Government Response
Extending the Range of Regulations Covered by Primary Authority

April 2013
Executive summary

1. Primary Authority assists businesses in complying with regulation enforced by local authorities. It enables them to receive advice which is assured so that they can rely on it, and allows for the coordination of proactive inspection activity across local authority areas. Making Primary Authority widely available to businesses is one means of delivering the Government’s commitment to end the ‘culture of tick box regulation’\(^1\). By ensuring regulation is consistently applied across local authority boundaries, Primary Authority helps reduce the burden of regulation on businesses, enabling them to invest and grow.

2. The consultation, *Extending the Range of Regulations Covered by Primary Authority*, published in December 2012, sought views on implementing the extension of Primary Authority to include the age-restricted sale of gambling. Additionally, Government consulted on whether to include the following within Primary Authority:
   - the Housing Health and Safety Rating System;
   - sunbed tanning; and
   - Welsh regulations on carrier bag charging.

3. We received 62 responses to the consultation from a variety of organisations. Response rates differed for the areas of extension considered. The following provides a summary of these responses:
   - Business stakeholders were supportive of proposals concerning how Primary Authority will function for the age-restricted sale of gambling, as were some local authority respondents. Some local authorities queried the impact of including the legislation, while others sought clarity on whether it would cover licensing.
   - Some respondents were in favour of including the Housing Health and Safety Rating System, but the majority raised objections to its inclusion. Many of these were local authority regulators, although some agreed with the proposal. A proportion of those who were against its inclusion were opposed to Primary Authority overall, while some were unclear as to how the scheme functions. Landlord associations welcomed the proposal.
   - The majority of respondents agreed with the inclusion of sunbed tanning regulations, with comments that Primary Authority would provide welcome clarity for businesses and local authorities. Many respondents from Wales believed that Primary Authority would address problems with the implementation of different regulation in England and Wales and improve consistency of advice. Several respondents queried how the scheme would operate for Welsh specific legislation. Some of those who objected to including this legislation did so on the grounds that the extension was unnecessary, but all businesses and some local authorities felt that it would increase consistency.
   - A majority of respondents agreed with the inclusion of Welsh regulations on single use carrier bag charging. Some respondents stated that there was little need for Primary Authority to cover the regulations, but many Welsh respondents felt it would increase clarity on the requirements.

\(^1\)http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf
4. Each respondent’s comments have been given careful consideration, and in preparing this response, the Government has reflected on any concerns articulated. Overall, there was support for extending Primary Authority as proposed, with clear demand from businesses, and positive responses from a number of local authorities. The key queries and objections raised by respondents are answered in this response.

5. It is the Government’s view that Primary Authority provides an effective and beneficial tool in reducing regulatory burdens and ensuring consistent compliance. We feel that the scheme should be made available to as many businesses, and to cover as many regulations, as possible. None of the arguments raised during the current consultation against the inclusion of these particular regulations has been found to undermine this objective. Some responses highlighted the need for clear guidance on implementation of the extensions, and this will be addressed by the Better Regulation Delivery Office (BRDO).

6. Therefore, the Government will proceed as described with extending Primary Authority to the age-restricted sale of gambling. Furthermore the Government will, subject to consent from Welsh Government, bring forward legislation to include within Primary Authority:

- the Housing Health and Safety Rating System;
- sunbed tanning; and
- Welsh regulations on single use carrier bag charging.
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Introduction

1.1 Primary Authority was designed to increase consistency in the delivery of regulation. It does this by providing a statutory framework for a business to form a partnership with a local authority in order to receive support in relation to a range of regulations. Primary Authority is established under the Regulatory Enforcement and Sanctions Act 2008 (as amended) and has been in operation since 2009.

1.2 A primary authority can support its partner business in complying with regulations in several ways, including by issuing assured advice, coordinating any enforcement action, and developing an inspection plan.

1.3 Assured advice can be issued to give a business certainty on complying with its regulatory obligations. Once a primary authority has provided assured advice, other local authorities cannot insist that an alternative approach is used in their area.

1.4 Where a local authority proposes to take enforcement action against a business which has a primary authority partnership, it must initially notify the primary authority. The primary authority then assesses whether the action is consistent with the assured advice which has been issued to the business. The primary authority also coordinates activity where multiple enforcement actions are proposed against a business. For instance, where an unsafe product is sold in several authority areas, the primary authority can act to resolve the issue directly, without the need for each individual local authority to take action against the business.

1.5 Partnerships can work together to create an inspection plan which agrees the priorities for proactive inspection of the business. It is important to note that inspection plans can only cover proactive inspection, and do not affect the ability of enforcing authorities to inspect reactively, for instance as a result of complaints. Inspection plans can provide information about policies the business has in place to ensure compliance, or focus on particular areas of weakness for a business. This reduces duplication of effort, both on the part of local authorities and the business. As information from inspections is fed back to the primary authority by the enforcing authority, this allows a more coherent picture of the business, and better targeting of inspection.

1.6 Primary Authority enables both businesses and regulators to achieve cost reductions and increase efficiency. Businesses report that primary authority partnerships reduce the burden of regulatory compliance, saving staff time and costs. They have confidence and certainty as a result of Primary Authority Advice, meaning they can plan investment in compliance and manage their risk while generating growth.

1.7 Through partnership working, Primary Authority fosters a collaborative approach to achieving compliance. As a primary authority's costs for providing enhanced support can be recovered from the business, it helps local authorities to target scarce resources where they are needed most, such as in dealing with rogue traders. Additionally, Primary Authority saves local authorities time and reduces duplication through coordination and increased information sharing.
1.8 The Government Response to the Consultation on Transforming Regulatory Enforcement, published in December 2011, committed to extending Primary Authority in three ways:

- strengthening inspection plans to deliver earned recognition for business;
- allowing more organisations to participate in order to enable small businesses to benefit from it; and
- including specific policy areas within the scheme, which are currently outside of its scope.

1.9 The first two of these extensions are being undertaken through the Enterprise and Regulatory Reform Bill, which is undergoing the final stages of the Parliamentary process. Primary Authority is currently available to businesses which operate in more than one local authority area. Provisions in the Enterprise and Regulatory Reform Bill will extend the eligibility criteria so that businesses operating in one local authority area can join when they share an approach to compliance with other businesses and, between them, all those businesses are regulated by more than one local authority. The Bill will also strengthen inspection plans.

1.10 The consultation Extending the Range of Regulations Covered by Primary Authority concerned the third of the above commitments. It sought views on implementing the extension of Primary Authority to include the age-restricted sale of gambling. Additionally it consulted on further extending the scheme to include:

- the Housing Health and Safety Rating System;
- sunbed tanning; and
- Welsh regulations on single use carrier bag charging.

1.11 The consultation took place between the 13th December 2012 and 24th January 2013. It asked for comments on how Primary Authority will function for the age-restricted sale of gambling. It also asked respondents to indicate whether they agreed with the inclusion of the additional areas of regulation, and asked them to explain their answer and provide evidence for it.

1.12 The Government received 62 responses through the consultation’s online survey and individual submissions. The respondents represented a wide range of interested parties, including businesses and their representatives, local authorities and individual local authority regulators, professional bodies, trade associations and individuals. There were few responses from consumer organisations and charities. A list of respondents is available in Annex B. The following sections (2-7) provide a summary and analysis of responses to the individual proposals and the Government’s response to them.

1.13 The Primary Authority scheme applies in its entirety across England and Wales, so the inclusion of the regulations consulted upon would be applicable in both countries, with the exception of those relating to Welsh regulations on single use carrier bag charging and some sunbed tanning requirements that are Wales-only.

In Scotland and Northern Ireland, Primary Authority only applies in relation to reserved and non-transferred matters. All of these policy areas are matters which have been transferred to the Northern Ireland Executive, so the current extensions will not affect how Primary Authority operates in Northern Ireland.

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In Scotland, gambling is a reserved matter. However, Scottish local authorities do not have the function of enforcing the age-restricted sale of gambling. Consequently, Primary Authority will not be available for the age-restricted sale of gambling in Scotland. All the other policy areas are matters which are devolved to Scottish Government, and so the current extensions will not affect how Primary Authority operates in Scotland.

