

# Compliance Advisory Service

## A feasibility study prepared for *emda*

Faster Futures Ltd & Enterprise Research and Development Unit, University of Lincoln

April 2008

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## **Compliance Advisory Service Feasibility Study**

### **FINAL REPORT**

**Faster Futures Ltd**

**and**

**Enterprise Research and Development Unit  
University of Lincoln**

**for:**

**East Midlands Development Agency  
Apex Court  
City Link  
Nottingham  
NG2 4LA**

**April 2008**





## CONTENTS

### **1. INTRODUCTION**

- 1.1 Background
- 1.2 Introduction to the Project
- 1.3 Introduction to the Project Team
- 1.4 Strategic Context
- 1.5 Critical Success Factors

### **2. RESEARCH APPROACH**

- 2.1 Stage 1 – Desk Research
- 2.2 Stage 2 – Subject Area Panel
- 2.3 Stage 2 – Survey and Engagement
- 2.4 Stage 3 – Interim Report and Presentation
- 2.5 Stage 4 – Consultation and Consensus Building
- 2.6 Stage 5 – Feasibility Study Final Report and Presentation

### **3. DESK REVIEW**

- 3.1 Introduction
- 3.2 The Costs of Regulation
- 3.3 Government action to reform regulation
- 3.4 Information and guidance on regulation
- 3.5 Key compliance issues
- 3.6 Assessing the effect of regulation and compliance on business
- 3.7 Summary and implications

### **4. BUSINESS SURVEY RESULTS**

- 4.1 Introduction
- 4.2 About the Respondents
- 4.3 Finding out about Regulation
- 4.4 Improving Information and Advice on Regulation
- 4.5 Summary and implications

### **5. WORLD CAFÉ CONSULTATION FEEDBACK**

- 5.1 Introduction
- 5.2 Stakeholder Feedback
- 5.3 Subject Area Expert Panel Feedback
- 5.4 Summary and implications

### **6. CONCLUSIONS**

- 6.1 Introduction
- 6.2 The Current Situation regarding Business Regulation
- 6.3 The Need to Act
- 6.4 Providing a Structure for Solution
- 6.5 Key Conclusions and Recommendations

### **APPENDICES**

- 1. Business Survey Questionnaire
- 2. SAE Panel comments on Desk Research
- 3. World Café Stakeholder Event Pro Forma
- 4. Attendees of the World Café Stakeholder Event
- 5. Feedback from World Café Stakeholder Event
- 6. Addressing *emda's* questions
- 7. Project Application Details



# 1. INTRODUCTION

## 1.1 Background

This report presents the findings of a study of compliance guidance for businesses in the East Midlands. The study has been undertaken on behalf of *emda* by the Enterprise Research and Development Unit (ERDU) at the University of Lincoln and Faster Futures Ltd. This document is the final report for the project.

The Business Services Directorate in *emda* has identified a potential gap in information and advice to help businesses to comply with regulation in the East Midlands. This study has been commissioned by *emda* to explore the potential need for additional compliance information and guidance.

## 1.2 Aims and Objectives

The aims of the study are to:

- Identify any areas or methods of regulatory compliance information and advice, to SMEs in the region that are inadequate or deficient.
- Recommend additional compliance information/advisory services that will benefit the SMEs in the region. Any recommendations should take into account:
  - Costs and funding sources
  - Impact on the *emda* corporate plan and RES
  - The simplification agenda and other publicly funded services
  - State aid, legal liability, environmental and equality issues
  - Other implications.

The following outcomes are required from the project:

**Preparation of the Study Delivery Plan**, for approval by *emda* in the first week of the study.

**An Interim Report** that builds on contributions already prepared by *emda* and includes initial findings from the desk research, and business and stakeholder consultation.

**A Feasibility Report** detailing activities undertaken, organisations consulted, findings and recommendations.

The findings of the study will help *emda* to define potential support (need, nature and cost) for additional compliance advisory services for SMEs in the region.

## 1.3 Introduction to the Project Team

The project has been undertaken by a collaboration of Faster Futures Ltd and the University of Lincoln.

Faster Futures is an East Midlands based consultancy, which is directed by Manny Gatt, a consultant with many years experience in business support and development.

The Enterprise Research and Development Unit (ERDU) is the University of Lincoln's focus for research and development on small and medium enterprise and entrepreneurship. ERDU has a well established reputation in managing and delivering research and policy related projects, feasibility studies, and business development programmes based on rigorous research and close involvement of stakeholders.

## 1.4 Strategic Context

Businesses in the UK are required to comply with a variety of regulation, including those set out at European and national level. Regulators include government departments, such as DEFRA and DBERR, non-departmental government bodies such as the ICO and HSE, and local authorities.

Burdens associated with excessive regulation or over compliance with regulation are seen as constraints on business development and, as a result, 'red tape' related to compliance has been considered to be an obstacle or limit to wealth creation within the private small business. In addition, an association is often made between the broader regulatory environment and levels of entrepreneurship within an economy, both for new and existing businesses.

Reduced regulation lowers the overall cost and complexity of starting a new business, leading, in turn, to an increased number of new ventures being established. Reduced regulation is, therefore, considered an inducement for individuals to start new businesses, in that higher barriers to new venture creation are seen as a disincentive for potential entrepreneurs.

## 1.5 Critical Success Factors

A number of factors were identified as being key to the success of the project. These included:

- To be clear from the outset on the scope of the feasibility study. With over 60 national regulators plus the substantial work of local authorities, it was critically important that the feasibility study focuses on the priority areas highlighted by businesses and stakeholders.

The most common areas where compliance and regulations impact on business include: forming a business, tax and NI, VAT, health and safety, intellectual property protection, insurance, trading standards, environmental standards, employment, data protection, food standards.

There are other areas of regulation and compliance which are industry specific, such as licensing, animal welfare, national weights and measures, the Rural Payments Agency and activities covered by the Office of Fair Trading.

- To ensure that the survey is able to clearly elicit the areas of compliance which give rise to most concern for businesses and regulators. This will enable the feasibility study to help *emda* prioritise needs and to define potential support (need, nature and cost) for additional compliance advisory services for SMEs in the region.

- That a broad consensus between the businesses and regulators is secured on how best to provide additional information and advice (if deemed necessary). To help with this we would propose developing a broad range of information and advice options for the various parties to the feasibility study to consider.

These could range from better signposting from BL, integrating the regulatory advice offer within the BL brokerage model, through to the development of risk assessment tools to be offered online and through the professional community to support businesses on compliance issues.

- That *emda* and the regulators/key stakeholders agree the acid test for a new compliance service. The acid test must ensure that any new compliance advisory service is proportionate, accountable, consistent, transparent and targeted.
- That any proposed compliance service has the backing of the respective stakeholders who make the commitment to align their service offer and business processes so to incorporate the value added proposition.
- That the business case for any proposed additional service offer is tested against a panel of subject area experts drawn from the respective stakeholder communities.

## 2 RESEARCH APPROACH

A methodology was developed which was designed to work within a tight timeframe, yet achieve high levels of stakeholder and business engagement. The methodology can be broken down into six principal strands of activity:

- Stage 1 – Desk research
- Stage 2 – Subject Area Expert Panel
- Stage 3 – Survey and engagement
- Stage 4 – Interim review and report
- Stage 6 – Consultation and consensus building
- Stage 7 – Final feasibility report and presentation

### 2.1 Stage 1 - Desk Research

A desk review was undertaken by researchers in the ERDU team. This included analysis of existing policies related to regulation reform and guidance, academic papers, and studies from organisations such as IoD, FSB, Trade Associations, BERR and the newly formed LBRO. The purpose of the desk review was to explore the action that the government had undertaken to reduce the burden of regulation, develop an understanding of regulation advice and guidance, and identify areas of regulation that businesses found difficult and/or where additional guidance was needed.

### 2.2 Stage 2 - Subject Area Expert Panel

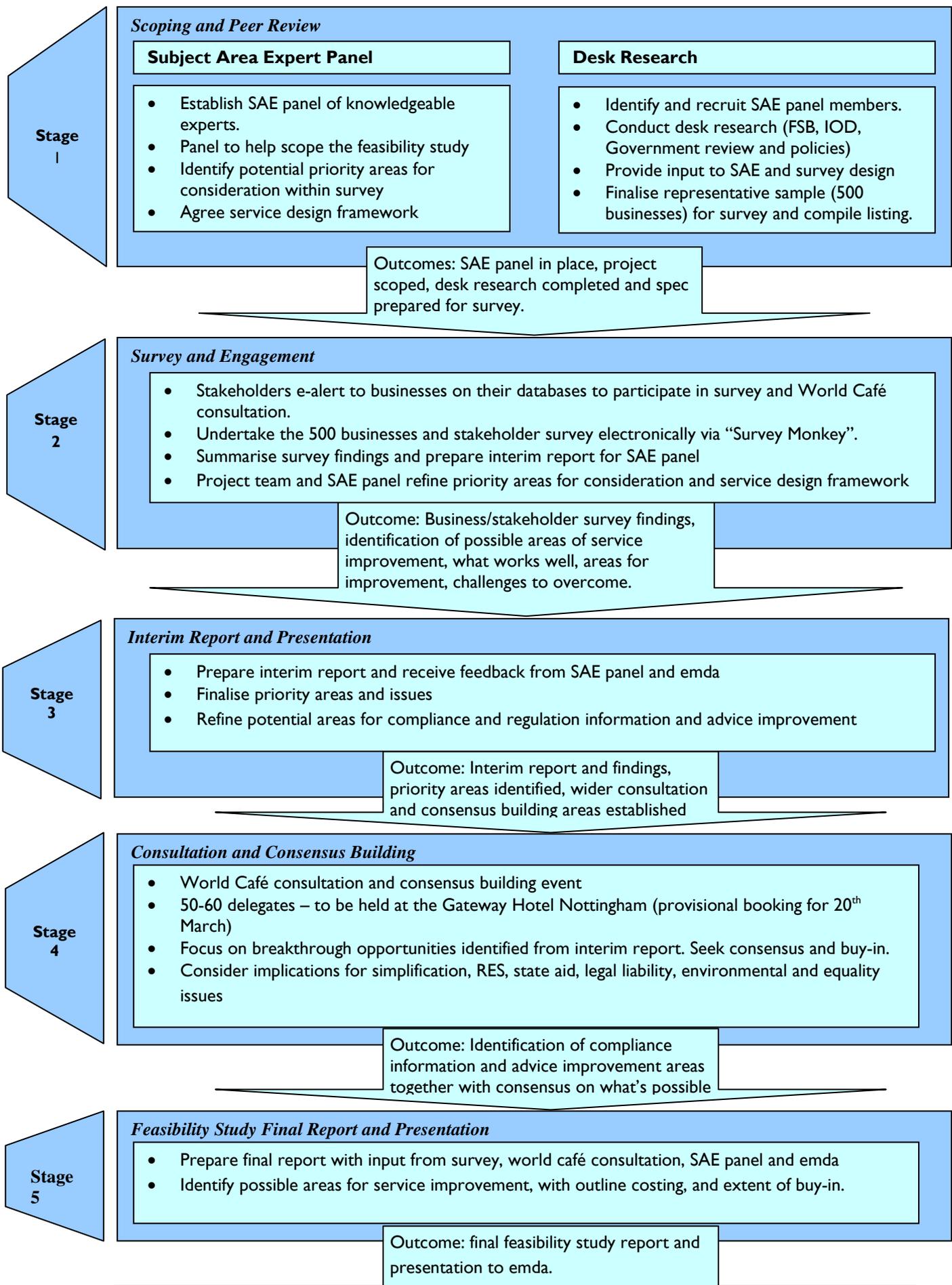
A peer review group was established, made up of Subject Area Experts (SAEs). The group comprised the following representatives:

- Uday Dholakia, Non executive director, LBRO .
- Martin Quinn, Head Lawyer, EEF .
- Cath Lee, FSB .
- Richard Hodge, Nottinghamshire County Council .
- Phil Wass, Independent Health and Safety Consultant .
- Douglas Kerr, Institute of Directors .
- Regina Duggan, Environment Agency .
- Jo Parkin, *emda*
- Richard Gill, EMB, Regional Business Link

The panel was consulted to help define the scope of the feasibility study, review the findings of the desk research, and provide insight and feedback on the study findings.

