist with regulatory compliance, mainly Health & Safety and Food Safety). Their telephone hotline also provides a one-stop-shop for advice from a range of enforcement bodies.* <http://www.kbp.org.uk/>
- *Stockton-on-Tees Borough Council has followed a similar path to that of Kirklees by setting up a Food and Environmental Business Advice Unit which complements enforcement activity by providing*

training and advice to businesses to help them meet their obligations and become more competitive. <http://www.feau.co.uk/>

- The Small Business Service provides a consultancy service to government departments on communicating regulatory requirements to a small business audience, and has compiled a database of small business owners, managers and administrators willing to participate in relevant consultations. In addition to this, the [How to Get the Message Across](#) booklet was re-issued in March 2003, this provides help to government departments in producing their guidance for small businesses. A copy of this can be ordered from <http://www.dti.gov.uk/publications/> or by calling the DTI Publications order line on: 020 7215 6024 and quoting reference URN 03/662.

Using technology for smart compliance

- The Environment Agency has set up a website that provides sectorally targeted information to businesses about their legal obligations (NetRegs at: <http://www.environment-agency.gov.uk/netregs/>)
- Norfolk County Council has set up a similar website, Superuk.com, which allows businesses to access and query information on all regulations enforced by Local authorities, <http://www.superuk.com>
- HSE provides rapid access to its wealth of health and safety information, and access to expert advice and guidance via Infoline. Infoline is HSE's public enquiry contact centre, which takes enquiries by telephone, e-mail, minicom, fax and letter. Enquiries can be sent via HSE's website at www.hse.gov.uk (click on 'contact us'). All callers can remain anonymous, which makes the service accessible to everyone. Infoline receives 280,000 contacts a year, of which 90% are answered at first point of contact. The service was awarded Cabinet Office Beacon Status for Customer Relationship Management in late 2001.
- In order to reduce routine user-enforcer interface time (thus cutting costs and allowing staff to focus on key tasks) enforcement bodies could have downloadable forms on their website (or send regular users forms on floppy disks), include 'fees calculators' on websites, and publish e-newsletters.
- For lengthy or ongoing compliance procedures enforcers could consider providing a single point of contact for users/businesses. For example the Building Control section of the London Borough

of Newham has put in place a dedicated 'checking officer' to deal with all building control applications.

<http://www.newham.gov.uk/environment/buildingcontrol/index.htm>

- In a joint venture, the Health and Safety Executive (HSE) and the local authorities Health Liason Committee launched the Incident Contact Centre (ICC) in April 2001. This is a user-friendly way for businesses in England, Scotland and Wales to meet their statutory obligation to report specified kinds of health and safety incidents. Businesses can now telephone their reports in to a single contact point - without having to fill in a form or identify the enforcing authority. They can also report via a website (www.riddor.gov.uk) using an interactive form, or by e-mail or fax as well as by post. The ICC helps businesses during the reporting process and can direct them to HSE's Infoline or HSE staff for more information. The ICC provides businesses with a simple, fast, effective and integrated reporting service - reducing paperwork and giving businesses greater choice when reporting.#

<http://www.hse.gov.uk>

Assisting Compliance with dedicated teams

Inland Revenue's Right Track Teams (RTTs) embody the Policy of Helpfulness by always encouraging and managing compliance. Their primary role is to make contact with people who appear to be operating in the hidden or informal economy as 'ghosts' or 'moonlighters'. RTTs are then tasked with bringing these individuals into the formal economy, overseeing their registration with Inland Revenue and ensuring they pay their tax and NICs on time for at least two years or return cycles, through pro-actively assisting them to file their returns on time. During 2001/02 34,864 'ghosts' and 'moonlighters' were registered and all of those who continue in business will receive follow up customer service contacts during the following two return cycles.

Upon discovery i.e. once the RTT officer has established liability, through letter, phone calls and if required meetings (at the customer's convenience), all co-operative customers are allocated to a Customer Manager (CM) to support them within the Customer Assistance Programme. At this stage a tax record is created, all applicable returns are issued. A letter is issued to the customer to introduce their CM and outline the CM's role. During the two-cycle period the CM will liase with the customer or their nominated agent and provide guidance on the return process ensuring their customers understand all applicable deadlines and the

consequences of non-compliance, whilst dealing with any basic enquiries that might arise. If required and appropriate the CM will also suggest and arrange help from IR Business Support Teams and IR Enquiry Centres etc.

Inland Revenue's Business Support Teams (BSTs) also provide help and assistance with compliance to small businesses. They offer national support to new/small businesses and employers in view of the Government's recognition of the significant burdens these sectors had to cope with. Although their primary responsibility is to new/small businesses and employers, the BSTs will however provide education to all types of business and employers on specific new Government initiatives such as tax credits. The BSTs provide free help to customers through specially trained Business Advisors in two main ways:

- one to one consultations, usually at the business premises but also at any location convenient to the customer. The BSTs will also, if asked, check that the customer's record keeping systems or payroll processes are adequate.
- half day workshops covering a range of subjects relating to payroll or business tax matters

<http://www.inlandrevenue.gov.uk>

Improving the flow of information

A Best Value review undertaken by Taunton Deane Borough Council revealed that many small businesses in its area felt that Health and Safety communication was not always clear. This was reinforced by the Council finding that its inspectors were having to spend a lot of time either dealing with businesses that had no idea what an inspection entails, or chasing up businesses that had not taken action, or had taken insufficient action following inspections.

As a result Taunton Deane Council now attaches to the advance notification of inspection letter an information sheet that details what the inspector will expect to find, and gives guidance on how to find Health and Safety information. There are separate versions for micro-businesses and branches of larger companies. With the inspection report businesses are also given an information sheet on what they are expected to do with the report and a pro-forma action plan. All documents are in plain English.