The consultation raised two operational queries regarding how Welsh legislation would be handled within the scheme, and how primary authority partnerships for existing categories would be expanded to bring in new areas of regulation.

1.14 As explained in the consultation document, English local authorities would not be able to form a primary authority partnership that covered Welsh legislation (i.e. legislation which extends only to Wales). This is because the legislation enacting Primary Authority lifts only the local authorities which enforce any given regulation to be a primary authority for that regulation. As no English local authority has the function of enforcing Welsh legislation, an English local authority could not form a primary authority partnership which covered Welsh legislation. If a business wishes to benefit from Primary Authority with respect to Welsh legislation, it must form a partnership with a Welsh local authority. BRDO will create a new Primary Authority category for Welsh legislation. This will mean that a business will be able to form a partnership for the Welsh category, enabling it to access the benefits of Primary Authority for all or some of the Welsh legislation included in the scheme, as it requires. This category may expand as Welsh Government makes further legislation. For example, BRDO is currently working with Welsh Government and Welsh local authorities to explore Primary Authority for the Food Hygiene Rating (Wales) Act 2013, which places a duty on food businesses to display their food hygiene rating.

1.15 Some of the proposed extensions fall within existing Primary Authority categories so partnerships covering such categories may wish to expand them. For instance the Housing Health and Safety Rating System will be included in the Housing category.

It should be noted that the inclusion of new regulations into existing partnerships will not be automatic. If an existing partnership includes the Housing category, and the partnership wishes to include the Housing Health and Safety Rating System, it will be necessary for the partnership to contact BRDO and request that it be added. A shortened nomination process will be necessary to satisfy the requirements under the Regulatory Enforcement and Sanctions Act, and to allow national regulators to comment on the suitability of the authority to act as a primary authority (where applicable). BRDO will work proactively with existing partnerships which wish to expand, and will issue further information on this process in due course.

1.16 The Government has carefully considered the responses received and has developed the proposals further as detailed in this document. We therefore intend to legislate to include within Primary Authority:

- the age-restricted sale of gambling;
- the Housing Health and Safety Rating System;
- sunbed tanning; and
- Welsh regulations on single use carrier bag charging.

2. Age-restricted sale of gambling

2.1. The Government has previously committed\(^4\) to extending Primary Authority to include the age-restricted sale of gambling. The consultation sought views on the implementation of Primary Authority for regulations concerning the age-restricted sale of gambling. Part 4 of the Gambling Act 2005 regulates children and young people’s participation in gambling, entry into gambling premises, and employment in relation to gambling.

Consultation responses

2.2. Sixteen respondents commented on how Primary Authority will function for the age-restricted sale of gambling, including local authority regulators, businesses, individuals, trade associations and professional bodies. Ten of these respondents were positive about the benefits that Primary Authority would bring and welcomed the inclusion of the age-restricted sale of gambling. Two respondents were opposed to the inclusion of gambling in the scheme. The remainder were neutral.

2.3. Business indicated that the inclusion of the age-restricted sale of gambling would bring several benefits, including reduced costs to businesses and local authorities alike. Many indicated that the ability to have their compliance procedures audited and assessed by a primary authority would be the most significant benefit, and that doing so would provide businesses with reassurance and confidence that their procedures were adequate. Respondents explained that Primary Authority would also assist in directing attention towards the highest risks.

2.4. Those respondents opposed to the inclusion of gambling within Primary Authority were concerned that it would add additional bureaucracy for enforcing authorities and could prove too prescriptive. One local authority indicated that the level of test purchasing activity is low, so the inclusion of age-restricted sales in the scheme would have limited impact.

2.5. One respondent noted that small single site businesses face significant regulatory burden but could not share the benefits of Primary Authority, due to the current eligibility criteria restricting access to the scheme to businesses regulated by more than one local authority (such as businesses with multiple premises).

Government response

2.6. Evaluation of Primary Authority indicates that it reduces burdens for businesses and local authorities alike, by minimising duplication at the local authority level and encouraging early dialogue between regulators. Primary Authority does not prevent local authorities from acting in response to complaints or in accordance with local issues. Similarly it does not prescribe the activities that local authorities should undertake.

2.7 In its application to gambling, it is expected that Primary Authority will have the greatest impact in terms of allowing businesses to access assured advice and have their compliance procedures evaluated. It will also allow the primary authority to have a complete view of local authority regulatory activity in relation to its partner business, nationally. The inclusion of gambling in Primary Authority is expected to improve compliance by participating businesses, by providing them with the advice and information they need to achieve compliance, in a cost-effective way.

2.8 The Enterprise and Regulatory Reform Bill provisions, will allow single site businesses to become eligible for the scheme provided certain other eligibility criteria are satisfied. This, in conjunction with the Statutory Instrument to extend Primary Authority, would mean that some single site gambling businesses could participate in the scheme.

2.9 Some local authorities queried whether Primary Authority would extend to the licensing aspects of gambling regulation. To clarify, we will only be extending the scheme so as to cover local authority enforcement of age-restricted sales of gambling regulation. Local authority functions in relation to premises licensing will be unchanged in that these functions will remain outside of the scheme. Similarly the regulatory functions of the police and the Gambling Commission’s operations will remain unaffected by Primary Authority.

5 http://services.parliament.uk/bills/2012-13/enterpriseandregulatoryreform.html
3. Housing Health and Safety Rating System

3.1. The Housing Health and Safety Rating System is established in Part 1 of the Housing Act 2004. It enables local authorities to identify and protect against risks to health and safety in residential premises. The consultation proposed bringing Part 1 of the Housing Act 2004 within Primary Authority. This would allow letting businesses to gain the benefits of Primary Authority with respect to the Housing Health and Safety Rating System (HHSRS). Under the Housing Act 2004, there are several types of individuals and organisations who may be held responsible for standards in rental properties. Depending on the circumstances, this could include landlords, managing agents or freeholders. For the purposes of this Government response, we use the term letting business to indicate anyone who could be subject to enforcement action under HHSRS and who may, therefore, wish to participate in Primary Authority.

Consultation responses

3.2. We received 38 responses to our proposal to add HHSRS to Primary Authority. Positive responses were received from 9 respondents, while 28 respondents disagreed with the proposal. Of those who agreed with the proposal, three responses were from professional/trade bodies for letting businesses, three were from local authority regulators and a further three were from non-housing industry businesses. These professional/trade bodies and local authorities reported that there is a lack of consistency in housing regulation between local authorities and that Primary Authority would help resolve those issues and provide certainty for letting businesses. Professional/trade bodies also commented that where letting businesses are uncertain of how to comply with regulation, they may do nothing. They described the many complaints received from letting businesses about inconsistent advice between local authorities and between different regulators within the same authority. They felt that Primary Authority would provide certainty and consistency around housing standards, and would give letting businesses the confidence to manage and improve their properties. They thought that, as a result, housing standards would improve through Primary Authority.

3.3. Negative responses received were mainly from local authority regulators. 19 of the 22 local authority regulators who responded disagreed with the proposal. The main concern was that the HHSRS applies a risk-based approach, considering each property individually, taking into account factors such as the nature of the occupant and local crime statistics, and that this would not fit within Primary Authority. The second largest objection was that as the majority of landlords only have one or two properties within the same local authority area, they would not be eligible to join Primary Authority.

3.4. Other points/queries raised by fewer respondents included:

a. Much work had already been done in some areas to set agreed standards for letting businesses and implement associated accreditation schemes. Some respondents queried how compatible Primary Authority would be with these existing schemes.

b. Lettings businesses already have an effective appeals mechanism through the Residential Property Tribunal (RPT).

c. There was concern that some letting businesses would select a ‘soft option’ Primary Authority as a way of avoiding proper compliance.
d. Whether a primary authority partnership would be able to overrule the discretion for a regulator over whether or not to enforce Category 2 hazards.

e. Practical considerations as to how Primary Authority would function in blocks of flats (where there could be many landlords with several different Primary Authority arrangements) or where managing agents were involved.

f. Whether inspection plans would be available for HHSRS and how they would work.

g. How the addition of HHSRS to Primary Authority would affect enforcement of House in Multiple Occupation (HMO) regulations.

