

The Better Regulation Commission – Passing the Baton

In June last year, the Prime Minister asked the Better Regulation Commission (BRC) to carry out further work on how policy-making can benefit from a fuller and more rounded consideration of public risk, building on our "Risk, Responsibility and Regulation – Whose risk is it anyway?" report, published in October 2006. In response, the BRC has published its proposals in the recent report "Public Risk – The Next Frontier for Better Regulation", the key elements of which have been accepted by the Prime Minister.

Public risk and regulation are closely linked. Legislation is often introduced in an effort to protect citizens from harm and disadvantage. But because of a disproportionate attitude to risk and a pressure to act we find that regulation can be disproportionate, burdensome and ineffective, and can lead to damaging unintended consequences.

A lot of initiatives and processes have been put in place to embed the Principles of Good Regulation in regulation and its enforcement, following recommendations in the "Less is More" and Hampton reports. These are achieving results but it is apparent that more needs to be done to tackle the root cause of poor regulation – poorly handled public risk and the culture of policy-making.

We have devised an ambitious model to tackle this, which will involve several challenging work-streams. A Risk and Regulation Advisory Council (RRAC) will be established to oversee this programme and advise the Prime Minister and the Secretary of State for Business, Enterprise and Regulatory Reform.

This new body will replace the BRC. There is a clear need for a neutral body to lead this work, and given the change in focus, it is only right that the BRC hands over the reins to a new body with new objectives and greater expertise in risk.

The BRC has made an invaluable contribution to the better regulation agenda. Above all, our first risk report identified the direction the agenda now needs to follow. The creation of the RRAC and the end of the BRC is a natural progression and signals the opening of a different chapter in better regulation.

The processes and structures already in place should, under the leadership of the Better Regulation Executive, ensure the better regulation agenda maintains momentum, with the RRAC providing independent scrutiny further upstream in the policy-making process and the impetus for embedding the necessary culture-change. The BRC has achieved a lot but the time is right for an independent body to take a new perspective.

BRC Achievements

The BRC was formed in January 2006, taking over the challenge role previously carried out by the Better Regulation Task Force (BRTF) while vetting government plans for simplification and administrative burden reduction. Made up of unpaid volunteers from business, the public and voluntary sectors, trade unions, the professions and academia, it provided independent expert advice and challenge to government and regulators on all

aspects of regulation and its implementation and enforcement. Highlights of its work include:

Risk, Responsibility and Regulation – Whose risk is it anyway?

The first major report of the BRC was published in October 2006. The report examines the UK's disproportionate attitude to risk and the effect this has on the way risk is managed. The report found an over-reliance on government to manage all risks, at the cost of eroded personal responsibility. The report explores the reasons and consequences of this, and made several recommendations to help foster a new approach to risk management.

The report was extremely well received and the message was backed by the government. The BRC continued the debate, delivering several speeches at key seminars, conferences and events. It has laid the path for the recent report on public risk and the proposals for establishing the RRAC.

Regulating to mitigate climate change – a response to the Stern Review

In February 2007 the BRC published its review of the regulatory aspects of the Stern report, expressing concern that hasty and inappropriate action might be taken. The Commission set out seven basic but essential challenges to guide climate change policy-makers, and successfully pushed for their adoption by government:

- Ensure climate policy is consistent with a healthy UK economy
- Government must develop and act consistently with a climate change strategy; avoiding piecemeal announcements
- Test policy against a carbon price benchmark
- Carbon policy choices must be efficient; don't do things twice
- Keep administrative costs to a minimum
- Do not use climate change as a justification for other policy goals
- If it isn't working, change it

Implementation of the Licensing Act 2003

In April 2006 the BRC reported on the implementation of the Licensing Act 2003, following representations from licensees that the promised savings and reductions in bureaucracy had failed to materialise. The government accepted several recommendations to lighten the regulatory burden on licensees and improve the licensing regime. Other recommendations are intended to help the government implement future large-scale reforms.

Overview of simplification plans

The BRC published opinions on all 19 departmental simplification plans on 11 December 2006. It asked the following four questions of each plan:

- Is it credible with stakeholders?
- Is it properly quantified?
- Is it ambitious, imaginative and aggressive?
- Will it be delivered?

The BRC found variation in the quality of plans but concluded that progress was ahead of expectations, with measures identified to reduce the overall administrative burden by £2 billion.

Spotlight on Better Regulation

The BRC published a series of short papers in 2007, highlighting good and bad practice in particular areas of legislation and made recommendations for improvement in these areas. The issues covered were:

- The regulation of bio-diesel
- Government standards for school food
- Energy performance certificates and residential property sales
- Government procurement and SMEs

Reducing administrative burdens in the European Union

In 2007 the BRC published two joint papers with the Dutch Advisory Board on Administrative Burdens (Actal) and the Nationaler Normenkontrollrat of Germany, supporting the European Commission's "Action Programme for Reducing Administrative Burdens in the European Union" and commenting on progress. The three bodies welcomed the European Commission's Action Programme, and identified six priorities to build on this body of work and help ensure that EU administrative burdens are kept to a minimum.

The future

The RRAC will lead the programme on Public Risk, under the following terms of reference:

The Risk and Regulation Advisory Council is a new advisory group, charged by the Prime Minister with:

- *Working with Ministers and senior civil servants to develop a better understanding of public risk, and how best to respond to it, through a series of workshops which consider both good and poor practice*
- *Working with external stakeholders to help foster a more considered approach to public risk and policy making*

Ministers may also seek advice on particular issues from time to time

This is a natural evolution. The BRC fulfilled a crucial role but there are other bodies which can continue to drive better regulation forward while the RRAC examines policy-making further upstream. However, now that the BRC has ceased to operate, there are three key factors the government should keep under review.

Internal challenge

It is only right that the Better Regulation Executive continues to lead the UK's better regulation agenda. It has evolved alongside the BRTF and BRC and has made an important contribution to the progress in better regulation over the last couple of years. The Prime Minister must continue to support the

Executive, and ensure the pressure to make regulation better is felt across Whitehall.

European better regulation

The European Commission has made considerable progress with its better regulation agenda and has set itself an ambitious programme of reform. The BRC had a close working relationship with equivalent bodies in the Netherlands and Germany, and was a trusted voice on European Union (EU) regulatory matters, acting as a critical friend to the European Commission. We recommend the UK government ensures these ties are maintained and progress continues.

Scrutiny of performance

In response to the BRTF's "Less is More" report, the government has committed to reducing administrative burdens by 25% by 2010 and for each department to publish an annual simplification plan, outlining their progress against their targets. This transparent process allows any interested bodies to monitor whether the government achieves its objectives, and the National Audit Office (NAO) will continue its invaluable work in assessing the impact of this administrative burden reduction programme. However, given that each simplification plan will no longer be subject to close scrutiny by the BRC, departments may be tempted to take their foot off the gas and quietly lower their ambition. The Executive and NAO must keep up the pressure to ensure this does not happen.

The BRC would like to thank everybody who has been involved in its work and helped it shape the regulatory landscape. Through talking to our stakeholders it is clear that the time is right for a neutral voice to switch its focus to public risk, if we are to see further long-term improvements in policy-making and regulation. The RRAC has a challenging yet important role – we wish it every success.