<http://www.tauntondeane.gov.uk>

ENGAGEMENT WITH BUSINESS

- 44 Forms of regularised engagement between enforcers and the business community (for example through Local Business Partnerships) can be beneficial in fostering an atmosphere of trust and good working relationships between enforcers and business – in particular they can help to overcome/dispel any perception by business that enforcement bodies are unnecessarily prescriptive or adversarial. Businesses are often reluctant to ask enforcement bodies for advice for fear of admitting that they do not know how to comply with the law (and so opening themselves up to possible enforcement action). Regularised contact can therefore help to encourage dialogue both between enforcers and business and between different enforcement bodies (through regular newsletters, seminars, open meetings, advice sessions etc), and to develop mechanisms that can help business to understand and to comply with their legal obligations.

Using partnerships to improve business-enforcer relationships

- *Basingstoke and Deane Borough Council, Hampshire County Council, Fire and Rescue Services and the Police have set up a Local Business Partnership to enable businesses and regulators within the Basingstoke and Deane area to work closer together. The Local Business Partnership is about creating a new relationship between businesses and the regulators. Its aims are to:*

- cut out any red tape when applying regulations to business

- encourage better two-way communication between the local business community and the regulators make it easier for the business community to comply with regulations, by ensuring they are given clear information and good user-friendly advice

- help to improve mutual understanding of needs

- make it easier for businesses to comply with regulations, by helping them understand their responsibilities under the legislation

- develop clear standards of service that businesses can expect from the regulators

- provide a mechanism to receive early notification of forthcoming new legislation, and therefore, enable you to assess the likely impact of these upon your business

- ensure fair competition for all local businesses, whatever the size of the company

- help regulators target enforcement on those flouting the law.

<http://www.basingstoke.gov.uk/business/localbusinesspartnership.asp>

- A business partnership was also set up in Cardiff in response to local businesses' desire that the Cardiff Trading Standards Service should actively help business by being available for informal discussions of the problems faced by business – thereby resolving issues without the need for formal action.
<http://www.cbp.org.uk/content/frames.htm>
- Barnsley Local Business Partnership has had great success with its 'Business Alive' all day events that provide businesses with a chance to get up to date information on regulatory issues.
<http://www.barnsley.gov.uk/business/lbpartnerships/background.asp>
- The Government's and the Health & Safety Commission's 'Revitalising Health and Safety Strategy' recognises that to continue improving health and safety in Great Britain, the Health and Safety Executive (HSE) needs to work together with businesses and others to prevent and control risks to employees, the self-employed and members of the public.

The strategy is built upon key themes, one of which emphasises the need for 'partnership on health and safety issues'. This includes cooperation between public sector bodies, companies of all sizes, trade unions, professional and standards setting bodies, designers, manufacturers and suppliers. HSE encourages, helps set up and becomes part of these relationships.

A prime example of this is HSE's work to help and encourage industry sectors and companies in setting their own health and safety performance targets. Certain sectors have achieved notable improvements. Employers, trades unions and HSE working together through the Health and Safety Commission's Paper and Board Industry Advisory Committee have achieved welcome progress in reducing injuries and deaths in the paper industry.

Through this joint initiative, fatal and major accidents reduced by 30% overall in the 3 years 1998 to 2001. Those firms who have really involved their employees in all aspects of health and safety have achieved reductions of more than 50%. A further challenging 3-year target has been agreed. A number of other sectors have also set their own targets, including: construction, electrical, the food and drink industry, textiles, mining and quarries.

- HSE's Offshore Safety Division (OSD) has achieved success in helping prevent harm through promoting partnerships and sharing

targets with the offshore industry under the Revitalising Health and Safety Strategy. A programme to reduce hydrocarbon leaks was developed with the industry through trade associations and set challenging targets. This initiative has assisted the industry achieve a 16% reduction in major and significant releases compared to April 2000. <http://www.hse.gov.uk>

- 45 Targeted or business-specific contact is also a useful method of reaching out to businesses and communicating to them the benefits of compliance.

Regular Contact with Stakeholders

Crewe and Nantwich Borough Council set up a Landlords Forum which meets every 3 months and allows landlords to seek information on issues of concern to them, and allows the Council to disseminate information.

<http://www.crewe-nantwich.gov.uk/>

Creating a higher profile for initiatives to improve awareness

HM Customs and Excise Business Liaison Team have set up the 'Building Bridges to Small Businesses' initiative to draw together advice from government offices and provide the answers that small businesses need to their VAT and customs questions. The Business Liaison Team markets the initiative through open days which demonstrate the service it provides.

<http://www.hmce.gov.uk/business/>

- 46 Accreditation schemes for business can also be a possible way forward for enforcement bodies to regularly engage with businesses and facilitate compliance with regulation. Well run accreditation schemes can contribute to improved levels of compliance and bring benefits to consumers in the form of product quality and safety. Successful examples of accreditation schemes include:

Endorsing best practice by business

- *The East Riding of Yorkshire Council's Housing Standards Team has introduced a Private Rented Sector Accreditation Scheme to encourage good practice and high standards from private landlords.*

untary scheme initiated by the Council in partnership with private sector landlords and managing agents, but involving also Building Control and Planning sections, the Humberside Fire

and Rescue Service, Humberside Police, the North Yorkshire and East Riding Energy Efficiency Advice Centre, Smart Moves, Housing Benefit, Housing Services and the Yorkshire Coast Landlords Association and Trading Standards.

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Highly Commended. Following accreditation a landlord/agent will be invited to apply for the Commended award. Highly Commended is usually awarded on recommendation.

working group, with landlords, agents, officers and a tenant. Findings from a tenant satisfaction survey were also used to shape the scheme. As tenants expressed particular concern about the costs of heating, security and fire safety, these elements were incorporated into the commended standard within the scheme. The Private Rented Sector Accreditation Scheme is an excellent example of what can be achieved by consultation and by the involvement of service users.