Government response

3.5. Government acknowledges the uncertainty which was expressed about how Primary Authority for HHSRS would work in practice. We have revisited the proposal in light of responses to the consultation, and the particular complexity of the legislation. We have also held discussions with housing authorities to explore implementation of the extension. As a result, we are confident that the extension would work and we have prepared the following example of how Primary Authority would operate with respect to HHSRS.

Example:

A landlord has properties in multiple local authority areas and is uncertain of how best to fulfil the requirements under the Housing Health and Safety Rating System with respect to security. It forms a primary authority partnership with a local authority and provides information about its housing stock. Following research, the primary authority is able to issue advice setting out an approach to appropriate standards for locks and other security measures for properties in areas with different crime ratings. This advice makes clear the local factors that should be taken into account by the landlord in determining the exact specifications for each property, and provides guidance on these factors.

3.6. Paragraphs [3.8-3.12] give some detailed responses to particular points raised by consultation respondents. Overall, the work which has been done to address issues raised in the consultation has highlighted that Primary Authority for HHSRS presents an opportunity for housing authorities to build on the excellent work which they are doing to protect tenants by raising standards across the private rental sector, and to do so in a sustainable way, through cost recovery. Partnership working is at the heart of Primary Authority, and we have heard how it is through such relationships that local authorities can most effectively support letting businesses in fulfilling their responsibilities.

3.7. Legislating to include HHSRS in Primary Authority provides choice to housing authorities and lettings businesses. A primary authority partnership will be appropriate and valuable in some circumstances, and less so in others. We recognise this and think it is important that environmental health professionals and lettings businesses have the full range of tools available to them in their work to raise standards in privately let properties.
3.8. Turning to the specific points raised by consultation respondents, we have considered the view articulated that the risk and premises based approach of HHSRS makes it unsuitable for Primary Authority. We find this argument unconvincing because Primary Authority is a tool which is designed to be applied to a broad range of regulations and it currently operates well within fields of regulation which are risk and premises based. In the process of forming a partnership and developing advice, the professionals involved will consider what is appropriate for the lettings businesses and premises concerned. That will include dealing with reasonable exceptions for individual circumstances such as local crime data or listed building status. For example, advice can establish a set of policies to be applied locally, depending on the circumstances, rather than a prescription for every individual premise.

3.9. With regards to eligibility to join Primary Authority, some lettings businesses with significant portfolios across two or more local authority areas are already in the market and will be able to benefit from Primary Authority. There is also evidence of larger business entering the housing market, for instance in the provision of student accommodation. However, we agree that currently most lettings businesses are small and often operate within a single local authority area.

3.10. The Enterprise and Regulatory Reform Bill, currently undergoing the final stages of the Parliamentary process, will amend the Regulatory Enforcement and Sanctions Act 2008 to broaden the criteria for participation in Primary Authority as described in paragraphs [1.8-1.9]. This will mean that landlords operating in only one local authority area would be able to participate in Primary Authority in appropriate circumstances through their membership of professional associations. Finding the time, resources and expertise to seek out regulatory advice can be a particular burden for small businesses, including small landlords. The new eligibility criteria introduced by the Enterprise and Regulatory Reform Bill, coupled with extension of Primary Authority to HHSRS, would provide a means of making such landlords more aware of their responsibilities. These landlords would also benefit from access to assured advice and a clearer regulatory process, thus driving up standards and consistency across the private rental sector.

3.11. In response to the other issues raised:

a. Work done by individual local authorities to set up agreed standards and accreditation schemes has improved the regulation experience for many lettings businesses but it is restricted to specific localities. Those local authorities involved will be able to utilise their existing standardisation work to provide assured advice for letting businesses by becoming primary authorities if they wish, or Primary Authority may be offered as part of an accreditation package. As the costs of operating as a primary authority can be recovered, this would also enable such local authorities to extend this work despite scarce resources. Among those local authorities who agreed with the proposal, some commented that Primary Authority would operate well alongside these existing schemes, and welcomed the opportunity to progress their existing standardisation work.

b. Primary authority would not replace the Residential Property Tribunal (RPT) and would not interfere with the ability to bring appeals against enforcement action to the RPT under the Housing Act. However, Primary Authority advice should reduce the need for lettings businesses to make appeals to the RPT, as they will understand their obligations more fully. Also, the scheme will offer an additional resolution mechanism, through which issues could be dealt with more swiftly at an earlier stage, because a business's primary authority will be able to liaise with any enforcing authorities directly.
c. In response to the comment that businesses might select unsuitable or lax primary authorities, this relates to the overall functioning of the scheme. Primary Authority has been designed to remove this possibility. All primary authority partnerships are approved by BRDO, with input from national regulators where appropriate, and factors such as the expertise of an authority are taken into consideration in assessing its suitability to be a primary authority. It would not be in the interest of either party to enter into an unsuitable or lax partnership; for example, the advice provided would be continually challenged by enforcing authorities, and the reputation of the local authority and individual regulators involved would be compromised. In practice, we see that primary authorities put very careful consideration and professional expertise into the partnerships they form and the advice they issue. Businesses with established partnerships report that one of the things they value is robust challenge from their primary authority. In the event of an enforcing authority proposing to take enforcement action and disagreeing with advice issued by a primary authority, it can apply to BRDO for a formal and independent determination on the issue from the Secretary of State. On behalf of the Secretary of State, BRDO can revoke nomination of primary authorities whose performance is unsatisfactory.

d. Primary Authority for HHSRS will not remove the discretion afforded to local authorities as to whether or not to proceed with an enforcement action when a Category 2 hazard is present. Primary Authority advice can only cover whether or not there is a breach of standards. The primary authority cannot compel other local authorities to take enforcement action and inspection plans do not influence the decision between enforcement actions.

e. Part 1 of the Housing Act 2004 and its associated Schedules set out which of various people and organisations involved in the lettings sector can be the subject of enforcement action under different sets of circumstances. As such, and depending on the circumstances, residential landlords, freeholders and managing agents all have responsibilities which they will seek to discharge in order to avoid enforcement under Part 1 of the Housing Act 2004. Each of these people and organisations would be able to set up primary authority partnerships as they see fit, subject to their fulfilling the eligibility criteria.

f. Those primary authorities would need to assess the needs and circumstances of their partner, including how to manage advice regarding properties where others are involved, for example when a landlord contracts to a managing agent to handle repairs. In some cases the responsibilities are likely to be distinct. In other cases, enforcing authorities have discretion regarding who should be held liable for hazards; this would be unaffected by the scheme, and will be one of the many factors which primary authorities will need to have regard to in establishing their partnerships.

g. Where two lettings businesses, such as a landlord and managing agent, each have a primary authority partnership with respect to the same premise, Government would expect the two primary authorities to work together to ensure consistency of advice.
h. The development of an inspection plan is at the discretion of the primary authority, and is subject to approval by BRDO. They can help to target inspection activity where it can have most impact by providing officers with relevant information about the business and its compliance policies, but there are some circumstances where they are not appropriate or would not be of benefit. Inspection plans relate only to routine, proactive inspections. In so far as HHSRS inspections are performed in response to complaints or intelligence, we do not anticipate their take-up to be high in this area of regulation, although they may be of value with regards to proactive inspection undertaken in relation to HMOs. If housing inspection plans were issued, they are likely to be informative and to contribute to an officer’s preparation. All inspection plans are submitted to BRDO for consent, on behalf of the Secretary of State, prior to publication to enforcing authorities.

i. Parts 2-4 of the Housing Act 2004, including provisions for HMO regulation, are already within the scope of Primary Authority. By adding Part 1, Government expects Primary Authority for housing to have a wider appeal and greater function to deliver benefits for letting businesses, tenants and housing authorities.