The feedback from the SAE panel can be found in appendix 2 to this report.

## Methodology



## **2.3 Stage 3 - Survey and Engagement**

A survey of businesses in the East Midlands was undertaken to explore: (i) how easy it is for businesses to find out about regulation that affects them; (ii) the organisations and sources used; (iii) areas of regulation that are difficult to understand or where more guidance is needed; and (iv) whether further regulation information and advice is needed in the East Midlands and how this should be provided.

The survey was designed and administered electronically, using the 'survey monkey' online survey tool. This method enabled participants to respond to the survey using the internet link attached to an email. The use of internet technology to administer the survey maximised the opportunity to engage businesses across the East Midlands with minimal environmental impact. 'Survey monkey' enabled the ERDU researchers to get instantaneous feedback on the survey results, for input into the interim report.

The survey was distributed on 11 March 2008 and a response of 153 was achieved. The survey was distributed with the support of the Federation of Small Business (FSB), East Midlands Business, IOD, and the University of Lincoln Experience Exchange. These partner organisations were asked to email their clients, explaining the purpose of the survey, with a link to complete the survey and register for the World Café event. The survey results can be found in section 4 of this report.

## **2.4 Stage 4 – Interim Report and Presentation**

It was proposed that the interim report should include the findings from the desk research, the initial feedback from the SAE panel, and the initial business survey results. The objective of the interim report was to identify the priority compliance issues raised by businesses and regulators. It was intended to identify areas of good practice in information and guidance (what works well) and areas where improvement is needed. It also provided the first cut on those areas where a potential consensus on service improvements could be achieved between all parties, and those areas where consensus would be more problematic and why.

## **2.5 Stage 5 - Consultation and Consensus Building**

A consultation and consensus building event was arranged to gather the views of regulators, business support organisations, and businesses, and identify potential action on regulation advice and guidance. Because compliance and regulation for businesses is such an emotive subject, an innovative methodology was adopted. World Café is a proven methodology that uses a conversational process and a set of design principles that enables the collective intelligence within a group to emerge. The event was used to seek consensus among businesses on priority areas for better information, guidance and advice and to identify the organisations, whether public or private, that are best placed to provide it.

A broad range of stakeholders were invited, and businesses were invited to participate via the online survey. The programme invitation for the event can be found in appendix 3 to this report.

The event was held on Thursday 10 March 2008 at the Nottingham Gateway Hotel. It was intended that the event should have a very different look and feel to other

consultations. It was intended to be informal, conversational and designed to build on all the knowledge and experience within the room. It involved an interactive process, based on probing questions and, through several conversational rounds, it helped to develop a progressively deeper understanding and insight into the area of compliance information and advice. An emphasis was placed on open-ended exploration rather than simply a problem solving intervention. As most of the delegates were new to one another, this approach aimed to bring out both conventional and non-conventional wisdom. Delegates were asked to change tables between conversational rounds to encourage cross-pollination of ideas, and the development of new areas of consensus.

In summarising the event, we aim to articulate what has emerged, and distil the insights, patterns, themes and clusters of ideas and breakthroughs. The findings and learning outcomes from the World Café Event are summarised in section 5 of this report.

## **2.6 Stage 6 - Feasibility Study Final Report and Presentation**

The final stage comprises the drafting of the feasibility study and presentation of findings to *emda* and the project board.

The final report (this document) includes the desk research, survey results, the outputs from the SAE panel and the World Café consultation. The report is intended to highlight areas to be addressed as a priority and possible areas for service improvement. The level of consensus and buy-in are presented together with the potential benefits the proposed solution will bring to the compliance process from a regulatory, advisory and SME perspective.

### 3. DESK REVIEW

#### 3.1 Introduction

The purpose of the desk research is to provide an overview of the current regulatory climate and issues related to compliance guidance. The review includes analysis of government legislation, policy publications, and research studies undertaken by organisations such as the FSB, IOD and National Audit Office. The focus is primarily on UK regulatory reform, though impact of EU reforms has also been taken into consideration. The review aims to identify the major issues associated with regulatory reform and compliance costs, and the implications for this feasibility study. The desk review was ongoing during the project and the final version of the desk review is included in this report.

The topics addressed in the desk review include:

- The costs of regulation;
- Government action to reform regulation;
- Information and guidance on regulation;
- Key compliance issues;
- Assessing the effect of regulation and compliance on business; and,
- Summary and implications.

#### 3.2 The Costs of Regulation

The exact costs of regulation in the UK are unknown as the total figure is comprised of thousands of small, and often invisible, costs that make precise calculations difficult. According to the OECD, regulatory costs are the least controlled and least accountable of all government costs. Many governments have little idea how much of their national wealth is spent on, or incurred by, regulation<sup>1</sup>. However, estimates produced by the Better Regulation Task Force (BRTF) suggest that, in 2004, the total cost of regulation in the UK was approximately 10-12% of the national GDP, or £100 billion<sup>2</sup>. Despite growing recognition of the importance of better regulation in the UK, and action to reduce and simplify regulation by the BRTF, the volume, complexity and cost of regulation has continued to rise steadily<sup>3</sup>. The need, therefore, to monitor, assess and improve regulatory systems and compliance guidance advice remains as urgent as ever.

When designed and administered effectively, regulations can enhance the credibility of the governance process and contribute to the welfare of citizens, businesses and other stakeholders. However, where regulation is poorly designed and badly managed, the net effects of new regulations can be negative. The hallmarks of poorly designed regulations are that they are over ambitious, over prescriptive, unjustifiably expensive and, as a consequence, counter productive when assessed in terms of their originating rationale. Opponents of regulation argue that the costs can be significant and may, on occasion, outweigh the benefits:

Regulation “impedes successful performance and growth, and contributes to business failure”. The ‘problem’ of regulation for business owners involves the

<sup>1</sup> OECD 'Issues and Developments in Public Management: Survey 1996-1997' (1997)

<sup>2</sup> Better Regulation Task Force 'Annual Report' (2005).

<sup>3</sup> Better Regulation Task Force 'Annual Report' (2005).

diversion of scarce resources away from what are argued to be productive, profit-generating activities and towards the discovery, understanding of, and compliance with regulations. One might say that regulation distorts market signals, reduces the rewards of business ownership, disincentivises market entry, investment, innovation and business growth, all of which leads to a sub-optimal level of economic activity from which businesses, workers and consumers suffer”<sup>4</sup>.

The Small Business Research Centre (SBRC) at Kingston University argue that current research focuses excessively on the perception of regulation as a constraint or burden that businesses have to learn to cope with. However, the SBRC suggest that the link between regulation and growth levels is not as robust as many are led to believe. In addition, the extent to which regulation and compliance costs detract from business performance and growth is far from clear:

“Regulations do not have uniform effects on business but rather their impact depends on other contingent factors such as the external environment within which the business operates as well as internal relations between owner, managers and employees within the business. Where product market competition is intense, regulation can aggravate a poor position; where competition is less severe, business owners may be better able to cope with regulation. It is better, therefore, to examine the interaction between regulation and other factors in specific business settings in determining particular outcomes”<sup>5</sup>.

### 3.3 Government Action to Reform Regulation

The origins of the regulation reform agenda lie in the *deregulation* initiatives implemented by the Thatcher and Major governments of the 1980s and early 1990s, aimed at reducing ‘burdens on business’. A ‘central task force’ was established within the Department of Employment to scrutinise departmental assessments of regulatory proposals. The deregulation initiative was relaunched in the early 1990s. As part of the initiative, a list of 3,500 regulations that were considered to be imposing costs on business was published, together with 600 proposals for reform<sup>6</sup>.

The Government established the BRTF in September 1997. The inception of the BRTF marked a move away from notions of deregulation towards principles of better regulation. The first task of the BRTF was to establish the characteristics of good regulation - that it be necessary, fair, balanced and command public support. The BRTF identified five key principles against which to test the appropriateness and effectiveness of regulation<sup>7</sup>. They are:

- Proportionality. Regulators should intervene only when necessary. Remedies should be appropriate to the risks posed, and costs identified and minimised;
- Accountability. Regulators should be able to justify decisions and be subject to public scrutiny;

<sup>4</sup> Kingston University (2005) ‘Regulation and Small Firm Performance and Growth: A Review of the Literature’.

<sup>5</sup> Kingston University (2005) ‘Regulation and Small Firm Performance and Growth: A Review of the Literature’.

<sup>6</sup> Department of Trade and Industry ‘Deregulation: Cutting Red Tape’ (London, HMSO, 1994).

<sup>7</sup> Better Regulation Task Force ‘Self-Regulation – Interim Report’ (1999).

- Consistency. Government rules and standards must be joined up and implemented fairly;
- Transparency. Regulators should be open, and keep regulations simple and user-friendly, and;
- Targeting. Regulation should be focused on the problem and minimise side-effects.

These five key principles have been widely adopted as the gold standard against which new regulations are assessed and evaluated here in the UK as well as in several other European countries.