<http://www.eastriding.gov.uk/>

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- The London Borough of Enfield has developed the Enfield Responsible Motor Trader scheme with the aim to introduce an initiative that benefits both traders and consumers by raising the standard of trading within the motor trade sector.*

scheme with a recognisable logo to advertise scheme members who abide by a code of practice in the selling and servicing of cars. To have a complaints process for the parties to resolve disputes and an arbitration scheme to give final settlement. It achieves benefits to the traders of a positive public image having in house training and quality checks externally audited. Finally it achieves benefits to the local authority of improved relationships with car traders and improved standards within the car trade.

<http://www.enfield.gov.uk/resmotor.htm>

- Trade Partnership scheme aims to ensure greater customer satisfaction and a reduction in the number of complaints received by West Yorkshire Trading Standards. Members of the scheme demonstrate a commitment to be fair, safe, and honest in their dealings with their customers*

<http://www.ts.wyjs.org.uk/mtpindex.htm>

CO-ORDINATE WITH OTHER ENFORCEMENT BODIES

- 47 Making linkages with other enforcement bodies can greatly help in providing a coordinated service in specific areas.

One-Stop-Compliance-Shop

- *The Driver and Vehicle Licensing Agency and HM Customs & Excise have teamed up to provide a one-stop-shop for personal importers of new vehicles from the EC which enables them to make a prior customs declaration so that they can license and register their vehicle on arrival in the UK (previously users were having to wait some weeks for the issue of customs forms for the registration and licensing of new vehicles purchased in Europe). http://www.dvla.gov.uk/faq/faq_imports_exports.htm*
- *The DTI's Small Business Service (SBS) has worked with other Departments and Agencies to produce an accessible and straightforward guide to save new businesses time and money in getting to grips with regulatory requirements. The result is the first single reference source of government requirements and support for those thinking of or about to set up a new business in the UK. The No-nonsense Guide was published in March and is available in hard copy and electronically through www.businesslink.org and other business intermediaries.*
- *The SBS has also produced a series of summary guides to regulation in poster form, that provide information on a range of areas that are of interest to new businesses and cover some topics not touched upon in the No-nonsense Guide. Topics covered in this series are: Setting up in Business, Employing Staff, Health and Safety, Sale of Goods, Insolvency and Business Succession.*

Complaints about Service

The Enforcement Concordat states:

“We will provide well-publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.”

- 48 Gathering feedback on the services they provide is a vital task for enforcement bodies. Positive feedback serves to reinforce good practice, whilst comments from business and others can help to refine and improve enforcement activity. Negative feedback in the form of complaints is no less valuable, it can provide useful information for enforcers when they periodically review the quality of their services.
- 49 Listening to and acting on feedback, whether positive or negative, is also a good way of putting the policies of Openness and Helpfulness into practice - it shows that an enforcement body is open to the views of business, learns from its mistakes and is continually trying to improve its service.
- 50 Therefore handling feedback properly is an important part of good enforcement practice. Business should be fully informed not only of what to expect from an enforcement body/officer but also how they can submit praise, comments or complaints about the service they receive. However, recent reports have indicated that handling complaints is a potential area of weakness for some enforcement bodies, below are some key points to consider that can contribute to an effective complaints procedure:

ACCESS TO THE COMPLAINTS PROCEDURE

- Encourage complaints and compliments by advertising procedures and making them easy to use. For example include a leaflet outlining the complaints procedure and standards of service (which also allows recipients to make comments on the service they receive) with all correspondence. Details of complaints procedures can also be published on websites, which could also allow for complaints to be submitted over the web.
- Tell users about service standards and how to complain if they are not met.
- Make it clear that complaints and comments are welcomed and will be used to assess and improve enforcement activity. For example make available on a website information on how

complaints have been handled in the past, what went wrong and what was done to put matter right.

- Be aware of users who have special difficulties, for example, those with a reading disability or whose first language is not English.
- Carry out surveys to check that complaints systems really are easy to use.

HANDLING COMPLAINTS

- Encourage front-line staff to 'own' complaints.
- Have clear written procedures that focus on sorting out complaints quickly.
- Consult staff and users when drawing up and revising complaints procedures.
- Make sure that the procedures are fair to staff and users, and that information is treated as confidential.
- Recognise the importance of good communication skills when recruiting and training staff who handle complaints.
- Make sure that all staff, especially those who have most contact with users, know your policy and receive training.
- Draw up a menu of remedies and making sure that staff and users understand the options, including the role of any ombudsman.
- Provide support to staff, and get senior managers' commitment to handling complaints properly.

RESULTS

- Record all complaints and analyse them to understand users' views and the improvements they want. It is important that an evidence base of complaints is built up to inform decisions about enforcement activity.
- Publish information at least once a year on: the number and type of complaints; how quickly they were dealt with; users' satisfaction; and actions taken as a result.
- Pass information from complaints to policy makers.
- Take advantage of new information technology, including putting complaints procedures on the Internet.
- Have complaints reviewed by someone not responsible for the person or service complained about.

51 More information on effective complaints procedures can be found on the Cabinet Office 'Better Public Services' website at:
<http://www.servicefirst.gov.uk/1998/complaint/b5summ.htm>

Using a complaints/comments database: efficient for enforcers and customers

Kirklees Metropolitan Borough Council's Housing Service has designed its own system, called ACE, which records, monitors and reports on approvals, complaints and enquiries. ACE can be used with the service's existing software. Many of the system's features are a result of: past guidance on good practice; general issues that affect society and local authorities (for example, nuisance and harassment); and consultations with front-line staff.

Customers' views are also taken into account. For example, the system produces an automatic acknowledgement to a written complaint or query. However staff found that people making oral complaints or enquiries preferred just to be told their ACE reference number. This saves the council a lot of money on postage.