3.12. In conclusion, the Government is confident that Primary Authority for HHSRS could be of benefit to letting businesses and housing authorities and help to raise standards for tenants in the private rental sector. Responses to the consultation have assisted in policy development, as reflected above. There was a strong indication that some housing authorities are unfamiliar with Primary Authority. BRDO will ensure that training courses and materials are made available to environmental health officers dealing with housing regulation and will work with pathfinder housing authorities to demonstrate more widely how Primary Authority for HHSRS will work in practice.
4. **Sunbed tanning**

4.1 The consultation proposed bringing sunbed tanning regulations within the scope of Primary Authority. The Sunbeds (Regulation) Act 2010 requires businesses in England and Wales to ensure that no person under 18 years old uses, or is offered the use of, a sunbed on their premises. It also includes powers for the Secretary of State in England, and Welsh Ministers in Wales, to make secondary legislation regarding sunbeds. In 2011 Welsh Ministers did this, introducing secondary legislation imposing further restrictions and requirements in Wales in relation to sunbed tanning.

**Consultation responses**

4.2 We received 22 responses relating to sunbed tanning, 13 of which were in favour of including the legislation, while 9 disagreed with the proposal. In addition some respondents provided a comment only. All 3 of the business respondents agreed with the proposal, as did 6 of the 12 local authorities, and 3 of the 4 professional bodies and trade associations.

4.3 A key concern for respondents in both groups was how Primary Authority would function for the additional Welsh regulations. Respondents were concerned that English local authorities would lack the expertise in the Welsh legislation, which would be needed to operate a primary authority partnership. Other responses highlighted that national chains would require different primary authority partnerships for Welsh and English legislation.

4.4 Two respondents questioned the need for, and benefit of, Primary Authority in this area of legislation. Another respondent who objected to the proposals did so on the grounds that most sunbed tanning businesses had single outlets, and so there would be little benefit. Additionally some local authority respondents claimed including the legislation would add bureaucracy.

4.5 Many positive responses focused on the added consistency inclusion would bring. A local authority in Wales noted that there have been a number of inconsistencies in the way national businesses have implemented the Welsh regulations and felt that inclusion would increase consistency in businesses’ understanding and compliance. Additionally respondents felt that the extension would be of benefit in ensuring Welsh regulation was more consistently understood, with a local authority noting that there had been problems with this. A trade association representing sunbed operators commented that businesses would benefit from increased consistency in compliance across local authorities.

**Government response**

4.6 In response to issues raised about how primary authority would function for Welsh legislation, the Government has considered this further, in consultation with Welsh Government officials. As explained in the consultation document, English local authorities would not be able form a primary authority partnership that covered Welsh legislation. As no English local authority has the function of enforcing Welsh sunbed regulations, an English local authority could not form a primary authority partnership which covered these. However, Welsh local authorities would be able to form a primary authority partnership that covered requirements in the Sunbeds Act (Regulations) Act 2010 and the subsequent Welsh regulations made under it.
4.7 In considering the need for primary authority in this area of legislation, the Government has reviewed the breadth of responses from both local authorities and businesses, and their representative groups. There was a clear desire from business for the inclusion of the legislation, and importantly also from half of local authorities. The responses from Welsh local authorities and representative groups suggest that Primary Authority would provide a way of ensuring consistency in compliance by national businesses despite the regional divergence in legislation, and that there is a need for this.
5. **Welsh regulations on single use carrier bag charging**

5.1 The Single Use Carrier Bags Charge (Wales) Regulations 2010 is a Welsh piece of regulation that requires businesses to charge for single use carrier bags supplied to customers in Wales and keep records relating to those charges.

**Consultation responses**

5.2 We received 16 responses on whether Welsh regulations on single use carrier bag charging should be included within Primary Authority, 9 of which were in favour of including the legislation, and 7 of which disagreed with the proposal (including two English local authorities, which would not be involved in the scheme for Welsh regulations on single use carrier bags). In addition some respondents provided a comment only.

5.3 All business respondents agreed with the proposal, as did 3 of the 7 local authority respondents. Professional bodies were split on the issue with one in favour but two not in favour.

5.4 Businesses felt that the inclusion of this regulation within Primary Authority would offer greater consistency and clarity for them, and they believe a common approach to this issue would be advantageous.

5.5 A key concern for local authority respondents was that the low number of complaints regarding this matter may not create a strong enough evidence base to warrant its inclusion within Primary Authority. However, recent correspondence between officials of the Welsh and UK Government suggest that there is concern in Wales about inconsistent advice on requirements under the regulations and a belief that Primary Authority offers a solution.

5.6 Two respondents, who were broadly supportive of its inclusion, pointed out that there would need to be consideration given to ensuring consistency of advice provided from English local authorities to businesses with sites operating in Wales.

**Government response**

5.7 In response to questions about the need for Primary Authority for Welsh regulations on single use carrier bag charging, the Government has considered the contributions from both local authorities and businesses, and their representative groups. There was a clear desire from business for the inclusion of the regulation, and importantly also from more than half of Welsh local authorities.

5.8 As described in paragraph [1.14] English local authorities are not in a position to give advice on regulations they do not enforce. This means that any business, whether based in England or Wales, that wished to benefit from Primary Authority for Welsh regulations on single use carrier bag charging would need to form a partnership with a Welsh local authority.

5.9 Government is confident that Primary Authority in this area will increase clarity for businesses and help ensure that advice on complying with these regulations is consistent.
6. Draft Statutory Instruments and economic analysis

6.1 Responses received concerning the draft Statutory Instruments have been taken into account, and the Statutory Instruments will be published when they are laid before Parliament.

6.2 The consultation sought further information on the costs and savings associated with extending Primary Authority to these areas for enforcing authorities, businesses and primary authorities themselves. Responses to these questions, and information provided in them, were limited, but they have been taken into account in the economic analysis which is provided in the annex to this document.
7. **Next steps**

7.1 Having considered the responses to this consultation the Government will proceed with the necessary secondary legislation to include within Primary Authority:

- the age-restricted sale of gambling;
- the Housing Health and Safety Rating System;
- sunbed tanning; and
- Welsh regulations on single use carrier bag charging.
Annex A – Economic Analysis

1. Overview: Impact of extending Primary Authority partnerships

The extension of Primary Authority to include four additional areas of regulation\(^6\) will impact on businesses and local authorities. New businesses will be enabled and encouraged to establish a Primary Authority partnership and businesses in existing partnerships are likely to expand these to cover the new regulations. Once in a partnership, businesses can benefit from improved and consistent advice from Local Authorities (see section 3.2.1 below) and inspection plans which allow authorities to inspect them in a co-ordinated way\(^7\). In relation to Local Authorities, the impacts will be both on those acting as primary authorities and those who are enforcing regulations on behalf of primary authorities.

To estimate the impact of the additional regulations it is necessary to estimate:

- the number of additional\(^8\) (i.e. new and expanded) Primary Authority partnerships; and
- the costs and benefits associated with each new and expanded Primary Authority partnership.

The regulations overall are estimated to have a net beneficial impact when taking into account impacts on both Local Authorities and business. The analysis below sets out in detail the impacts on business, primary authorities and enforcing authorities and is summarised in Table 1.

This analysis is independent of the proposed changes to eligibility in the Enterprise and Regulatory Reform Bill.

**Table 1 – Summary of net impacts of the new regulations\(^9\)**

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<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
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<td>Total annual net impacts –</td>
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<td>£4,930k</td>
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</tr>
<tr>
<td>Total annual net impacts –</td>
<td>-£695k</td>
<td>-£1,036k</td>
<td>-£866k</td>
</tr>
<tr>
<td>Primary Authorities</td>
<td>£696k</td>
<td>£1,043k</td>
<td>£875k</td>
</tr>
<tr>
<td>Total annual net impacts –</td>
<td>£0.6k</td>
<td>£9k</td>
<td>£7k</td>
</tr>
<tr>
<td>Enforcing Authorities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total annual net impacts –</td>
<td>£4,930k</td>
<td>£7,408k</td>
<td>£6,191k</td>
</tr>
<tr>
<td>Local Authorities</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

\(^6\) Sunbed tanning, the age related sale of gambling, the Housing Health and Safety Rating System and Welsh regulation on single use carrier bag charging.