In March 2005, following a review of the Dutch approach to reducing administrative burdens, the BRTF recommended that the government assess the administrative burden of regulation on businesses, the voluntary sector and charities and that a target should be set to reduce this burden. The BRTF recommended that each government department develop a rolling programme of simplification, identify measures for simplification and seek to reduce administrative burdens by as much as 25%<sup>8</sup>. In 2005, the BRTF published a report, 'Regulation – Less is More', in which they set out the potential benefits of improved regulation. These include:

- An outstanding return on investment for the UK - potentially an estimated £16 billion increase in GDP for an investment of some £35 million;
- An opportunity for government to help increase the innovation, productivity and growth of business;
- A mechanism for increasing the quality and efficiency of government through increasing the effectiveness of regulation; and
- A robust method for the government to improve its control over the flow of new regulation and a driver to reduce the burdens imposed by the stock of existing regulation<sup>9</sup>.

The publication of the BRTF's 'Less is More' report coincided with the publication of the Hampton Review (2005). The Hampton Review was written in response to an invitation from the Chancellor of the Exchequer to "consider the scope for reducing administrative burdens by promoting more efficient approaches to regulatory inspection and enforcement, without compromising regulatory standards or outcomes"<sup>10</sup>. The Hampton Review set out seven key principles which, if accepted and incorporated, would improve regulation in line with government aspirations:

- Regulators and the regulatory system as a whole should use comprehensive risk assessment to concentrate resources on the areas that need them most;
- Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take;
- No inspection should take place without a reason;
- Businesses should not have to give unnecessary information, nor give the same piece of information twice;
- The few businesses that persistently break regulations should be identified quickly;

<sup>8</sup> Better Regulation Commission 'Annual Report' (2006).

<sup>9</sup> Better Regulation Task Force 'Regulation – Less is More: Reducing Burdens, Improving Outcomes' (2005).

<sup>10</sup> The Hampton Review 'Reducing Administrative Burdens: Effective Inspection and Enforcement' (2005)

- The regulators should provide authoritative, accessible advice easily and cheaply, and;
- Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

In May 2005, the Chancellor of the Exchequer launched the 'Better Regulation Action Plan'. The Plan incorporated recommendations made by the BRTF and the Hampton Review, and set out a pledge to ensure that businesses would no longer have to endure: inspection without justification; form filling without justification; and information requirements without justification<sup>11</sup>. The Plan included the following nine separate, but related, imperatives:

- Setting targets to reduce the burden upon business. Set challenging targets to reduce the burden on business of administering regulations. Achieve targets by implementing the reforms recommended by the Hampton Review and the Better Regulation Task Force (BRTF) report 'Less is More' (both published in March 2005).
- Legislating to implement the Hampton Review, and to speed up deregulation. Make the legislative changes needed to implement the Hampton Review, and reform legislative procedures to make it easier to remove unnecessary regulations.
- Fewer regulatory bodies, applying risk-based enforcement. Reduce the compliance burden on business by merging 29 regulatory bodies into 7, joining-up enforcement and inspection practices, and applying a risk-based approach to all areas of enforcement.
- Risk based enforcement by local authorities. Apply the Hampton recommendations to local authorities. Reduce the variations in enforcement practices between different areas, and the burden on business, through better nationwide coordination.
- Simplifying and shortening forms. Reduce the amount of information required from business, shorten forms and reduce the time needed to complete them by designing forms better and improving regulators' handling and sharing of data.
- Reforming penalty systems. Strengthen the impact of penalties as a deterrent to persistent regulatory non-compliance, as recommended by the Hampton Review, and enhance regulatory outcomes.
- European regulatory reform. Greater use of risk-based regulatory practice in European law-making process, and share best practice with other member states, during the UK's presidency of the European Union and beyond.
- Strengthening institutions to deliver regulatory reform. Ensure that the right resources are in place to deliver the Hampton reforms, and meet targets for reducing the burden on business. Effect a transformation in the culture of Government departments and regulators, applying a risk-based approach at every stage of the regulatory process.

The BRTF was established as a permanent body in January 2006 under the new name, the Better Regulation Commission (BRC). The BRC's operating mandate is to continue working towards the improvements in the UK's regulatory framework as initiated by the BRTF<sup>12</sup>. The key task allocated to the BRC in 2006 was the assessment of all 19 simplification plans as submitted by a range of government departments and agencies. Each of the submitted simplification plans were assessed in terms of credibility, ambition, quantification and deliverability. Of the government's targeted £3.5billion in savings, the

<sup>11</sup> HM Treasury Press Release 50/05 'Chancellor Launches Better Regulation Action Plan' (2005).

<sup>12</sup> Better Regulation Commission 'Annual Report' (2006).

simplification plans identified measures through which the overall administrative burden might be reduced by as much as £2 billion. The progress to date, according to the BRC, has been better than expected, though further savings are expected to be identified and implemented in the coming years: of the 700 or so simplification measures identified, approximately 280 have been delivered resulting in savings for businesses and charities in excess of £800 million. The Legislative and Regulatory Reform Act 2006 provides the ability to fast-track measures to reduce regulatory burdens, and the Better Regulation website enables business and the public to suggest ideas for simplifying regulation<sup>13</sup>

The Department of Business, Enterprise, and Regulatory Reform was established in 2007, and incorporated the Better Regulation Executive (BRE), parts of the Department for Communities and Local Government (DCLG), and most of the former DTI. DBERR has been tasked with implementing the government's 2006 Business Support Simplification Plan (BSSP). The BSSP aims to close, merge, or, if appropriate, continue no more than 100 of an estimated 3000 business support products or services that are currently available by 2010. The vast numbers of products and services has been cited as the primary cause of confusion and inefficiency for businesses<sup>14</sup>.

The Local Better Regulation Office (LBRO), established in May 2007 and effective from September 2007, has been asked to address businesses' requests for clear and consistent inspection and enforcement across all local authorities. The LBRO is expected to become a statutory non-governmental public body in 2009, with the power to drive forward and implement improved targeting and consistency – two of the five principles as recommended by the BRTF in 1997.

In January 2008, the LBRO published a consultation draft strategy<sup>15</sup>, in which they outlined three key strategic objectives: (1) Support service improvement and change in local authority regulatory services; (2) Directly deliver consistency, principally through the primary authority scheme; and, (3) Act to improve the local authority regulatory services system more generally. To ensure that these strategic objectives are met, the LBRO is in the process of developing a consistent framework against which the performance of local regulatory services can be assessed. Ensuring greater levels of consistency across areas is seen as a 'must-have', especially by those businesses that operate across borders or in multiple locations: "levels of regulatory resource are inconsistent across the country. This can result in over-regulation in some locations, where businesses face additional burdens from inspection, and under-regulation elsewhere, exposing compliant businesses to unfair competition while putting consumers, workers and the environment at risk"<sup>16</sup>. Through ensuring consistency, business owners/managers are likely to have to spend less time finding relevant information and ensuring that they are compliant across all areas. Furthermore, consistency will help reduce confusion and to increase confidence in the regulatory framework as it will appear more robust and less open to interpretation – a situation which, at present, appears to cause owner/managers a great deal of concern.

According to John Walker, national policy chairman of the Federation of Small Businesses, the establishment of the LBRO is seen as a constructive step in improving

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<sup>13</sup> Department for Business Enterprise and Regulatory Reform 'Enterprise: Unlocking the UK's Talent' (2008)

<sup>14</sup> Department for Business Enterprise and Regulatory Reform 'Simplification plan 2007: Promoting Business and Enterprise through Better Regulation' (2007).

<sup>15</sup> Local Better Regulation Office 'Draft Strategy 2008-2011' (2008).

<sup>16</sup> Local Better Regulation Office 'Draft Strategy 2008-2011' (2008).

the regulatory environment: “ensuring a clear and consistently fair system across all local authorities is a ‘must have’ for the small business sector. Adding on the anticipated reduction in costs to businesses means that this is a positive development and we welcome the creation of this new body”.

### 3.4 Information and Guidance on Regulation

The preceding section provides insight into the importance the current government attaches to improvements in regulatory structures across both local and national levels. However, the attempts at improvements are vindicated or condemned at the ‘front line’, by the businesses themselves. In keeping with this acknowledgement, parliament passed a Code of Practice for local and national regulators in late 2007 which will come into effect as of April 2008. The Code of Practice makes it legally binding that regulators ensure inspection and enforcement is efficient, both for the regulators themselves as well as those they regulate<sup>17</sup>. This new legislation is, in part, a response to the findings of the Hampton Review which, in an extensive review encompassing 63 national regulators and more than 460 local authorities, concluded that “the system as a whole is uncoordinated and good practice is not uniform. There are overlaps in regulators’ responsibilities and enforcement activities. There are too many forms, and too many duplicated information requests”<sup>18</sup>. In addition, the Hampton Review found that poor or inaccessible advice regarding regulations hinders compliance as businesses spend time (and money) trying to understand what they are required to do, within what timeframe, and with what frequency. The time spent by businesses in attempting to ensure compliance also has hidden costs for the businesses as time and attention is diverted away from core business activities.

According to the ‘Regulation and Business Advice’ report published by the Better Regulation Executive (BRE) in 2007, nearly half of all businesses seek external advice about how to follow regulations at a cost of at least £1.4billion per year. The BRE report identified five key drivers for the search for and uptake of external advice:

- Volume and complexity - advisors keep up to date with large volumes of regulation and translate into a language business can understand;
- Low awareness of government guidance - many businesses are not aware of the range of free services available from the government;
- Regulatory change - the rate and poor communication of change raise the cost of self-compliance;
- Poor quality government guidance – guidance provided by external advisors is often better designed and more easily understood even where the content is the same as government guidance; and,
- Uncertainty, risk and lack of confidence – businesses are not confident that they will be legally compliant in following government advice.

That there is such a strong market for regulatory advice is an indication that there are outstanding or unresolved issues in the way that the government designs, implements and advises on issues of regulation. Although it is likely that there will always be a role for intermediaries in advising on regulation, it appears that there are areas of regulation where businesses would require less advice if the design and delivery of regulation were to be further improved. The key recommendations made by the BRE are as follows:

<sup>17</sup> Department for Business Enterprise and Regulatory Reform ‘Delivering Simplification Plans: A Summary’ (2007).

<sup>18</sup> The Hampton Review ‘Reducing Administrative Burdens: Efficient Inspection and Enforcement’ (2005).

- All guidance for regulations affecting business should be issued 12 weeks before the regulation comes into force except in exceptional circumstances (such as emergency legislation). Guidance must still be issued in line with the current Common Commencement Date process, i.e. that regulation affecting business should come into force on either 1 October or 6 April.
- The government should develop ways of contacting business directly, by post or email, to inform them of upcoming changes to regulations, including simplifications. This communication must be short, risk-based and focused on the most important changes. It should reach as many businesses as possible that are likely to be affected by the changes, and link back to high quality guidance on the businesslink.gov.uk website.
- Intermediary organisations already provide regular communications to their members and clients in a way that businesses of different types find most appropriate. Provision of high quality regulatory information to these intermediaries will allow them to add their own value to the content before communicating with businesses. This allows rapid onward communication to many businesses in a format they will find helpful and could link through to other sources of government guidance.
- To help businesses become informed consumers of business advice, an indicator of the average time taken to comply with a regulation should be included prominently on suitable guidance documents. This will help business to assess whether it makes financial sense to seek external help or not.
- Web forums which allow businesses to share information and advice are an effective way of helping them to become better informed. Government advice services should consider posting answers to regulatory questions on online forums.
- For inherently complex or high risk areas of regulation where we would expect businesses to seek external advice, departments and regulators should consider developing dedicated sources of information for advisors<sup>19</sup>.