Customer relationships and the image of the service have improved because customers can discuss problems with any housing officer in any location. Officers can check the history of the complaint, who dealt with it, and any action taken. This means that customers do not have to repeat their story to different members of staff.

The system has been running since July 1996, and is so successful that Kirklees Housing Services have sold it to the company who provided their original software. The company has since sold the system to other organisations

<http://www.kirklees.gov.uk/you-kmc/complaints/complaints.shtml>

Joined-up complaints process

The Blackpool District of the Benefits Agency has introduced its own local Customer Complaints Policy to achieve uniformity across the district and ensure all users are treated fairly. The document is designed to achieve uniformity when staff receive either a complaint or a compliment and includes Service Level Agreements between each command manager and the Customer Service Manager agreeing targets for all types of complaints including MP enquiries. The policy document also gives all staff guidance on procedure, desk aids to follow, aides memoirs, and is envisaged to ensure higher levels of performance than the national procedures in productivity and speed of clearance. All complaints are handled in the same way thus ensuring fair treatment for all customers.

The procedure is considered to make the complaints policy more relevant for staff and certainly gets attention from staff because it is

recognised as locally produced to meet their needs and those of their users.

Monthly surveys are issued to customers who have submitted a complaint and have received a written response to ascertain if they felt the complaint was fully answered the reply was clear and also if they were happy with the length of time taken to deal with the complaint.

<http://www.blackpool.gov.uk/>

User-friendly complaints and feedback systems

The Environmental Health and Licensing Services Division of Cheltenham Borough Council has developed a user-friendly complaints process, which is available electronically to make it open and accessible to all.

Cheltenham Borough Council is committed to providing high quality services that meet the needs of users. To ensure that it is able to do this it seeks to identify what people think of services so that it can constantly review and improve them. The Environmental Health and Licensing Services part of the Council web site makes very clear that the service welcomes complaints as an opportunity to put matters right.

In addition to clear information on how to complain, comment or compliment the service, the web site includes details of service levels the users have a right to expect and reports on complaints that have been handled in the past, what went wrong, and what was done to put matters right.

<http://www.cheltenham.gov.uk/>

Proportionality

The Enforcement Concordat states:

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet

their legal obligations without unnecessary expense, where practicable.”

- 52 The aim of the Enforcement Concordat is to encourage enforcement bodies to adopt principles of good enforcement that will facilitate and improve compliance with regulation. Included in these principles is the recognition that enforcement action should be proportionate. In some instances the circumstances of an infringement and the enforcement body’s own policy will mean that a prosecution is a disproportionate form of action to deal with the matter.
- 53 Nevertheless nothing in the Enforcement Concordat or this document should be interpreted as a valid justification for interference with the proper application of the provisions of PACE and any codes made under it. Indeed PACE and its codes of practice provide important safeguards for the public by providing guidelines for the police and those charged with the duty of investigating offences on how they should carry out their investigations.
- 54 Proportionality in enforcement action should ensure that formal enforcement proceedings are targeted on those whose activities give rise to the most serious risks, or where potential hazards are least well controlled. By extension proportionality also means that regulatory compliance in lower risk business activities should be encouraged by applying the policies of openness and helpfulness that are outlined above.
- 55 Therefore action should be proportionate to the seriousness and persistence of the breach and should be the minimum action necessary to secure future compliance. The net result of proportionality should be that enforcers help business and others to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against businesses that flout the law or act irresponsibly.
- 56 Examples of proportionate enforcement are given below:

PUBLISH PROSECUTION GUIDELINES

Explaining the Code for Crown Prosecutors

Northamptonshire County Council, like many enforcers, has published on its website the criteria it will apply in deciding whether or not to prosecute. These are based on the Home Office guidelines (the ‘Code for Crown Prosecutors’) that detail a two stage decision-making process involving an evidential and a public interest test. The final decision on the outcome of an infringement is always made in the light of all the circumstances, and even if the evidence warrants a prosecution, the public interest test allows for discretion not to proceed automatically with a prosecution.

<http://www.tradingstandards.gov.uk/northants/about.htm#pros>

TARGET HIGHER RISK BUSINESS ACTIVITIES

Priority-planning for low-risk activities

The Health and Safety Executive/Local Authority Liaison Committee (HELA) has introduced a priority-planning regime for health & safety enforcement which recommends the approach of engaging those involved in low-risk business activities by means other than the traditional method of inspection.

“Complaints-led Enforcement Policy”

West Yorkshire Trading Standards Service has adopted a ‘complaints led’ enforcement policy, under which enforcement activity will be focused on those traders who are the subject of a large number of complaints. This will free up resources to pursue the complementary goal of promoting compliance through advice and assistance.

<http://www.westyorks.trading-standards.org.uk/downloads/enforcement%20policy%202002.pdf>

Sectorally-targeted risk assessment

Inland Revenue have set up a ‘Small Business Initiative’. Between April and July 2002, just under 17000 letters were issued by Inland Revenue Area Offices around the country to self employed people whose 2000-01 tax returns indicated potential tax at risk. The letters aimed to help these individuals improve their compliance profile on the 2001-02 return, by including guidance on how to avoid some frequent errors in completing tax returns; by making an offer of help with the 2001-02 return; and by mentioning Inland Revenue’s enquiry strategy.

Why were letters sent to this group of customers?

Around 44% of the Inland Revenue’s self-employed Income Tax Self Assessment customers declare a turnover of less than £15000 and are eligible to submit three line accounts i.e. gross profit less expenses = net profit. 20% of this number (about 616,000 people) do not employ an agent to prepare their returns. Inland Revenue have discovered from recent research that this group sends us the

highest proportion of poorly completed returns (50%, as compared with 19% from those who employ a qualified agent).