\(^7\) Businesses have the option to develop an inspection plan with their primary authority that must be given regard to by enforcing authorities. The resulting removal of duplication of resource should deliver savings to both business and enforcement authorities. The inspection plan is prepared to support other local authorities in targeting their local inspection resources in relation to the business.

\(^8\) Additional partnerships include: those which are newly created partnerships with no previous participation in Primary Authority (‘new partnerships’); and those where there is already an existing partnership under a different regulation, which is expanded to cover the new regulation (‘expanded partnerships’).

\(^9\) These are the annual benefits and costs a business or authority can expect each year. These are not discounted and so reflect the savings in the first year (i.e. 2013). A net present value discounting future costs and benefits to business is shown in table 3c.
Overall the annual net impact on Local Authorities is positive. However, the impact on primary authorities is negative. This is because the evidence shows they are currently not fully cost recovering for the cost of developing and maintaining partnerships. The annual net impact on primary authorities would be zero if they fully cost recovered.

Most of the data used for the estimates is provided by RAND Europe from an evaluation of Primary Authority in 2011 \(^{10}\). Other assumptions are based on previous impacts assessments\(^{11}\), consultation responses and the Better Regulation Delivery Office’s (BRDO) knowledge of the scheme\(^{12}\).

2. **Estimating the number of additional Primary Authority partnerships**

To estimate the number of additional Primary Authority partnerships, we need to understand the number of businesses in scope of the relevant regulation and which operate across local authority boundaries. We then need to estimate what the take-up rate will be for these in-scope businesses choosing to participate in partnerships related to the new regulations.

For most of the regulations the number of businesses in-scope is estimated by using data from the Inter-Departmental Business Register, recording those that are likely to be subject to these regulations and operate in multiple local authorities. For Housing Health and Safety estimates are based on data from the Department of Communities and Local Government\(^{13}\) (see table 2 below).

The take-up rate for new partnerships with businesses not currently in a Primary Authority partnership is estimated using data from take-up rates on existing schemes. We estimate that around 30,000\(^{14}\) businesses in the UK operate in sectors in scope of existing regulations and operate across local authority boundaries. These businesses would therefore be eligible for existing Primary Authority partnerships. Currently 674 of these businesses are participating in Primary Authority giving a take-up rate of 2.25\%\(^{15}\). Based on this, we estimate that there will be 293-434 new partnerships (see table 2 below).

We expect that businesses already in a Primary Authority partnership will be highly likely to expand their partnership to include relevant new regulations, given the minimal costs associated with this. We have therefore assumed a take-up rate for this group of 50%-100%, giving an estimate of 2-6\(^{16}\) expanded partnerships (see table 2 below).

---

\(^{10}\) BRDO commissioned RAND Europe to carry out an evaluation of Primary Authority. The full report is available at [http://www.bis.gov.uk/assets/brdo/docs/publications-2011/11-1466-evaluating-pa.pdf](http://www.bis.gov.uk/assets/brdo/docs/publications-2011/11-1466-evaluating-pa.pdf)

\(^{11}\) Impact Assessment on implementing the Primary Authority scheme, March 2009: [http://www.bis.gov.uk/files/file50501.pdf](http://www.bis.gov.uk/files/file50501.pdf)

\(^{12}\) See information on the website: [http://www.bis.gov.uk/brdo/primary-authority](http://www.bis.gov.uk/brdo/primary-authority)

\(^{13}\) The Department for Communities and Local Government estimate that there are 1,464,078 landlords in England which we have uplifted for Welsh landlords to estimate that there are 1,549,288 landlords in England and Wales (based on population ratio). The 2010 Private Landlords Survey found that 33\% of sampled landlords had heard of the Housing Health and Safety Rating System and 22\% owned multiple properties. We do not have any information on how many of these properties are in multiple local authorities. However, assuming that the proportion of landlords that had heard of the Housing Health and Safety Rating System and those that owned multiple properties are independent, and that between 10-15\% of multiple property owners will have a property in multiple local authorities, we can construct a range of between 11,248 and 16,872 landlords that will be eligible for Primary Authority. This methodology was tested during consultation. Respondents questioned the number of landlords operating across local authorities. We have altered the assumption to 10-15\% to reflect this.

\(^{14}\) Inter-Departmental Business Register.

\(^{15}\) As of 15\th February 2013. Take-up rate = (businesses already in PA / businesses operating in multiple local authorities subject to PA regulation) * 100. Data on Primary Authority partnerships is available from the BRDO website.

\(^{16}\) Where there is only 1 business already in the Primary Authority scheme in a particular area, we have rounded down to assumed a range of 0-1. This is why the total is 2-6 rather than 3-6.
Extending the Range of Regulations Covered by Primary Authority

Taking new and expanded partnerships together, we expect 295-440 new or extended partnerships to be established. Our best estimate, taking the mid-point of the range, is that a total of 364 new partnerships and 4 expanded partnerships will be created following these changes.

Table 2 – Estimated number of additional partnerships

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Businesses in-scope</th>
<th>In-scope businesses operating in multiple local authorities</th>
<th>In-scope businesses in existing PA partnerships</th>
<th>Business entering into new PA partnerships</th>
<th>Businesses in existing partnership expanding to cover new regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Health and Safety Rating System</td>
<td>511,265</td>
<td>11,248 - 16,872</td>
<td>0</td>
<td>281 - 422</td>
<td>0</td>
</tr>
<tr>
<td>Single use carrier bag charging</td>
<td>7,596 - 8,123</td>
<td>377 - 388</td>
<td>1</td>
<td>8</td>
<td>0 - 1</td>
</tr>
<tr>
<td>Age restricted sales of gambling</td>
<td>1,140</td>
<td>170</td>
<td>4</td>
<td>3</td>
<td>2 - 4</td>
</tr>
<tr>
<td>Age restricted sales of sunbed tanning</td>
<td>731 - 1,462</td>
<td>15 - 30</td>
<td>1</td>
<td>1</td>
<td>0 - 1</td>
</tr>
<tr>
<td>Total</td>
<td>520,732 - 521,990</td>
<td>11,840 - 17,460</td>
<td>6</td>
<td>293 - 434</td>
<td>2 - 6</td>
</tr>
</tbody>
</table>

3. Impacts on business

The extensions to Primary Authority are permissive in nature as they allow but do not force businesses to participate in a Primary Authority scheme, or to incur costs. Therefore businesses should only engage where it is of benefit to them. The analysis below attempts to quantify the benefits and costs based on experiences from the existing schemes. The assumptions we use in the calculations below are tailored to each regulation area.

3.1 Costs to businesses

To calculate the costs we have calculated the one-off costs businesses will have to face when establishing a partnership and the ongoing annual costs. One-off costs include the cost of setting up the partnership. Ongoing costs include the cost of maintenance and the cost-recovery charges from their primary authority.
3.1.1 One-off costs

Businesses will face start up costs in establishing a Primary Authority partnership. To calculate these costs we have estimated the number of hours spent for new and expanded partnerships. Evidence from the Primary Authority evaluation\textsuperscript{17} suggested that businesses spend 37.68 hours establishing a Primary Authority partnership. This gives a total one-off cost for new and expanded partnerships between £308k and £458k\textsuperscript{18}.

Businesses can also develop inspection plans. Inspection plans allow authorities to inspect businesses in a co-ordinated way and removes duplication of resource therefore delivering savings to both business and enforcement authority. The inspection plan is prepared to support other local authorities in targeting their local inspection resources in relation to the businesses. If businesses choose to develop an inspection plan with their primary authority then they will incur costs in doing so. However currently 3.5% of businesses in Primary Authority have an inspection plan. As a result these account for a very small cost and benefit for both businesses and Local Authorities\textsuperscript{19}.