In early 2008, DBERR published 'A Code of Practice on Good Guidance on Regulation' in which they argued that good regulation is not the only requirement in improving the regulatory framework: "Regulation is designed to change behaviour and it can only be successful if those affected understand what is required. Few businesses or their sector organisations will read the complex language of regulation so guidance is often the main route to compliance for most businesses"<sup>20</sup>. The Code of Practice, which was released in January 2008 for consultation with businesses, regulators, and the third sector, sets out eight golden rules of good guidance:

1. Based on a good understanding of the audience;
2. Designed with input from the audience and their representative bodies;

<sup>19</sup> Better Regulation Executive 'Regulation and Business Advice' (2007).

<sup>20</sup> Department for Business Enterprise and Regulatory Reform 'A Code of Practice on Good Guidance on Regulation' (2008).

3. Organised around the user's way of working rather than legislative or departmental structures;
4. Easy for users to understand;
5. Reliable;
6. Issued in good time;
7. Easy to access; and,
8. Reviewed and improved

In March 2008, DBERR, in line with their enterprise strategy, advanced four new key regulatory framework policy proposals<sup>21</sup>:

- Regulatory budgets for departments;
- Exemptions for small businesses (new regulation);
- Exemptions for small businesses (existing legislation); and,
- Improving the quality of guidance.

The four policy proposals have been designed to ensure that: the costs imposed on businesses through the introduction of new regulation are monitored and controlled; that the regulatory burden placed on small businesses is kept as minimal as possible; that small businesses are given exemption from existing legislation wherever and whenever possible, and; that more is done to ensure that the current compliance guidance on offer is improved.

Following the 2008 budget, and with particular emphasis on point four of the Government's regulatory framework policy proposals, the Government commissioned a review of how guidance on regulation is provided to small businesses. The review, which is being led by Sarah Anderson, will report in Autumn 2008. It will explore the nature of guidance provided to small businesses, and examine ways to give small businesses greater confidence to ensure that they know when they have complied with regulation. The review will cover guidance in all areas of policy, but will focus initially on employment law. Employment law is considered particularly problematic within the context of small business regulation. A report undertaken by the FSB (2007)<sup>22</sup> found that of the businesses surveyed, 35% did not have any employees. The reasons for not having employees were given as follows: 36% considered employees a risk to their business; 32% said that the complexity of employment legislation made them reluctant to employ; and, 31% claimed that the overall burden of red tape and regulation relating to employment was a barrier to business growth. These findings have been of significant concern to policy makers looking to small businesses to create the jobs of the future.

### 3.5 Key Compliance Issues

The UK's regulatory environment is recognised as among the best in the world. The 2008 World Bank's 'Doing Business' report placed the UK 6th out of 178 economies (up from 7th in 2005) in terms of "ease of doing business". The OECD says that the UK has the lowest barriers to entrepreneurship of all OECD countries. The proportion of small businesses in the UK citing regulation as main barrier to success is beginning to show a

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<sup>21</sup> Department for Business Enterprise and Regulatory Reform 'Enterprise: Unlocking the UK's Talent' (2008)

<sup>22</sup> Federation of Small Business 'Key Facts in Employment Law' (2007)

trend of reduction – falling from 21 per cent in 2002 to 14 per cent in 2006. Nonetheless, despite the relative strength and success of the UK’s regulatory environment when compared internationally, there are still a number of issues that remain unresolved and in need of further study and future refinement.

The National Audit Office (NAO) published a report in 2007 ‘Survey of Business’ Perceptions of Regulation; in which the results suggest that, despite the best attempts of the government, there is a long way to go before regulation and the attendant compliance guidance might be considered optimal. On behalf of the NAO, Ipsos MORI conducted a survey to explore businesses perceptions of regulations, and potential government initiatives that would deliver meaningful impacts. The findings of the NAO research suggest that further work is needed to improve regulation and compliance guidance. As part of the survey, businesses were asked to rate the level of importance of a number of key measures that could bring about simplified regulation. As the following table shows, the majority of responses indicate that there is significant work still to be undertaken if the government is to achieve its target of improving regulation and compliance guidance<sup>23</sup>.

<b>Improving compliance guidance</b>	<b>Ranked as Very Important (8-10)</b>
Simplification of complex rules	81%
Improved access to information that spells out in clear and simple language which regulations apply to your business	80%
Provision of guidance that sets out in clear and simple language what your business has to do to comply with a given regulation	78%
Improvement to and more use of online tools such as electronic forms and information	48%
Higher levels of stability and less frequent change to regulations	71%
Consultation with business before any change to regulation takes place or new regulation is made	73%
Ensuring that you do not have to provide the same information more than once to government	76%
Provision of background information that explains what the purpose of a given regulation is	54%
Improving regulators’ and inspectors’ understanding of business	69%

A number of other studies have found that businesses perceive regulation as burdensome and compliance guidance to be less than ideal. A study commissioned by the Institute of Directors (IOD) in 2007 found that:

- 46% of respondents felt that government regulation affecting their businesses had worsened, compared to a mere 1% reporting improvements;
- Less than half of all respondents were aware of regulation changes in three example areas;
- In excess of 60% of respondents felt that the government were not making noticeable progress in terms of the better regulation agenda<sup>24</sup>.

<sup>23</sup> National Audit Office ‘Survey of Business’ Perceptions of Regulation’ 2007.

<sup>24</sup> Institute of Directors ‘Better Regulation – Getting Worse?’ (2007).

In 2007, the NAO, on behalf of the BRE, published a report in which they argued that when designing new regulations, regulators need to consider four high-level questions<sup>25</sup>:

- Are regulations necessary, easily enforceable and proportionate?
- Does the regulator review and monitor the effectiveness of regulations, in terms of achieving regulatory outcomes, and amend regulations in response to this feedback?
- Are the regulator's design processes transparent, allowing for adequate consultation and feedback from stakeholders, including consumers and those regulated?
- Does the regulator tend to consider a range of regulatory approaches?

These four questions, driven by the recommendations of the Hampton Review, are designed to encourage regulators think through the possible consequences and ramifications of any new regulations that are being considered for introduction. In addition, the NAO report suggested that regulation should be accompanied with timely and effective advice and guidance. In order to achieve these objectives, regulators should consider the following:

- Does the regulator put enough emphasis on providing advice and guidance in order to secure compliance?
- Is advice and guidance clear, concise and accessible in appropriate formats?
- Does the regulator judge the effectiveness of its advice and guidance by monitoring business awareness and understanding of regulations?
- Do the businesses who make use of advice and guidance find it easy to understand?
- Is advice and guidance given in time when new regulations are introduced?

Effective advice and guidance is important as it helps reduce the risk of non-compliance as well as the time spent by businesses trying to understand new regulations. Furthermore, improvements in regulations advice and guidance should help to improve the relationship between the regulators and those that they regulate which, in turn, should improve guidance take up and reduce the fear of regulation enforcement.

A publication by the Foreign Policy Centre and the Federation of Small Businesses released in 2007<sup>26</sup>, based on a survey of the FSB membership, found that the legislative burden had increased over the preceding two years. The report findings indicate that, for a significant minority of respondents, the legislative burden was a key factor in their decision to downsize or close their businesses. The report concludes by suggesting that it is not only regulation but perceptions of the regulatory burden that affect businesses' competitiveness and willingness to grow. There is, therefore, a genuine and urgent need for the government to find clearer ways of communicating and explaining regulations to businesses to reduce fears and improve levels of compliance.

There is an indication in the academic literature that the impact of regulation will tend to vary depending on the size of the firm and where the firm is in its life cycle. Large firms, for example, usually have access to the resources (expertise and money) needed to ensure compliance. However, medium-sized firms that are growing, especially medium-sized forms experiencing rapid growth, tend not to have the resources needed to deal with all the regulatory hurdles that arise: "In particular, the effect would appear to be most

<sup>25</sup> National Audit Office 'Hampton Implementation Reviews' (2007).

<sup>26</sup> Foreign Policy Centre and the Federation of Small Businesses 'Burdened by Brussels or the UK: Improving the Implementation of EU Directives' (2006).

severe on medium-sized firms and innovating firms who are seeking to grow but are not of sufficient size to enable them to circumvent [associated] costs<sup>27</sup>. The realisation that regulation impacts hardest on growing businesses was first acknowledged back in 1999 by the BRTF<sup>28</sup>. The BRTF argued that as small businesses grow in size and activity they begin to reach and breach regulatory exemption thresholds. As a consequence, firm owners and managers suddenly find themselves having to ensure compliance to a host of regulations that were not previously considered or relevant to business practices. A typical example might be something such as the VAT threshold which, according to a report published by the Small Business Research Trust in 1998, is cited as a cause of significant concern for almost one in five growing businesses<sup>29</sup>. Indeed, Chittenden et al's (2000) description of a 'distorted business behaviour zone' at turnover levels close to the VAT threshold offers a strong suggestion that there are critical development stages in the business lifecycle<sup>30</sup>. These critical stages need to be identified and greater support and guidance should be given to ensure that firm owners and managers have the knowledge and confidence needed to overcome regulatory obstacles as efficiently and effectively as possible.

A further and equally clear message emerging from the desk research is that the regulatory burden falls disproportionately on the small business population. That the burden of regulation falls excessively on the small business population is of real concern as 95% of UK businesses are categorised as micro businesses and more than 99% of the total business population as small businesses<sup>31</sup>. Excessive regulatory burdens, whether real or perceived, are considered to affect levels of small business start up and growth which, in turn, has broader implications for development and competitiveness across the economy as a whole. The Small Business Service (SBS) reported in 2006 that 12% of businesses surveyed cited regulation as being the main obstacle to the success of their business<sup>32</sup>. Altogether 32% of respondents considered regulation as an obstacle in the way of their success. Furthermore, 39% of respondents with employees felt that regulation was excessive and caused detriment to the long-term prospects of their businesses, suggesting that employment legislation is a concern for employers.

According to the Hampton Review (2005) there are a number of reasons why regulation affects small businesses in particular: "They have higher compliance costs than large businesses; they are less resilient to regulatory shocks, miscalculations and uncertainties; they lack regulation specialists; their need to grow can be badly affected by regulation; they face large costs of administration (e.g. of taxes) as well as regulatory burdens; and they often need the assistance of government to comply with regulation". A study conducted by the Small Business Administration in the United States (2005) found that the burden of regulation was up to 45% greater on the small business population than it was on their larger business counterparts<sup>33</sup>. This suggests that there is a need for the impact of regulation on small businesses, in particular, to be explored in more detail.