For this group Inland Revenue decided that it makes sense to use their risk assessment information, identifying 'risky' cases (not the very high risk cases that we want to take up for enquiry) to increase compliance coverage over a large group of customers. A pro-active contact, accompanied by an offer of help if the customer wants it, which results in better voluntary compliance by even modest amounts across a large group, is a good use of scarce resource. It means that Inland Revenue can concentrate their regulatory effort on serious cases.

<http://www.inlandrevenue.gov.uk/budget2001/revce1.htm>

Identifying Problem Traders

The London Borough of Camden has implemented a 'Problem Trader' scheme, whereby any business which is subject to eight or more justified consumer enquiries in a rolling year, is visited by a consumer advisor and a trading standards officer, in order to discuss any underlying problems and to remind the business of their obligations under the civil and criminal consumer law that the Trading Standards Team enforces.

<http://www.camden.gov.uk>

Consistency

The Enforcement Concordat states:

“We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Local Authority National Type Approval Confederation (LANTAC).”

- 57 It is important to ensure, and to demonstrate, that enforcement activities are consistent both within a single enforcement body and between enforcers regionally and nationally. Whilst consistency of approach does not mean uniformity, it does mean taking a similar approach in similar circumstances to achieve similar ends. Those being regulated should reasonably expect a consistent approach from enforcing authorities in the advice they give.

LIASON BETWEEN ENFORCEMENT BODIES

- 58 A particularly effective way of achieving consistency is through inter-enforcement body benchmarking and liason agreements whereby a group of enforcers undertake to regularly assess their performance relative to each other, and to ensure that they deal with large national businesses in a consistent way.
- 59 Benchmarking is a highly visible way of assuring the business community that enforcement is consistent, and a valuable way for enforcers to monitor and assess their own performance. Whilst ensuring that enforcement bodies liase in dealing with businesses will encourage efficiency, promote uniformity, reduce duplication and assist business in complying with the law (the Trading Standards Home Authority Principle is a good example of how this liaison can work in practice).

Providing a single point of contact for large national businesses and the enforcers that deal with them

The Trading Standards Home Authority Principle is designed to encourage efficiency, promote uniformity, reduce duplication and assist enterprises to comply with the law. The main aim of the Principle is to prevent infringements by offering advice at source and by encouraging enforcement authorities and enterprises to work in liaison with a particular authority called the ‘home authority’ in order to retain high standards of protection whilst minimising duplication and public expenditure. A similar scheme operates in the area of

Health and Safety regulation, the *Lead Authority Partnership Scheme*.

Asda Stores Ltd has developed an advanced form of Home Authority relationship with West Yorkshire Trading Standards, a Home Authority Partnership. All relevant compliance systems and procedures are discussed with West Yorkshire Trading Standards before implementation. The company has an open book policy with West Yorkshire with any documentation held by the business being available for inspection and any information required willingly provided. Monthly meetings are held to discuss issues raised either by the company or other Trading Standards Authorities.

As part of the partnership at least 600 managers from the business both from stores and central functions have attended a full day training course with West Yorkshire Trading Standards followed by an examination and issue of certificates to successful candidates.

As part of its diligence system each Asda store nation wide is subject to regular review three times per year by officers from West Yorkshire Joint Services. These visits include a review of compliance documentation, training and awareness and basic shop floor standards. Following each review a de brief takes place with the store management and action plans are produced if deficiencies are found. Management reports are prepared for the Asda management team, regional management and specialist functions.

Whilst the above approach doesn't in any way preclude the taking of enforcement action where this might be necessary it appears a far more effective use of resource in engaging management and colleagues within the business to understand, own and apply relevant controls

(see <http://www.lacors.gov.uk> for more information on the Trading Standards Home Authority Principle and Health and Safety Lead Authority Partnership Scheme)

Joined-up benchmarking

The North of England Benchmarking Group brings together Trading Standards officers from Cumbria County Council, Durham County Council, Lancashire County Council, Northumberland County Council, North Yorkshire County Council, and West Yorkshire Trading Standards Service.

The Core Cities group brings together Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield.

Sector-specific business liaison

The Kent Food Liason Group provides a forum for the food enforcement representatives of the 13 borough councils in Kent to meet regularly to discuss enforcement issues and share good practice. It has developed and published codes for business regulation that will be used by enforcers in Kent. It also provides a co-ordinated way of engaging with food businesses in Kent through a business partnership which is made up of a network of food business consultees.

<http://www.kent.gov.uk>

Co-ordination between enforcers for regional consistency

The four district councils in Suffolk (including Waveney District Council's Environmental Services department) have worked together to produce a code for business regulation that sets out the approach that enforcers will use across the county.

Sharing information and experience

*The **Quality Networks scheme**. Quality Networks are locally run by groups of people from all areas and levels of public service (national and local) which aim to: share information on developments in best practice; compare progress in areas of common interest; build partnerships between public service organisations; encourage problem sharing and solving.*

There are 24 Quality Networks throughout the UK, with over 2,000 members from across the public sector. Networks are not intended to replace existing contacts, but to give enforcers and other public servants the opportunity to expand the knowledge and expertise available to their organisation.

The greatest potential benefit of joining a Local Network will be the opportunity to meet other enforcers to discuss quality of service issues. Most public service organisations have similar problems to overcome. By pooling experience and facilitating partnerships between enforcers Quality Networks can help find solutions to

common problems, and perhaps avoid reinventing the wheel. They also provide an opportunity to benchmark performance against that of others.

*The **Public Sector Benchmarking Service** provides a web-based resource that enforcement bodies can use to disseminate and gather information on best practice in enforcement. See <http://members.benchmarking.gov.uk> for more information.*

*The **Office of Fair Trading (OFT) Consumer Regulations Website (CRW)**. This is an example of enforcers assisting other enforcers with the aim of contributing to good enforcement. This should help Trading Standards and other qualified entities to be proportional and consistent in their action.*

The CRW allows enforcers to share information about cases they are working on. Initially this applies to Stop Now work. The website has been developed using Invest to Save funding and a dedicated project team has worked with a pilot group of enforcers to ensure the site is as effective as possible. Good lines of communication have been set up by members of the project team travelling around the country to demonstrate the site. The project is being rolled out to all enforcers at the end of January and training is now being carried out in regional locations.