The Regulatory Enforcement and Sanctions Act enables primary authorities to recover costs incurred from operating Primary Authority for participating businesses (both for setting up partnerships and for inspection plans). Data\textsuperscript{20} shows that 48% of current partnerships recover full costs while 12% do not recover any costs. The remaining 40% recover some costs, which for the purposes of this analysis is assumed to at a rate of 50% based on data from the RAND Europe 2011 evaluation. This adds up to weighted average of 68% cost recovery across all partnerships. We use this assumption in all the cost recovery estimations in the analysis. The total amount transferred by businesses to Primary Authorities is between £163k - £243k (as shown in section 4.2.1 below).

The sum of the cost recovery transfer to business (see section 4.2.1) and the business’s own costs of developing of inspection plans and starting up the primary authority will give a total one off cost to businesses of between £473k and £705k.

3.1.2 Annual costs

Evidence\textsuperscript{21} shows that businesses in existing partnerships spend 2 hours per week maintaining their partnership at an internal cost of £27.85 per hour. This will generate an additional total cost of maintenance between £854k and £1,070k per year\textsuperscript{22}.

Businesses will also face ongoing charges from the recovery of costs by their primary authority. Using the assumption of 68% cost recovery set out above (section 3.1.1) and costs to primary authorities set out in section 4.1.2 below, this will result in an annual cost (sum of maintenance costs and costs of dealing with enforcing authorities) for business between £1,476k and £2,201k\textsuperscript{23}.

\textsuperscript{17} RAND Europe 2011.
\textsuperscript{18} Total costs = (((293-434 new partnerships + 2-6 expanded partnerships) x 37.68 hours) ) x £27.85 (the business labour cost per hour estimated from the ASHE 2010 Survey). Whilst we might expand the costs of expanding a partnership will be lower than 37.68 hours we have no evidence so have cautiously assumed the 37.68 hours will still apply.
\textsuperscript{19} It is assumed that 3.5% of additional partnerships in age-restricted sale of gambling and age-restricted sale of sunbed tanning schemes will feature one. Based on consultation responses, the analysis assumes none of the housing and the Welsh regulation on single use carrier bag charging schemes will feature inspection plans. Evaluation data suggests that businesses spend an average of 20.6 hours on developing an inspection plan. If the uptake of inspection plans is the same as in the current scheme then the costs will be close to zero (i.e. £120 to £181).
\textsuperscript{20} RAND Europe 2011.
\textsuperscript{21} RAND Europe 2011.
\textsuperscript{22} Total cost = number of additional businesses (295-440) x 2 hours per week x labour cost of £27.85 (see above).
\textsuperscript{23} Total cost = 68% x £2,170k-£3,240k that is the (maintenance costs of partnership + EA hours) x hourly charge by Primary Authorities(£42.86).
3.2 Benefits to business

Businesses will gain benefits from being in a Primary Authority partnership. Their savings come from improved consistency of advice that reduces the burden of regulatory enforcement on them and from the development of inspection plans.

3.2.1 Improved consistency of advice

Under the Primary Authority scheme businesses are able to receive assured advice from their primary authority. Enforcing authorities are required to contact primary authorities before commencing enforcement actions against a business in a Primary Authority partnership. This gives primary authorities the opportunity to block proposed enforcement action if it is regarded as inconsistent with assured advice. This reduces costs for business by providing consistent advice which must be respected regardless of geographical boundaries.

The estimate of the benefits of consistent advice is based on the cost of each incident of inconsistent advice and on the number of incidents of inconsistent advice which are projected to be removed. The costs will vary by business size and the nature of the advice. However we have estimated that the average loss from contradictory advice is £10,000\(^{24}\) per incident per business. Data from the Primary Authority evaluation\(^{25}\) suggests that the scheme reduces the average number of conflicting advice incidents by 2.5, from 5.5 to 3 a year per business in a partnership. Whilst we might expect the scheme to reduce the number of incidents to zero, the latest evaluation evidence we have is from an early stage of the scheme. Further evaluation may reveal that the number of incidents under Primary Authority have reduced substantially. However we have taken the cautious approach in using the existing evaluation evidence. In case of the Welsh regulations on single use carrier bag charge we expect the reduction may be smaller at 1-0\(^{26}\). We estimate that the annual benefit to business from improved consistency of advice will be between £7,255k and £10,865k\(^{27}\). There will also be small savings if businesses choose to develop inspection plans\(^{28}\).

Table 3a – Net impacts one-off on business\(^{29}\)

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total one-off costs</td>
<td>£473k</td>
<td>£705k</td>
<td>£590k</td>
</tr>
<tr>
<td>Total one-off benefits</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Total one-off net impact</td>
<td>-£473k</td>
<td>-£705k</td>
<td>-£590k</td>
</tr>
</tbody>
</table>

\(^{24}\) Based on previous impact assessments (see references above).
\(^{25}\) RAND Europe 2011
\(^{26}\) Based on consultation responses.
\(^{27}\) Total benefit = number of additional partnerships (295-440) x number of incidents of inconsistent advice eliminated per partnership (2.5) x assumed average loss from contradictory advice (£10,000). Overall, the total savings for all businesses will be close to zero (i.e. £117 to £175 per year).
\(^{28}\) It is estimated that businesses will realise savings of 20 hours per partnership per year based on BRDO’s knowledge. These are the one off benefits in the first year of starting the partnership. These are not discounted and so effectively assume the businesses start up in 2013.
Extending the Range of Regulations Covered by Primary Authority

Table 3b – Net impacts annual on business\(^{30}\)

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total annual costs</td>
<td>£2,325k</td>
<td>£3,465k</td>
<td>£2,897k</td>
</tr>
<tr>
<td>Total annual benefits</td>
<td>£7,255k</td>
<td>£10,865k</td>
<td>£9,080k</td>
</tr>
<tr>
<td>Total annual net impact</td>
<td>£4,930k</td>
<td>£7,401k</td>
<td>£6,182k</td>
</tr>
</tbody>
</table>

Table 3c – Net impact over 10 years\(^{31}\) for businesses

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£41,959k</td>
<td>£62,996k</td>
<td>£52,625k</td>
</tr>
</tbody>
</table>

4. Impacts on Primary Authorities

4.1 Costs to Primary Authorities

Primary authorities will have one-off costs and ongoing annual costs. One-off costs include the establishment of the partnership and the development of inspection plans. Administrative costs and costs of dealing with enforcing authorities comprise the annual costs.

4.1.1 One-off costs

Evidence suggests that start up costs for Primary Authorities are higher for new partnerships than they are for extended ones. Based on this evidence assume that a primary authority will spend 29.9 hours setting up a new partnership but only 8.6 hours for extended partnerships\(^{32}\). As previously set out in Table 2 we assume that there will be 295-440 additional partnerships. Based on BRDO data we assume that 47% of additional partnerships will be partnerships by new local authorities and 53% will be by local authorities already in the scheme. This gives the estimated costs of between £240k and £358k\(^{33}\).

There will also be one-off costs to Primary Authorities if businesses develop inspection plans\(^{34}\).

4.1.2 Annual costs

Evidence\(^{35}\) has indicated that primary authorities spend an average of about 3 hours per week administering new partnerships and about additional 1.5 hours per week on expanded partnerships. The range around this average is dependent on a number of factors, including size of the business, the scope of the partnership and the nature of support given through the relationship. The estimate gives a range between £1,449k and £2,161k\(^{36}\).

---

\(^{30}\) These are the annual benefits and costs a business can expect each year. These are not discounted and so reflect the savings in the first year (i.e. 2013). A net present value discounting future costs and benefits is shown in table 3c.

\(^{31}\) Based on Net Present Value of costs and benefits over 10 years. This takes into account the one-off costs and benefits and the discounted annual net impact over 10 years. This assumes the first year of starting the partnership is 2013 (i.e. the base year).

\(^{32}\) RAND Europe 2011.

\(^{33}\) Total cost = ((number of hours spent setting up new partnerships (29.9) x total number of new partnerships (293-434)) + (number of hours spent extending partnerships (8.6) x the total number of extended partnerships (2-6))) x £42.86 (the average hourly rate charged by a Primary Authority).