<sup>27</sup> Kingston University (2005) 'Regulation and Small Firm Performance and Growth: A Review of the Literature'.

<sup>28</sup> Better Regulation Task Force (1999) 'Regulations and Small Firms: Progress Report'.

<sup>29</sup> Small Business Research Trust (1998) Natwest SBRT Quarterly Survey of Small Business in Britain, Vol. 14, No.1.

<sup>30</sup> Chittenden et al (2000) 'Small Business Taxation: An Agenda for Growth' Natwest Bank Publications.

<sup>31</sup> Carter, S. and Jones-Evans, D. (2006) 'Enterprise and Small Business: Principles, Practice and Policy' London, Pearson Education.

<sup>32</sup> Small Business Service 'Annual Small Business Survey 2005: Annual Report' (2006).

<sup>33</sup> Small Business Administration 'The Impact of Regulatory Costs on Small Firms: No. 264' (2005).

In April 2000, the BRTF published a report specifically designed to address the key issues that stem from regulating the small business population. The report, *Helping Small Firms Cope with Regulation*, set out sixteen key recommendations that should be incorporated into the design of regulation so that the burden of regulation that currently falls on the small business population is reduced. Although the recommendations are each important in their own right, there is not sufficient space to refer to them all at length in this desk review. However, the critical points raised are broadly covered in the five points below:

- All new regulations should be considered from the perspective of the small business population;
- The real costs (time and money) of new regulations should be accurately measured and subsequently reviewed;
- More consultation between regulators and businesses needs to occur
- Regulation should be easy to understand and implement and delivered in a variety of media
- Compliance guidance material should be evaluated by the small business population and released at least three months before the changes in regulation are implemented.

However, despite Patricia Hewitt, the then Minister of State for Small Business accepting all sixteen of the recommendations as set out by the BRTF, it is not clear that they have yet been taken into full effect. Indeed, the Small Business Council (SBC) set out a list of recommendation in early 2007<sup>34</sup> very similar to those proposed by the BRTF (2000). The first two recommendations made by the SBC were that:

- Government Departments embed the “Think Small First” principle at the heart of the RIA research process; in other words, that research and consultation must be specifically directed towards understanding the regulatory impact on the small business community.
- RIA research should specifically assess the relative implementation costs for micro firms (1-9 employees), small firms (10-49 employees), and medium-sized firms (50-250 employees) and ensure that data for these categories are viewed separately in the RIA text. This should feature on the proposed “top sheet” to the revised RIA, summarising the key regulatory cost information.

The ‘Burdened by Brussels or the UK’ report published in 2007 explored in depth eight regulations which the FSB membership had identified as being particularly burdensome. These eight areas were identified as:

- The Part-time Workers (Prevention of Less Favourable Treatment) Regulations
- The Money Laundering Regulations 2003
- The Work at Height Regulations 2005
- The Control of Asbestos at Work Regulations 2002
- Control of Substances Hazardous to Health (Amendment) Regulations 2003
- Insurance Mediation Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation
- Fire Precautions Regulations (1999)
- The 2002 Landfill Regulations

<sup>34</sup> Small Business Council (2007) ‘Review of Impact Regulatory Assessments’ March.

These areas of legislation are not the only cause of concern, but they offer some insight into the key regulatory challenges faced by businesses. There is little reason to suspect that the key challenges identified by the FSB survey will be any different from those faced by the wider business population. The study pointed out that some regulations are excessive but incur little cost for the business, while others occur less frequently but can involve high costs.

### 3.6 Assessing the Effect of Regulation and Compliance on Business

A number of academic studies have sought to analyse the effectiveness of existing surveys in assessing the impact of regulation on businesses. Authors such as Kitching and Chittenden have analysed methodologies used by government organisations, research consultancies, and academic institutions to measure the impact of regulation. The common criticisms associated with these approaches are outlined below. These will inform the development of the survey and stakeholder consultation approaches in this feasibility study.

A common criticism of many studies of regulation on the business community is that often no definition of regulation and other related terminology is provided. This can make it difficult to compare survey findings conducted by different organisations at different times and across different locations. Kitching argues that, by not defining regulation, respondents tend to focus on regulations that cause problems for them rather than those that create or enable the exploitation of opportunities. He states: ‘not providing a definition of regulation invariably encourages business owners to focus on regulations that place obligations upon them, such as making tax payments, rather than on any enablements afforded them...business owners, like other people, are more likely to focus on what prevents them achieving their goals than on the conditions that enable them’<sup>35</sup>.

Kitching also notes that the majority of surveys do not sufficiently explore respondents’ perceptions, awareness and understanding of regulation and their regulatory obligations. Regulation is often portrayed as a constraint on businesses which has the effect of reinforcing rather than ‘unpicking’ perceptions of regulation. As a consequence, findings from surveys reporting on the regulatory burden tend to be superficial and lack the strong evidence base needed to evaluate and reform new and existing regulations. He states: ‘Survey data rely too strongly on superficial ‘sound-bite’ responses which provide good headlines but, at best, tell us only what business owners think about regulation rather than what they do about it’<sup>36</sup>

By focusing on the costs to businesses of regulation, the wider benefits of regulation are often obscured. In the first instance, regulation is essential for the functioning of advanced free market economies. Many taken for granted practices, such as contracts and property ownership, are regulated and enforced by the government. There is, therefore, a clear and positive link between regulation and the trading environment which is often unacknowledged in regulation related surveys. There also tends to be little recognition of the positive impact that regulation can have in terms of motivating and enabling business owners. Kitching argues that regulation does not produce uniform consequences across all businesses – a point that can be hidden when survey findings

<sup>35</sup> Kitching, J. (2006) ‘A burden on business? Reviewing the evidence base on regulation and small business performance’ *Environment and Planning C* 24(6) p 804

<sup>36</sup> Kitching J (2006) ‘Is less more? Better regulation and the small enterprise’ in Weatherill, S (Ed.) (2007) ‘Better regulation’ Hart Publishing: Oxford. p 160.

are aggregated across whole populations - but that the consequences depend on how each business responds; just as a business may struggle to understand and comply with the new regulation, it may also identify and exploit new opportunities that the new regulation has created.

Chittenden et al<sup>37</sup> have set out a number of questions to consider when designing research approaches to assess the effect of regulation. These are:

1. What is the baseline against which costs and benefits should be measured? In order to estimate this it is necessary to determine how things would have been if the regulation had not been promulgated (i.e. to specify a 'counterfactual' position).
2. What costs should be measured? The majority of studies of the costs of regulations estimate the direct costs of compliance and omit indirect costs and benefits (e.g. psychological or opportunity costs).
3. The effect of technological change. The majority of studies are outdated and do not account for the impact of technological changes that may alter the effect of regulations over time. Technological improvements are often cited as the reason that actual benefits and costs may turn out to be lower than anticipated. For example, information technology may reduce the administrative costs of calculating sales tax liabilities.
4. Can we determine causality? Because of the many different regulations introduced by a variety of federal agencies, it may be difficult to attribute changes in behaviour to a specific regulation, e.g. how much of the costs of maintaining payroll records should be attributed to the calculation of tax liabilities as opposed to recording the number of hours that employees work?
5. Is there an 'Apples and Oranges' problem? Attempts to summarize the total costs and benefits of regulations have simply added together diverse sets of data that vary in quality, method, time period, etc.

The idiosyncratic impact that regulation has across the business population has drawn attention to the importance of understanding the way that businesses respond to regulation as well as static conceptions of compliance. Four distinct attitudes to regulation have been identified in the academic literature:

- Avoider (Vickers et al, 2005);
- Unaware (Harris, 2002);
- Vulnerable compliance (Petts et al, 1999) and;
- Proactive learners (Vickers et al, 2005).

This typology reflects the different ways that businesses respond to regulation. Whereas businesses classified as "proactive learners" will be able to integrate the regulation and use it to build on their business success, those businesses that are classified as "avoiders" will continue to cite regulation as a key barrier. These findings suggest that how a business responds to changes in regulation is perhaps as important as the nature of the changes themselves.

<sup>37</sup> Chittenden F, Kausar S, Poutziouris P (2003) Tax regulation and small business in the USA, UK, Australia and New Zealand. *International Small Business Journal*, Feb 2003 v21 i1 p93(23)

In March 2008, DBERR published a paper outlining their vision of the regulatory environment in 2010. The paper, *Simple Support, Better Business: Business Support in 2010*, outlines the government's commitment to the simplification of the regulatory environment. The authors of the report acknowledge that the government is a long way from reaching their objectives, "The Annual Small Business Service Survey 2005 found that over 50% of small businesses want government help, but struggle to find their way through the maze of provision". However, the case for streamlining support remains as strong as ever and the experience of businesses looking for support has changed for the better<sup>38</sup>. The government also acknowledged that the creation of the best possible conditions for small business to build their capacity and capability for growth requires their active engagement with small businesses as well as their representative agencies.<sup>39</sup>

In addition to the objectives outlined above, the same report also made it clear that the evaluation of new regulation will play an increasingly important role in the future: "shared success factors and consistent performance management will be put in place, while a strong, independently chaired board will act to prevent the proliferation of new schemes"<sup>40</sup>.

### 3.7 Summary – Key Learning Points

A number of key areas emerge from the policy documents and research reports analysed in this review. The key learning points from the desk review include:

#### 3.7.1 The Costs of Regulation

- The costs of regulation compliance are difficult to calculate precisely, but in 2004 were estimated to account for 10-12% of UK GDP;
- Good regulation serves to contribute to, and protect, the welfare of citizens, businesses and other stakeholders;
- Poorly designed or excessive regulation can place burdens on businesses, and result in reduced efficiency, productivity and unnecessary expenditure;

#### 3.7.2 Government Action to Reform Regulation

- The Government has, over the last ten years, put in place a number of measures to reduce and simplify regulation, including the establishment of the Better Regulation Executive (BRE), Department for Business, Enterprise and Regulatory Reform (DBERR), and the Local Better Regulation Office (LBRO).
- Actions undertaken by the Government to reduce the burden of regulation include: reducing the number of regulatory bodies; removing unnecessary regulations; simplifying and shortening forms; reducing the need for businesses to give the same information twice, and reducing the number of inspections conducted with businesses.

#### 3.7.3 Information and Guidance on Regulation

- The Government recognises that advice and guidance on regulation is an integral part of regulation reform. This is reflected in DBERR's *Code of Practice on Good Guidance for Regulation*, which sets out eight key rules for guidance provided by regulators;

<sup>38</sup> Department for Business Enterprise and Regulatory Reform (2008) 'Simple Support, Better Business: Business Support in 2010'.