The CRW will cut down on duplicated effort, should make contact with businesses more targeted and enforcement action more consistent. The financial input by enforcers is in human resources but there is not financial drain on resources. A spin off of this project is the creation of better working relationships between OFT and the other enforcers.

<http://www.crw.gov.uk/>

EXTERNAL AUDITING

- 60 Another option for ensuring the quality and consistency of enforcement activity is for enforcers to submit to external auditing by business representatives.

Improving services through evaluation from business groups

Barnsley Council has had a very positive experience of being audited against the Enforcement Concordat by representatives from the Barnsley Business Partnership. The auditors noted a marked improvement between their first and second audits and praised the attitude of the Council's services, which it said were 'more than willing to take on criticism and showed a strong willingness to improve their services'.

INTERNAL PROCESSES

- 61 Enforcement bodies could;
- build good enforcement practice (i.e. facilitating compliance, targeting formal proceedings) into corporate/organisational business plans, and use the EFQM Excellence Model to measure and review performance;
 - consider producing a 'Good Enforcement Practice' briefing pack for enforcement officers
 - consider applying for a Charter Mark to demonstrate the excellence of their enforcement activities.

Using an 'Enforcement Management Model'

As part of the Health & Safety Executive's (HSE) quality assurance policy HSE has set out how it manages enforcement in line with the Health and Safety Commission 'Enforcement Policy Statement' (EPS) and therefore the Enforcement Concordat. As part of this process, an Enforcement Management Model (EMM) has been developed to help ensure proportionate and consistent decisions.

The EMM provides inspectors with a step by step decision-making process, which guides inspectors in exercising their professional judgement. It is written for inspectors but may assist others (e.g. employers) in their understanding of the principles inspectors follow when deciding on a particular course of action. The EMM together with the procedure for its application ensures that the principles, criteria and practices required by the EPS are adhered to. The EMM shows how enforcement action is related to the seriousness of risks, which have been created, and the extent of failure to comply with what the law requires.

The EMM allows managers to review the decision making process and their inspectors enforcement actions to ensure the purpose and expectations of the EPS have been met. It also helps experienced inspectors assess their decisions in complex cases, allow peer review of enforcement action and be used to guide less experienced and trainee inspectors in making enforcement decisions.

The EMM is being applied to HSE and Local Authority health and safety enforcement decisions. The EMM has been extensively trialled to ensure that it is fit for purpose and is now publicly available on HSE's website at <http://www.hse.gov.uk/enforce/emm.pdf>

What Enforcement Bodies can expect from Business

- 62 The Enforcement Concordat's Principles of Good Enforcement are aimed at making regulatory compliance easier by fostering a partnership approach to enforcement (this does not, however, detract from or limit the duty of enforcers to apply the law and take formal action, including prosecution, when necessary). This approach brings benefits for business in the form of a better relationship with enforcers, easier compliance and a level playing field for law-abiding businesses; and significant benefits for enforcers in the form of higher compliance levels, which frees resources to tackle businesses that break the law.
- 63 In order for the Enforcement Concordat's partnership approach to regulatory compliance to be effective, businesses should actively enter into constructive working relationships with enforcement bodies. This essentially means businesses themselves applying the Policy of Openness. So for example Local Authorities can expect that:
- businesses will be proactive in seeking advice about regulatory compliance from enforcement bodies, and try to take every opportunity to participate in initiatives/projects/schemes set up by enforcers to encourage regulatory compliance. Enforcement bodies cannot compel businesses to seek advice. Businesses should not wait for enforcers to contact them but should take the initiative and make contact as early as possible.
 - a business seeking advice from an enforcement body should be willing to disclose relevant details of their operating procedures and if necessary to supply supporting evidence.
- 64 By working with enforcement bodies that apply the principles of good enforcement businesses will benefit from constructive working relationships that will enable them to get regulatory compliance right first time and not have to go through the costly process of correcting mistakes.

Adoption and Implementation

65 Many central and local enforcement bodies have already signed up to, adopted and implemented the Enforcement Concordat. In the case of those who have not yet gone through this process the following section offers a good practice guide to the adoption and implementation of the Enforcement Concordat, in terms of:

- What is entailed once an enforcement body has agreed to adopt?
- Setting the adoption process in motion
 - determining lead responsibility
 - ensuring the involvement of all regulatory functions
 - reviewing existing enforcement policies
 - consulting with business
 - working with other regulators
 - drawing up an implementation plan

What is entailed once an enforcement body has agreed to adopt?

66 By formally adopting (or 'signing up' to) the Enforcement Concordat, an enforcement body is demonstrating a commitment to the principles set out in the Enforcement Concordat and a commitment to work towards achieving the required standards.

67 A majority of Local Authorities in England and Wales, enforcement agencies and Government Departments have already signed up to the Enforcement Concordat. Those who have not adopted the Concordat and wish to do so should send formal notification of adoption to the Small Business Service (SBS).

Setting the Adoption Process in Motion

DETERMINING LEAD RESPONSIBILITY

- 68 Senior management has a key role to play in getting the whole process off the ground. They should study the Enforcement Concordat document and accept its Principles of good enforcement as a basis for corporate adoption. They should work jointly to promote the commitment to adopt the Enforcement Concordat and to demonstrate the good enforcement culture that should underpin the enforcement body's regulatory approach.
- 69 A decision needs to be taken at an early stage by the senior management of the enforcement body as to who will assume lead responsibility for the adoption process and for taking the project through to completion. It is suggested that this should be a senior manager, a Strategic Director, for example, with some corporate responsibilities, working with the managers of the enforcement body's regulatory functions.