\(^{34}\) These are close to zero (i.e. £102 to £161).

\(^{35}\) RAND Europe 2011.

\(^{36}\) Total cost = ((number of hours spent on maintaining new partnerships (3) x number of new partnerships (293-434)) + (number of hours spent on maintaining expanded partnerships (1.5) x number of expanded partnerships (2-6))) x average hourly rate charged by the Primary Authority (£42.86).
Primary authorities also incur costs from dealing with enforcing authorities. Evidence\textsuperscript{37} suggests that this takes primary authorities about 2 hours per week for new partnerships and additional 0.3 hours per week for expanded ones. This generates a total annual cost of dealing with enforcing authorities of between £722k and £1,076k.\textsuperscript{38}

### 4.2 Benefits to Primary Authorities

As mentioned above, the Regulatory Enforcement and Sanctions Act allows Primary Authorities to recover costs from the business involved. They can charge businesses for all of their incurring costs (total annual costs) which includes both the one-off costs (the establishment of the partnership and the development of inspection plans) and the annual costs (maintenance costs and costs of dealing with the businesses). We use the assumption of 68% cost recovery set out in section 3.1.1.

#### 4.2.1 One-off benefits

For calculating the one-off benefits for Primary Authorities we use the same assumptions of cost recovery as above. By taking the 68% of the total one-off costs (see section 4.1.1) we estimate a one-off transfer from business to Primary Authorities of between £163k and £243k in total.

#### 4.2.2 Annual benefits

Primary Authorities will be able to recover annual costs also. Using the same assumptions for cost recovery as before and section 4.1.2 for the total annual costs, this benefit is estimated to be between £1,477k and £2,202k per annum.

**Table 4a – Net one-off impacts on Primary Authorities**\textsuperscript{39}

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total one-off costs</td>
<td>£240k</td>
<td>£358k</td>
<td>£299k</td>
</tr>
<tr>
<td>Total one-off benefits</td>
<td>£163k</td>
<td>£243k</td>
<td>£203k</td>
</tr>
<tr>
<td>Total one-off net impact</td>
<td>-£77k</td>
<td>-£114k</td>
<td>-£96k</td>
</tr>
</tbody>
</table>

**Table 4b – Net annual impacts on Primary Authorities**\textsuperscript{40}

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total annual costs</td>
<td>£2,171k</td>
<td>£3,327k</td>
<td>£2,707k</td>
</tr>
<tr>
<td>Total annual benefits</td>
<td>£1,477k</td>
<td>£2,202k</td>
<td>£1,841k</td>
</tr>
<tr>
<td>Total annual net impact</td>
<td>-£695k</td>
<td>-£1,036k</td>
<td>-£866k</td>
</tr>
</tbody>
</table>

This negative impact is because primary authorities do not fully cost recover.

\textsuperscript{37} RAND Europe 2011.
\textsuperscript{38} Total cost = ((number of hours spent on dealing with enforcing authorities in relation to new partnerships (2) x number of new partnerships (293-434)) + (number of hours spent on dealing with enforcing authorities in relation to expanded partnerships (0.3) x number of expanded partnerships (2-6))) x average hourly rate charged by the Primary Authority (£42.86).

\textsuperscript{39} Benefits minus costs may not give the net impact due to rounding. These are the one off benefits and costs a Primary Authority can expect in the year the partnership is established. These are not discounted and so assume the partnership starts in 2013.

\textsuperscript{40} These are the annual benefits and costs a primary authority can expect each year. These are not discounted and so reflect the savings in the first year (i.e. 2013).
5. **Impacts on Enforcing Authorities**

Enforcing authorities will have costs from contact with the primary authorities. They have benefits resulting from the reduced burdens by increased efficiency and reduced duplication. They do not have one-off costs as they are not involved in the establishment of partnerships.

5.1 **Costs to Enforcing Authorities**

Costs to enforcing authorities include the costs of notifications to primary authorities and the regular contact with primary authorities to resolve compliance issues.

Annual costs to enforcing authorities will include costs of notifying primary authorities of their enforcement actions. We have assumed 1 notification per partnership per year for the Welsh regulations on single use carrier bag charging, 1.5 notifications for HHSRS and 5 for each of age-restricted sunbed tanning and the age-restricted sale of gambling\(^41\). We have also assumed that enforcing authorities spend 1 hour on each notification for sunbed tanning and the age-restricted sale of gambling and 0.5 hours for HHSRS and Welsh regulations on single use carrier bag charging\(^42\). The total annual costs related to notifications have been estimated from the total hours spent on notifications per partnership (see Table 5a), the total number of partnerships (295-440) and the hourly rate charged by an enforcing authority (£35.27\(^43\)) providing an estimate between £16k and £24k.

**Table 5a – Estimated hours spent on notifications**

<table>
<thead>
<tr>
<th></th>
<th>Number of notifications per partnership</th>
<th>Time spent (hours)</th>
<th>Total time (hours)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing</td>
<td>1.5</td>
<td>0.5</td>
<td>1</td>
</tr>
<tr>
<td>Carrier bag</td>
<td>1</td>
<td>0.5</td>
<td>0.5</td>
</tr>
<tr>
<td>Sunbed</td>
<td>5</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Gambling</td>
<td>5</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

Enforcing authorities have regular contact with Primary Authorities to resolve compliance issues. We have assumed that enforcing authorities spend 1 hour per week per partnership on age-restricted sunbed tanning regulation and the age restricted sale of gambling and 0.5 hour on HHSRS and Welsh regulations on single use carrier bag charging\(^44\) at a cost of between £276k and £412k\(^45\).

5.2 **Benefits to Enforcing Authorities**

We expect that Primary Authority will reduce the burden on enforcing authorities by increasing efficiency and reducing duplication.

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\(^41\) Based on management data from the Primary Authority system and discussions within BRDO. Tested during consultation.

\(^42\) Based on BRDO’s knowledge of how the scheme currently operates. Tested during consultation.

\(^43\) The £35.27 as the hourly rate charged by an enforcing authority is an assumption from a previous impact assessment.

\(^44\) Based on BRDO’s knowledge of how the scheme currently operates. Tested during consultation.

\(^45\) Total cost = number of additional partnerships (295-440) x estimated hours per year per partnership ((52 for sunbeds and gambling & 26 for housing health and safety rating scheme and carrier bags) x 1 hour) x hourly rate charged by an enforcing authority (£35.27).
Extending the Range of Regulations Covered by Primary Authority

It is estimated that for each partnership the enforcing authorities (not just one but the whole community) would save 7 hours per contract. The time savings are not based on all authorities having contact but assumes a proportion will have contact. Therefore out of 200 enforcing authorities an average of 50 contracts per annum are projected for age related sale of gambling and sun bed tanning, giving an annual saving of 350 hours. For the Welsh regulations on single use carrier bag charging where there are fewer authorities involved we have assumed an annual 35 hours saved based on a total of 22 enforcing authorities per partnership. For HHSRS consultation responses indicated there would be fewer enforcing authorities so we have assumed a total of 50 authorities and 91 hours of savings. All of these estimates are based on BRDO’s knowledge of how the scheme currently operates.

The savings from reduced burdens has been estimated using the total hours saved for enforcing authorities by every partnership and hourly rate charged by an enforcing authority, £35.27. It is between £986k to £1,478k per annum.

Enforcing Authorities will also save from reduced duplication when businesses choose to develop inspection plans.

The estimate of total savings is the sum of the total savings from inspection plans and reduced burdens on enforcing authorities. We estimate this to be between £987k and £1,478k.

Table 5b – Net impacts on enforcing authorities

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total annual costs</td>
<td>£292k</td>
<td>£436k</td>
<td>£365k</td>
</tr>
<tr>
<td>Total annual benefits</td>
<td>£988k</td>
<td>£1,479k</td>
<td>£1,241k</td>
</tr>
<tr>
<td>Total annual net impacts</td>
<td>£696k</td>
<td>£1,043k</td>
<td>£875k</td>
</tr>
</tbody>
</table>

6. Total impacts on Local Authorities

These combine the impacts on enforcing authorities and primary authorities to give the total impact on local authorities.