<sup>39</sup> Department for Business Enterprise and Regulatory Reform (2007) 'Building a New Enterprise Framework: Progress Report'.

<sup>40</sup> Department for Business Enterprise and Regulatory Reform (2008) 'Simple Support, Better Business: Business Support in 2010'.

- The findings of the Hampton Review suggests that poor or inaccessible advice for businesses on regulation hinders compliance;
- There are clear thresholds in a business life cycle where greater levels of regulation advice and guidance is needed;
- Nearly half of businesses seek external advice about how to follow regulation at a cost of £1.4 billion per year;
- The five key reasons that businesses seek external advice are: (1) volume and complexity of regulation; (2) low awareness of government regulation; (3) changes to regulation; (4) poor quality government guidance; and (5) uncertainty, risk, and lack of confidence.
- Recommendations made by the BRE on how the Government should improve guidance include: issuing guidance 12 weeks before regulation comes into force; developing ways of contact businesses directly by post or email; provision of high quality information on regulation to intermediary organisations; providing an indication to businesses of the amount of time it will take to comply with a regulation; and setting up web forums to allow businesses to share information and advice.

#### **3.7.4 Key Compliance Issues**

- Despite poor perceptions of regulation by businesses, the UK regulatory environment is ranked 6<sup>th</sup> out of 178 economies in terms of ease of doing business;
- The majority of businesses do not feel that the Government is making any progress in the better regulation agenda;
- Measures considered as the most important by businesses to improve compliance guidance are: simplifying complex rules; improving access to information that spells out clearly the regulations that apply to a business; guidance that uses clear and simple language to explain how to comply; not having to produce the same information more than once; and consultation with a business before changes are made to regulation;
- Excessive regulatory burdens are shown to affect business start up and growth rates;
- The burden of complying with regulation appears to be felt more heavily by smaller businesses;
- Businesses with employees are more likely to feel that regulation is excessive, compared with those without employees.

#### **3.7.5 Assessing the Effect of Regulation and Compliance on Business**

- Surveys that explore the effect of regulation on businesses should include clear definitions of terms such as regulation, compliance, and legislation;
- Studies should explore the positive, as well as negative, aspects of regulation and compliance;
- Qualitative data is required to provide insight into how businesses respond to regulatory reforms; and,
- More research needs to be conducted to ascertain whether attitudes towards regulation can be changed, i.e. whether “avoiders” of compliance can become “vulnerable compliers” and the support needed to bring these changes about.

#### **3.7.6 Implications for the Compliance Guidance Feasibility Study**

In summary, the implications as identified in prior research for this study are:

- Businesses do not feel that compliance with regulation is becoming easier, or less expensive;
- A large number of businesses feel the need to seek external advice on regulation;

- Good guidance on regulation can help to reduce the burden of compliance on businesses;
- Guidance on regulation is increasingly regarded as an integral part of the regulatory process by the Government;
- There appears to be a demand for clear guidance that uses simple language to explain: (i) which regulations apply to each business; (ii) what the business needs to do to comply;
- The areas of legislation identified by businesses as being most burdensome relate to employment, health and safety, and waste disposal.
- The impact of compliance appears to be felt more heavily among smaller businesses and businesses that employ staff;
- The most useful ways of providing information to businesses about regulation are considered to be: directly, by email/post; via intermediary organisations; and via web forums;
- Approaches to assess the effect of regulation on business should attempt to capture the range of potential outcomes that result from compliance, and not focus on negative preconceptions or financial costs;
- In-depth qualitative research is required to develop a deeper understanding of the way that businesses perceive, understand, and comply with regulation and the longer term effects of compliance.

## 4 BUSINESS SURVEY RESULTS

### 4.1 Introduction

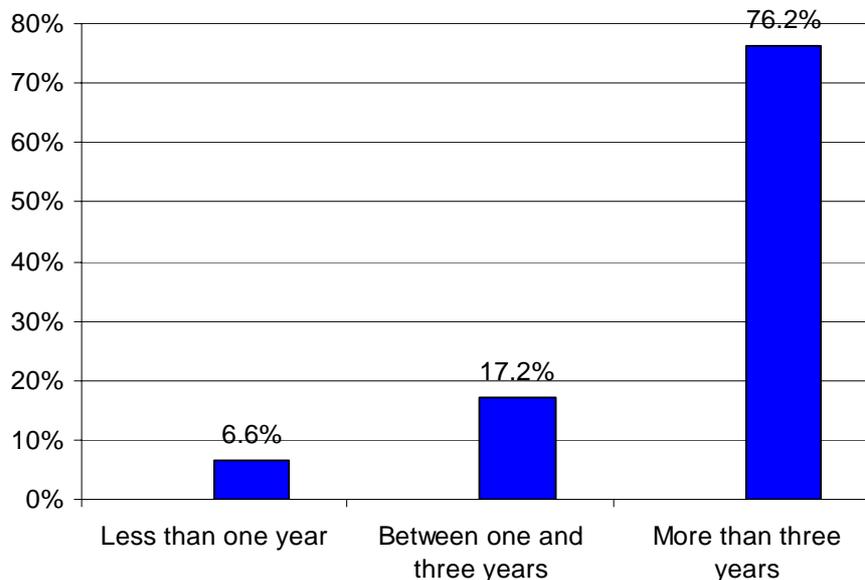
This section sets out the findings of the survey of businesses. The purpose of the survey was to explore how easy it is for businesses to find out about regulation that affects them, the sources that they use, and any priority areas or types of regulation where more guidance is needed. The questionnaire is included as appendix 1.

The survey was distributed to businesses across the East Midlands via a number of business organisations. These included the Federation of Small Businesses, Institute of Directors, East Midlands Business, and the University of Lincoln Experience Exchange. This approach ensured that the survey was distributed across all areas of the region, and that a cross-section of businesses of different ages and industrial sectors were represented, as well as a representative number of female and ethnic minority-owned businesses. The results presented below are based on a response of 153.

### 4.2. About the Respondents

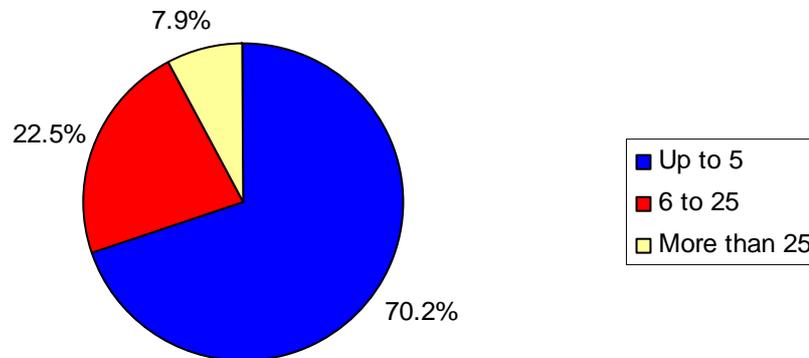
Graph 1 shows that the majority of businesses, 76%, had been established for more than three years. This reflects the intention of the survey to seek the views of primarily established businesses.

**Graph 1: How long has your business been trading?**



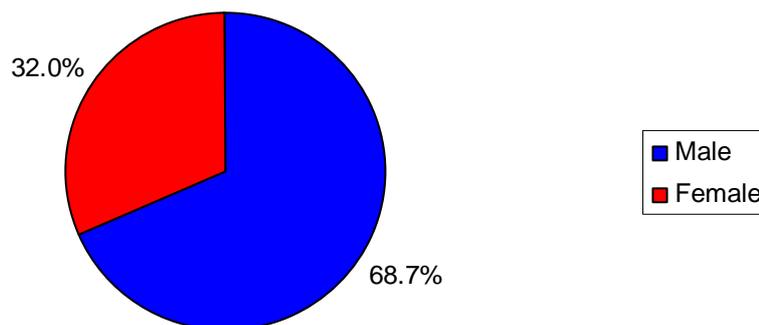
Graph 2 shows that the respondents comprised overwhelmingly micro and small businesses, with 70% employing fewer than 5 people. This reflects the composition of the broader East Midlands business population, in which SMEs account for 95%<sup>41</sup>.

**Graph 2: How many people does your business employ?**



The gender breakdown of respondents, illustrated in Graph 3, shows that just under two thirds of respondents were female. This suggests a good representation of female owned businesses in the sample.