ENSURING THE INVOLVEMENT OF ALL REGULATORY FUNCTIONS

- 70 It is essential that the adoption of the Enforcement Concordat should be an *inclusive* exercise and that *all* an enforcement body's regulatory functions are consulted from the outset. The enforcement body's lead officer should convene a senior managers' meeting of all relevant service departments. This should take the form of an adoption / implementation Enforcement Concordat Working Group; each department should appoint a lead officer of senior manager status to serve on this Working Group.

REVIEWING EXISTING ENFORCEMENT POLICIES

- 71 An enforcement body is not required to provide evidence that it has all necessary policies and procedures in place before it can signal support for (adopt) the Enforcement Concordat Principles. It is recognised however, that some enforcement bodies will prefer to proceed on this basis. If this is the case, then the Working Group should now begin to review the enforcement policies of all regulatory departments- and to develop a corporate 'core' policy document for use across the enforcement body. If necessary, according to the circumstances / client groups of each service, and as agreed within the Working Group, this core document should be supplemented by policies for individual services. The core policy document should be comprehensive and should aim to be as helpful as possible to any regulated business. Supplementary policies should make reference to commitments to national co-ordination and consistency mechanisms (e.g. for Local Authorities, LACORS, LANTAC, the Home Authority Principle and the Lead Authority Partnership Scheme).

- 72 However, adoption of the Enforcement Concordat, at its most basic level, simply demonstrates a commitment to implementing the Enforcement Concordat Principles. Therefore if the enforcement body prefers at this stage to give a commitment to undertake this work following formal adoption, then the drafting of the core policy document and supplementaries needs to be undertaken at the implementation stage of the process (see below).

CONSULTING WITH BUSINESS

- 73 When the draft core enforcement policy document and draft supplementaries have been prepared, the lead officer and the Working Group should arrange to consult, communicate and meet with business and other representatives, mirroring those initially consulted by senior management. 'Business' can be interpreted in the widest sense as those affected by regulation. Suggestions arising from such consultation should be openly considered and incorporated, or reasons given if not. The enforcement body should consider working with, for example, Chambers of Commerce, trade associations, the Federation of Small Businesses, local Business Centres and Forums, the British Retail Consortium, the Confederation of British Industry, town centre management initiatives, the National Farmers Union, local tourist boards, the Building Employers' Federation and others from the local area, as appropriate.

WORKING WITH OTHER REGULATORS

- 74 Consideration should be given to liaison with local representatives of other enforcement bodies. At this stage, this will aid the 'joining up' of regulatory services operating within the local community.

DRAWING UP AN IMPLEMENTATION PLAN

- 75 Once formal adoption has been agreed, an enforcement body should draw up an Implementation Plan. This exercise will effectively define the co-ordinated corporate mechanism for the delivery of the Enforcement Concordat Principles. If no work has been undertaken at the adoption stage to draw up a core enforcement policy document and any relevant supplementaries, and to consult with business and others on the policies proposed (see paragraphs 61-64 above), then this work should be included in the Implementation Plan. Working to produce the Plan should help to clarify what action needs to be taken by the relevant areas of the enforcement body to enable the Enforcement Concordat principles to be delivered effectively. For example, one service area may already have an enforcement policy in place for certain functions but not for others; another service may never have looked at bringing in such policies. In all cases, policies will need to be developed and circulated to all relevant parties for comment and a timetable drawn up specifying target dates for completion. Thus the Implementation Plan should set out:

- what enforcement functions are covered
 - what changes will be made in order to fulfil the policies and procedures of the Enforcement Concordat
 - how, and when, these changes will be achieved and
 - how the authority will monitor performance against the Enforcement Concordat Principles in the future.
- 76 To ensure continuity work on the Implementation Plan should, as far as possible, be carried out under the aegis of the enforcement body's lead officer and the adoption/implementation Working Group.

Monitoring

- 77 It is important that enforcement bodies should monitor their performance in applying the principles of good enforcement to their enforcement activities. It is only through some form of monitoring that they can assess the impact of the Enforcement Concordat on their day-to-day work.
- 78 The need for monitoring of voluntary compliance with the Enforcement Concordat is emphasised by the Regulatory Reform Act 2001. By establishing a reserve power for Ministers to set out a binding code of good practice in enforcement, the Regulatory Reform Act 2001 provides assurance to business, the voluntary sector and others that unjustifiably over-zealous or inflexible enforcement is not acceptable.
- 79 This chapter suggests some ways for enforcement bodies to monitor their performance through internal processes, and offers specific suggestions for local authority and central government enforcers.

Monitoring through internal processes

CONTINUOUS ASSESSMENT

- 80 Enforcement bodies should develop a process of continuous assessment of how they are applying the Enforcement Concordat's Principles of Good Enforcement. The assessment process that is chosen should suit the individual enforcement body, for example sharing and learning from the experiences of other enforcers can be extremely beneficial. Enforcement bodies should be committed to transparency throughout. The process could follow any one of the four methods set out below, or could be a combination of all or some:
- 81 self-assessment by enforcement function lead officers, or inter-function assessments, or by a corporate officer with a cross-function Enforcement Concordat responsibility
- 82 inter-enforcement body assessment by arrangement with at least two other enforcement bodies
- 83 for Local Authorities monitoring by a LGA / LACORS appointed assessment team of local authority supported volunteer Enforcement Concordat officers or by other assessment arrangements that might be set up by the LGA and LACORS
- 84 business monitoring involving a third-party assessment process led by a business team appointed through suitable local mechanisms. This might be especially useful where a Local Business Partnership is in operation.