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46 One quarter. Based on BRDO’s knowledge of how the scheme currently operates.
47 Assumes each partnership saves 5 authorities 7 hours (22/4(rounded to 5) x 7), estimate based on BRDO’s knowledge of how the scheme currently operates.
48 The number of enforcing authorities in Wales.
49 Assumes each partnership saves 13 authorities 7 hours. This assumption was made based on BRDO’s knowledge of how the scheme currently operates. Taking into account consultation responses.
50 Total annual benefits for EAs = total hours saved for Enforcing Authorities by every partnership (91 hours for housing, 35 hours for carrier bags and 350 hours for gambling and sunbeds) x hourly rate charged by an EA (£35.27)
51 We have assumed that enforcing authorities will save 2 hours work per year for every inspection plan developed based on BRDO’s knowledge. This will deliver savings to enforcing authorities of between £1.9k and £2.3k per annum.
52 These are the annual benefits and costs an enforcing authority can expect each year. These are not discounted and so reflect the savings in the first year (i.e. 2013).
Extending the Range of Regulations Covered by Primary Authority

Table 6 – Net Impacts on Local Authorities

<table>
<thead>
<tr>
<th></th>
<th>Low Estimate</th>
<th>High Estimate</th>
<th>Best Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total one-off costs</td>
<td>£240k</td>
<td>£358k</td>
<td>£299k</td>
</tr>
<tr>
<td>Total one-off benefits</td>
<td>£163k</td>
<td>£243k</td>
<td>£203k</td>
</tr>
<tr>
<td>Total one-off net impact</td>
<td>-£77k</td>
<td>-£114k</td>
<td>-£96k</td>
</tr>
<tr>
<td>Total annual costs</td>
<td>£2,464k</td>
<td>£3,674k</td>
<td>£3,072k</td>
</tr>
<tr>
<td>Total annual benefits</td>
<td>£2,465k</td>
<td>£3,681k</td>
<td>£3,081k</td>
</tr>
<tr>
<td>Total annual net impact</td>
<td>£0.6k</td>
<td>£7k</td>
<td>£9k</td>
</tr>
</tbody>
</table>

The large negative one-off impact on local authorities is caused by the primary authorities choosing not to fully cost recover their costs.

Assumptions within the analysis

<table>
<thead>
<tr>
<th>Subject</th>
<th>Assumption</th>
<th>Source/Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of hours spent by local authorities (LAs) on setting up PA partnership</td>
<td>1st PA: 29.9 expanded PA: 8.6</td>
<td>Data provided by RAND Europe</td>
</tr>
<tr>
<td>Number of hours per week spent by PA on dealing with the PA business to maintain partnership</td>
<td>1st PA: 3.11 expanded PA: 1.5</td>
<td>Data provided by RAND Europe</td>
</tr>
<tr>
<td>Number of hours per week spent by PA on dealing with enforcing authorities (EAs)</td>
<td>1st PA: 2 expanded PA: 0.3</td>
<td>Data provided by RAND Europe</td>
</tr>
<tr>
<td>Number of hours spent by PA on developing the inspection plan</td>
<td>20.1</td>
<td>Data provided by RAND Europe</td>
</tr>
<tr>
<td>Number of hours per week spent by EA on dealing with PAs</td>
<td>1</td>
<td>Our assumption based on corresponding data for PAs</td>
</tr>
<tr>
<td>Number of Enforcing Authorities saving time with each business per year due to PA (in terms of familiarisation, risk assessment etc)</td>
<td>50 for age related sales of gambling and age related sales of sun beds 13 for HHSRS. 5 for Welsh regulations on carrier bag charging</td>
<td>Assumption based on BRDO’s knowledge of how the scheme currently operates</td>
</tr>
</tbody>
</table>

53 These are the annual benefits and costs the local authority can expect each year and the one off costs and benefits they can expect when the partnership is established. These are not discounted and so reflect the savings in the first year (i.e. 2013).
Extending the Range of Regulations Covered by Primary Authority

| Number of hours per contact saved by EA annually due to PA (in terms of familiarisation, risk assessment etc) | 7 | Based on BRDO’s knowledge of how the scheme currently operates |
| Number of hours spent by business on setting up PA partnership | 37.68 | Data provided by RAND Europe |
| Business labour costs | £27.85 | ASHE survey 2010 |
| Number of hours per week spent by business on maintaining partnership | 2 | Data provided by RAND Europe |
| Number of instances of inconsistent advice a year for HHSRS, sun bed tanning and age restricted sale of gambling | Reduced from 5.5 instances (pre-PA scheme) to 3 instances for HHSRS, age related sales of gambling and age related sales of sun beds. Reduced from 1 to 0 for Welsh regulations on carrier bags charging. | Data provided by RAND Europe and consultation responses. |
| Number of hours spent by business on developing the inspection plan | 20.6 | Data provided by RAND Europe |
| Average loss from contradictory advice | £10,000 | The assumption from the impact assessment of Statutory Instruments implementing the Primary Authority scheme modified downwards after discussions with business. |
| Number of hours saved by business as a result of consistent approach to risk (inspection plans) | 20 | Based on BRDO’s knowledge of how the scheme currently operates |
| Cost recovery | Partnerships which will not recover costs at all – 12% partnerships recover full costs – 48% partnerships which recover 50% of costs – 40% | Data provided by RAND Europe |
Extending the Range of Regulations Covered by Primary Authority

<table>
<thead>
<tr>
<th>Average number of referrals per partnership per year</th>
<th>5 for gambling and sunbed, 1 for carrier bag reg. and 1.5 for HHSRS</th>
<th>Based on BRDO's management data and consultation responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of hours spent by EAs on each referral</td>
<td>1 for sunbed and gambling and 0.5 for housing and carrier bags</td>
<td>Based on BRDO's knowledge of how the scheme currently operates and consultation responses</td>
</tr>
<tr>
<td>Number of hours saved by EAs per an inspection plan per year</td>
<td>2</td>
<td>Based on BRDO's knowledge of how the scheme currently operates</td>
</tr>
<tr>
<td>Hourly rate charged by EAs</td>
<td>£35.27</td>
<td>Previous impact assessments</td>
</tr>
</tbody>
</table>
Annex B – Respondents

Responses were received from the following individuals and organisations:

ASDA
Association of British Bookmakers
Association of Convenience Stores
Association of Residential Letting Agents
Assured Food Standards - Red Tractor Scheme
Blaenau Gwent County Borough Council (Response on behalf of South East Wales Health and Safety Task Group)
Brighton & Hove City Council
Bristol City Council
Caerphilly County Borough Council
Chartered Institute of Environmental Health
Cheshire West and Chester Council
Conwy County Borough Council
Fife Council
Gala Coral Group
Gambling Commission
Home Retail Group
Horsham District Council
Hull City Council
Institute of Licensing
Ladbrokes Betting & Gaming Ltd.
London Region of Chartered Institute of Environmental Health
Mid Suffolk and Babergh District Councils
Monmouthshire County Council (Environmental Health)
Moto Hospitality Ltd.
National Casino Industry Forum
National Landlord’s Association
National Private Tenants Organisation
Newport City Council
Norwich City Council
North East Trading Standards Association
Nottingham City Council
Quaker Action on Alcohol and Drugs
Residential Landlords Association
Rhondda Cynon Taf County Borough Council
Rossendale Borough Council
RUNnymede Borough Council
Rushmoor Borough Council
South East London Housing Partnership
Thanet District Council
The Association of Licensed Multiple Retailers
The Bingo Association
The Sunbed Association
Torfaen County Borough Council
Trading Standards Institute
Wales Heads of Environmental Health
Welsh Government
Welsh Local Government Association and Wales Heads of Trading Standards
Welsh Retail Consortium
Extending the Range of Regulations Covered by Primary Authority

West London HMO Licensing Group  
West Midland Housing Enforcement Practitioners Group  
West of England Local Authority Partnership  
Westminster City Council  
William Hill Organization Ltd.  
Woking Borough Council

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