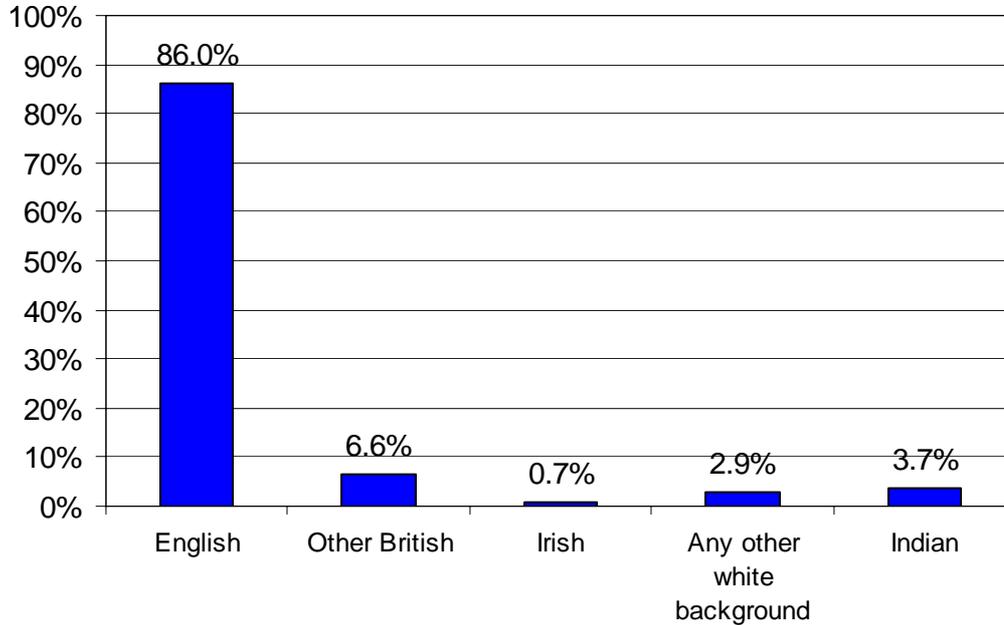
**Graph 3: Gender of respondents**



<sup>41</sup> *emda* Business Support Strategy

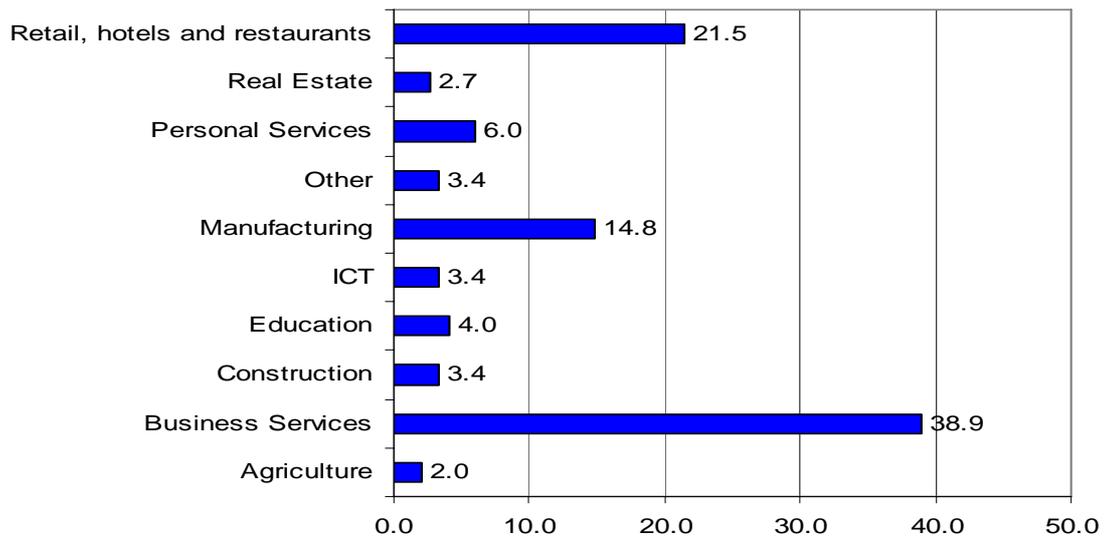
The vast majority of respondents, 96%, were from white backgrounds. 86% were English, with 7% from other areas of Britain. A very small proportion of respondents, 4%, were from an Indian background.

**Graph 4: Ethnic background of respondents**



Graph 5 shows that there was representation from a broad range of industrial sectors. The most represented sectors include business services (39%), retail, hotels and restaurants (21%) and manufacturing (15%).

**Graph 5: What is your core business activity (% breakdown)?**



### 4.3. Finding out about Regulation

Graph 6 shows the proportion of businesses that find it very or fairly easy to find out about different aspects of legislation affecting their business. The results suggest that businesses do not find it very easy to find out about legislation. Just over half of businesses find it easy to find out about existing legislation that they have to comply with. A lower proportion (40%) finds it easy to find out about changes in legislation or new legislation.

**Graph 6: How easy it for you to find about legislation (% saying very or quite easy)**

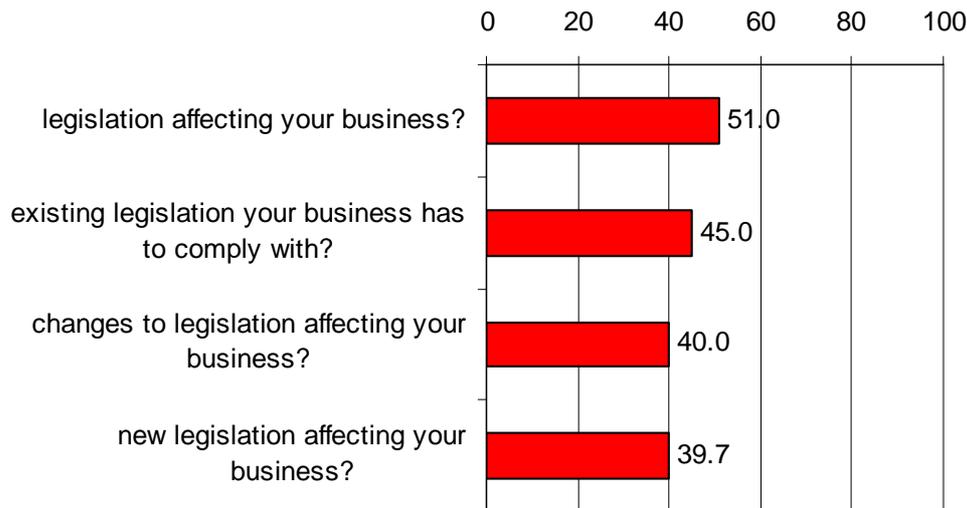


Table 1 sets out the public information sources used by businesses to find out about regulation. The most frequently used information sources are HMRC (56% in the last 3 months), Business Link (54%), Companies House (38%) and HSE (29%). More than half of respondents had never used DBERR, DWP, DEFRA or the Home Office. 39% had not used the HSE and 25% had never used Business Link.

**Table 1: Which of the following public information sources do you use regularly to find out about legislation affecting your business? When did you last use these sources?**

	Last week	Last month	Last three months	Last six months	Last 12 months	Longer than 12 months	Never	Response Count
Business Link	9.0% (12)	<b>25.4%</b> <b>(34)</b>	19.4% (26)	6.7% (9)	5.2% (7)	9.7% (13)	24.6% (33)	134
Her Majesty's Revenue & Customs	18.6% (26)	<b>20.0%</b> <b>(28)</b>	17.1% (24)	16.4% (23)	13.6% (19)	5.7% (8)	8.6% (12)	140
Health & Safety Executive	7.4% (10)	9.6% (13)	11.9% (16)	9.6% (13)	9.6% (13)	13.3% (18)	<b>38.5%</b> <b>(52)</b>	135
Department of Work & Pensions	0.8% (1)	8.3% (11)	6.8% (9)	3.8% (5)	6.8% (9)	12.8% (17)	<b>60.9%</b> <b>(81)</b>	133

Companies House	13.9% (19)	11.7% (16)	11.7% (16)	13.1% (18)	8.0% (11)	9.5% (13)	<b>32.1%</b> <b>(44)</b>	137
Dept Business Enterprise & Regulatory Reform	0.0% (0)	3.0% (4)	3.0% (4)	3.8% (5)	3.8% (5)	3.8% (5)	<b>82.6%</b> <b>(109)</b>	132
Dept Environment Food & Rural Affairs	3.8% (5)	5.3% (7)	2.3% (3)	5.3% (7)	3.0% (4)	4.5% (6)	<b>75.9%</b> <b>(101)</b>	133
Home Office	1.5% (2)	2.3% (3)	3.8% (5)	3.8% (5)	4.6% (6)	6.2% (8)	<b>77.7%</b> <b>(101)</b>	130

Table 2 shows that the most useful public information sources are considered to be HMRC (79% saying very or fairly useful), Business Link (72%), Companies House (65%), and HSE (58%). These figures may be a reflection of the frequency of use of these sources.

**Table 2: How useful did you find these information sources?**

	Very useful	Fairly useful	Not very useful	Not used	Response Count
Business Link	21.0% (26)	<b>50.8% (63)</b>	11.3% (14)	16.9% (21)	124
Her Majesty's Revenue & Customs	30.1% (41)	<b>48.5% (66)</b>	15.4% (21)	5.9% (8)	136
Health & Safety Executive	20.2% (23)	<b>37.7% (43)</b>	11.4% (13)	30.7% (35)	114
Department of Work & Pensions	4.9% (5)	26.2% (27)	17.5% (18)	<b>51.5% (53)</b>	103
Companies House	23.7% (28)	<b>41.5% (49)</b>	11.9% (14)	22.9% (27)	118
Dept Business Enterprise & Regulatory Reform	4.2% (4)	7.4% (7)	12.6% (12)	<b>75.8% (72)</b>	95
Dept Environment Food & Rural Affairs	6.2% (6)	16.5% (16)	8.2% (8)	<b>69.1% (67)</b>	97
Home Office	1.1% (1)	15.8% (15)	11.6% (11)	<b>71.6% (68)</b>	

Table 3 shows the other sources that businesses have used to help them find out about legislation that is relevant to them. A variety of sources are used, including the FSB, private providers (accountants and lawyers), industry specific bodies, and local authorities. A number of government departments and agencies are cited, including CLG, DFES, the Foreign Office, the Environment Agency, and Food Standards Agency. The internet and public library are also given as sources of information on legislation.

**Table 3 Other sources used by businesses to help them find out about legislation**

Source	Number of responses	Source	Number of responses
<b>FSB</b>	<b>18</b>	DFES	1
<b>Private provider (accountant etc)</b>	<b>9</b>	Environment Agency	1
<b>Industry specific bodies</b>	<b>6</b>	Food Standards Agency	1
<b>Local Authority</b>	<b>4</b>	Foreign Office	1
<b>Internet</b>	<b>3</b>	FSA	1
<b>None</b>	<b>3</b>	Internal guidance	1
CLG	2	Public library	1
ACAS	1	REC	1
BRPPA	1	Trade Magazines	1
CBI	1	Trading Standards	1
Chamber of Commerce	1	VOSA	1

Table 4 shows that businesses identify a wide range of regulations that are difficult to understand. The areas that are identified most frequently as difficult to understand are employment (18 responses), taxes (13), and health and safety (10). Other areas of concern include the volume of regulations, WEEE regulation, and Fire regulations.

**Table 4: Are there any particular areas of regulation that you find difficult to understand?**

Area of Regulation	Number of Responses	Area of Regulation	Number of Responses
<b>None</b>	<b>17</b>	Grant Aid Qualification	1
<b>Employment</b>	<b>18</b>	Guidance and compliance advice	1
<b>Taxes</b>	<b>13</b>	Housing Health	1
<b>Health and Safety</b>	<b>10</b>	Inland Revenue	1
WEEE Regulations	4	Intrastat	1
Company responsibilities	3	Law	1
HRC	3	Licensing act	1
Volume is too great	3	Money Laundering	1
Understanding Regulations	3	Most of them!	1
EU Regulations	2	Non-Smoking Regulations	1
Performing Rights	2	PBS	1
Fire	2	Raw Material Regulations	1
Disability Discrimination act	2	REACH	1
Risk Assessments	2	Relevance to business	1
AWB	1	DWP	1
Gas Regulations	1	<b>TOTAL</b>	<b>101</b>

The areas where businesses feel that more guidance is needed are shown in Table 5. The most frequently cited areas of regulation are employment (11 responses), taxes (10), health and safety (8), and new regulations (4).

**Table 5: Are there any particular areas of regulation or legislation where more guidance is needed?**

Area of Regulation	Number of Responses	Area of Regulation	Number of Responses
<b>none</b>	<b>14</b>	Needs of small firms	1
<b>Employment</b>	<b>11</b>	Intrastat	1
<b>Taxes</b>	<b>10</b>	Lead authorities	1
<b>Health and Safety</b>	<b>8</b>	Minimum Wage	1
<b>New regulations</b>	<b>4</b>	Non smoking regulations	1
Understanding regulation	3	PBS	1
WEEE Regulations	2	Availability of finance	1
Work Time Directive	2	Pension provision	1
EU Regulations	2	Risk Assessments	1
Fire risk assessment	2	Self-employment	1
Business law	2	Specialist departments	1
Company formation	1	Statutory reporting	1
Company responsibilities	1	Transport	1
Sustainability	1	TOTAL	60

Graph 7 shows that just under half of businesses (48%) find regulators helpful in providing advice and guidance to help them comply with regulation. However, 40 % find them unhelpful.