MEASURING PERFORMANCE

- 85 Enforcement bodies should seek to develop a suite of Performance Indicators through internal and external discussions (for example one might be the number of complaints from business in the context of regulatory activity levels). These will provide a basis for the objective measurement of implementation and improvement.

CONTINUOUS CONSULTATION

- 86 To ensure that the transparency and value of assessment is maintained the Enforcement Concordat could be the subject of periodic consultation processes with business, and internally with enforcement officers. Client Panels, focus groups or questionnaires might be vehicles for this.

RECOMMENDING AND REVIEWING IMPROVEMENTS

- 87 The assessment and audit process should encourage and result in recommendations for improvement, across the enforcement body or for local authorities within individual regulatory service areas. It is important that any recommendations are implemented and a review procedure is in place to ensure implementation.

CO-ORDINATING THE MONITORING PROCESS

- 88 A lead officer could co-ordinate the process of continuous monitoring and assessment by an enforcement body. This officer should have the appropriate corporate authority to manage the assessment procedures and continuous improvement processes.

Monitoring for Local Authority enforcers

- 89 Enforcement Bodies are already involved in much monitoring activity. Where possible, arrangements for monitoring the Enforcement Concordat should work with existing arrangements, where this is not possible they should not impose significant extra burdens on enforcers.
- 90 One option for Local Authorities is to extend the scope of Best Value Performance Indicator 166 to cover all regulatory services.

Cons

Do you agree that developing the existing BV166 would be an appropriate way of monitoring the performance of Local Authorities against the Enfor

Monitoring for Central Government enforcers

- 91 The goal is not to set up new and expensive monitoring structures. Using existing structures and reporting annually on performance could be one way of assessing successful application of the Enforcement Concordat.

Consultation Question 2:

How do you propose to monitor compliance with the Enforcement Concordat?

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Review of the *Good Practice Guide*

92 The *Good Practice Guide* will be subject to continuous review and further enhanced and expanded as might be most helpful to local authorities.

Consultation Question 4:

What other issues would you like to see covered in an Enforcement Concordat Good Practice Guide for England and Wales?

Consultation Question 5:

Is anything unclear in this document?

Consultation Question 6:

Is there anything that you do not agree with in this document?

Text of the Enforcement Concordat

The Principles of Good Enforcement: Policy and Procedures

- 93 This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.
- 94 The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.
- 95 The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice, and safety.
- 96 We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term “enforcement” are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

Principles of Good Enforcement: Policy

STANDARDS

- 97 In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

OPENNESS

- 98 We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

HELPFULNESS

- 99 We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice /information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

COMPLAINTS ABOUT SERVICE

- 100 We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

PROPORTIONALITY

- 101 We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.
- 102 We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

CONSISTENCY

- 103 We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Coordinators of Regulatory Services (LACORS) and the Local Authority National Type Approval Confederation (LANTAC).

Principles of Good Enforcement: Procedures

- 104 Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.
- 105 Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).
- 106 Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.
- 107 Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

March 1998

How to respond

Please use the form below to respond (feel free to continue on extra sheets if necessary). Respond by: 28 May 2003

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual consultation responses. This will extend to your comments unless you inform us that you wish them to remain confidential.

Please tick if you want us to keep your response confidential

Name _____

Organisation (if applicable) _____

Address _____

Return completed forms to:

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SW1H 0ET

Telephone: **020 7215 6572**

Fax: **020 7215 5435**

email: simon.walker@dti.gsi.gov.uk

We should be grateful if you could tick one box below to indicate which option best describes you as a respondent:

<input type="checkbox"/>	Small to Medium Enterprise
<input type="checkbox"/>	Big Business
<input type="checkbox"/>	Business Representative body
<input type="checkbox"/>	Local Government Representative body
<input type="checkbox"/>	Local Authority
<input type="checkbox"/>	Government agency/NDPB
<input type="checkbox"/>	Central Government

Question 1 (paragraph 90 above)

Do you agree that developing the existing Best Value Performance Indicator 166 would be an appropriate way of monitoring the performance of Local Authorities against the Enforcement Concordat?

Yes

No

Not sure

Comments:

Question 2 (paragraph 91 above)

How do you propose to monitor your compliance with the Enforcement Concordat?

Comments:

Question 3 (paragraph 92 above)

Do you agree that there is a need for an annual report on compliance with the Enforcement Concordat?

Yes

No

Not sure

Comments:

Question 4 (paragraph 92 above)

What other issues would you like to see covered in an 'Enforcement Concordat: Good Practice Guide for England and Wales'?

Comments:

Question 5 (paragraph 92 above)

Is there anything unclear in this document?

Yes

No

Not sure

Comments:

Question 6 (paragraph 92 above)

Is there anything that you do not agree with in this document?

Yes

No

Not sure

Comments:

Question 5

On a scale of 1 to 5, 5 being the highest, grade your overall approval of the 'Enforcement Concordat: Good Practice Guide for England and Wales'.

- Right issues covered
- Range of case studies wide enough
- Case studies well chosen

5	4	3		1

Comments:

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have. Comments on the layout of this consultation document would also be welcomed.

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you tick the box below.

Please acknowledge this reply

Here at the Department for Trade and Industry we carry out our research on many different topics and consultations. As your views are valuable to us, would it be acceptable for us to contact you again in the future, either for research or to send you consultation documents?

Yes **No**

Additional copies and contact details

If you would like hard copies of this consultation document in either English or Welsh please contact:

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Plans for making results public

- 108 A Government response to the consultation will be published on the DTI website in early June 2003.
- 109 Subject to consultation responses it is planned to launch the *Enforcement Concordat: Good Practice Guide* through regional road shows in mid-June 2003.

Code of Practice on Written Consultation

- 110 All UK national public consultations are required to conform to the following standards:
- 111 Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left at each stage.
- 112 It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
- 113 A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
- 114 Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
- 115 Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
- 116 Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.
- 117 Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

Comments or Complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please contact:

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