**Graph 7: How helpful are regulators in providing advice and guidance to enable you to comply with relevant legislation?**

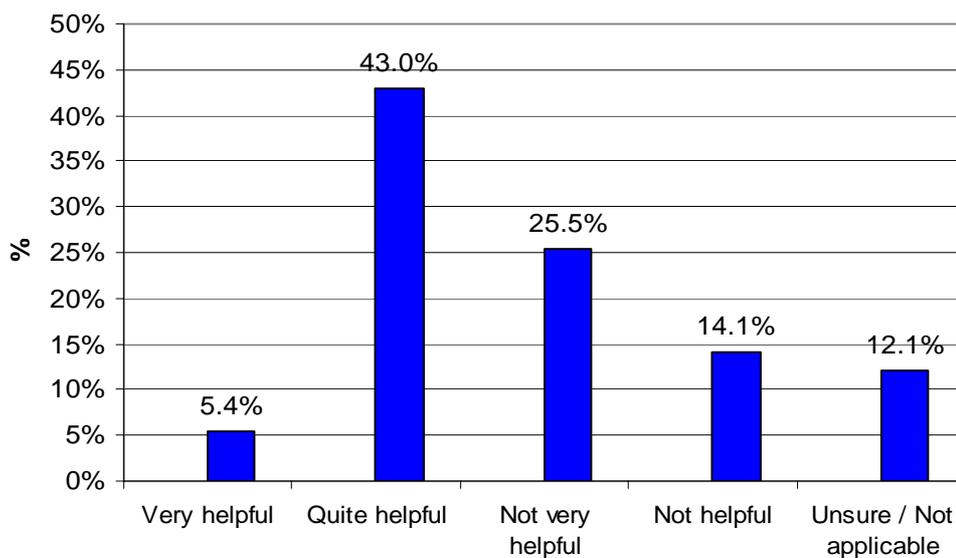


Table 6 shows the non-government sources used by businesses to help them find about regulation. The most frequently used are accountants (70% in the last 3 months), industry or trade bodies (53%), professional institute (45%), and lawyer (28%).

**Table 6: Do you rely on any non-government service to inform you on the legislation which affects your business? Please state when you last used them.**

	in the last week	in the last month	in the last 3 months	in the last 6 months	in the last 12 months	longer than 12 months	Never	Response Count
Accountant	19.9% (28)	<b>27.7% (39)</b>	22.0% (31)	6.4% (9)	14.9% (21)	2.1% (3)	7.1% (10)	141
Lawyer	4.7% (6)	11.6% (15)	11.6% (15)	8.5% (11)	12.4% (16)	20.2% (26)	<b>31.0% (40)</b>	129
Chamber of Commerce	2.5% (3)	11.7% (14)	7.5% (9)	7.5% (9)	5.0% (6)	13.3% (16)	<b>52.5% (63)</b>	120
Enterprise agency	1.7% (2)	4.1% (5)	5.8% (7)	4.1% (5)	4.1% (5)	13.2% (16)	<b>66.9% (81)</b>	121
Professional institute	18.0% (23)	15.6% (20)	11.7% (15)	6.3% (8)	9.4% (12)	4.7% (6)	<b>34.4% (44)</b>	128
Industry or trade body	19.8% (25)	20.6% (26)	12.7% (16)	4.8% (6)	4.0% (5)	4.0% (5)	<b>34.1% (43)</b>	126

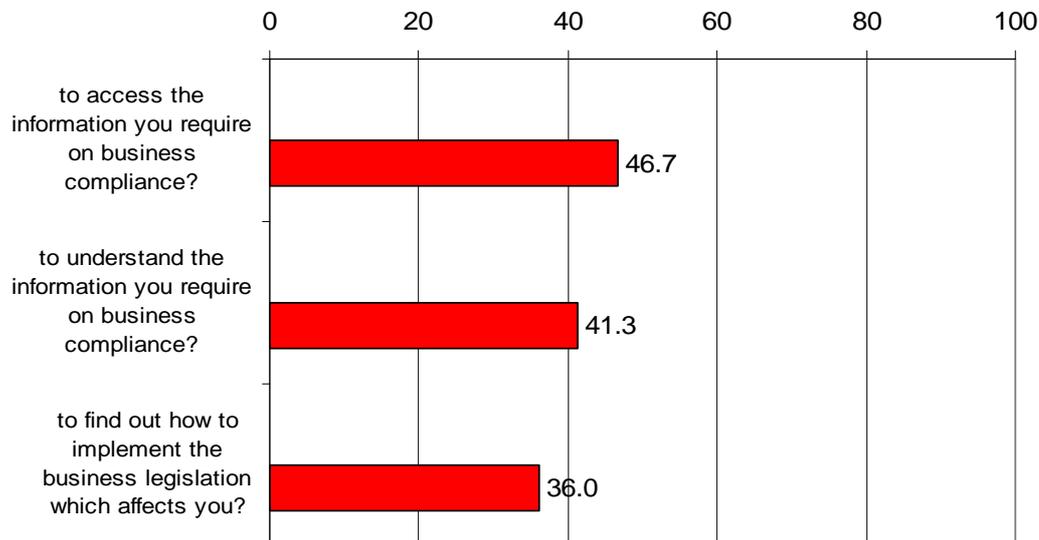
The most useful of these sources are considered to be accountants (86% saying very or fairly useful), lawyer (70%), trade body (68%), and professional institute (68%).

**Table 7: How useful did you find these services?**

	Very useful	Fairly useful	Not very useful	Not used	Response Count
Accountant	<b>66.2% (94)</b>	19.7% (28)	7.7% (11)	6.3% (9)	142
Lawyer	<b>41.4% (48)</b>	28.4% (33)	7.8% (9)	22.4% (26)	116
Chamber of Commerce	9.1% (9)	32.3% (32)	15.2% (15)	<b>43.4% (43)</b>	99
Enterprise agency	5.9% (6)	21.6% (22)	13.7% (14)	<b>58.8% (60)</b>	102
Professional institute	<b>39.1% (45)</b>	28.7% (33)	4.3% (5)	27.8% (32)	115
Industry or trade body	<b>43.4% (49)</b>	24.8% (28)	4.4% (5)	27.4% (31)	113

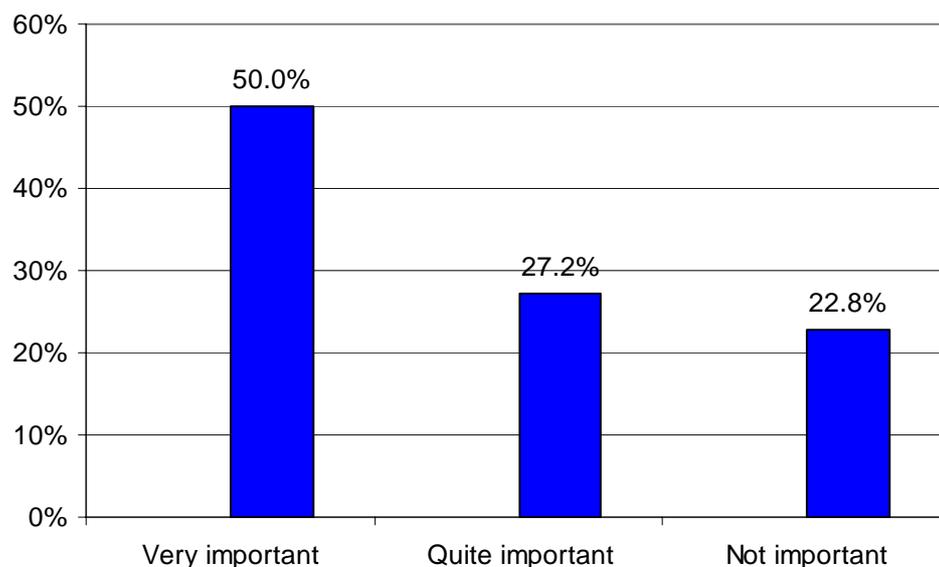
Graph 8 sets out the proportion of businesses that find it very or fairly easy to access, understand and implement legislation. Fewer than half of businesses, 47%, find it easy to access the information they need on business compliance. A smaller proportion of businesses find it easy to understand information on business compliance (41%), and just over third feel that it is easy to find how to implement legislation (36%).

**Graph 8: Finding about and understanding information about compliance. How easy is it for you... (% saying very or quite easy)**



Just over three quarters of businesses (77%) identify that compliance with codes of practice set by professional institute or trade bodies is important for their business.

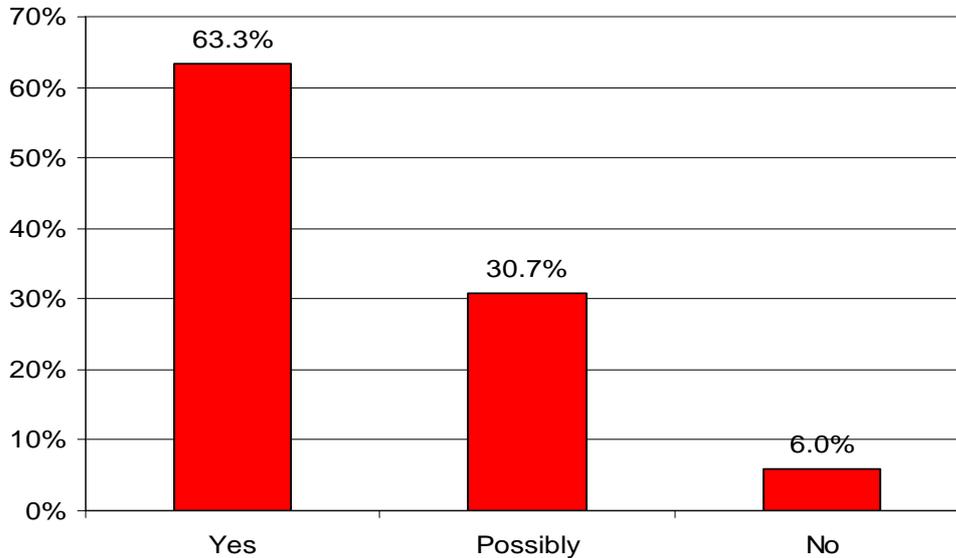
**Graph 9: Does compliance with professional institution or trade body requirements (e.g. codes of practice) affect your business? If so, how important is this?**



#### 4.4 Improving Information and Advice on Regulation

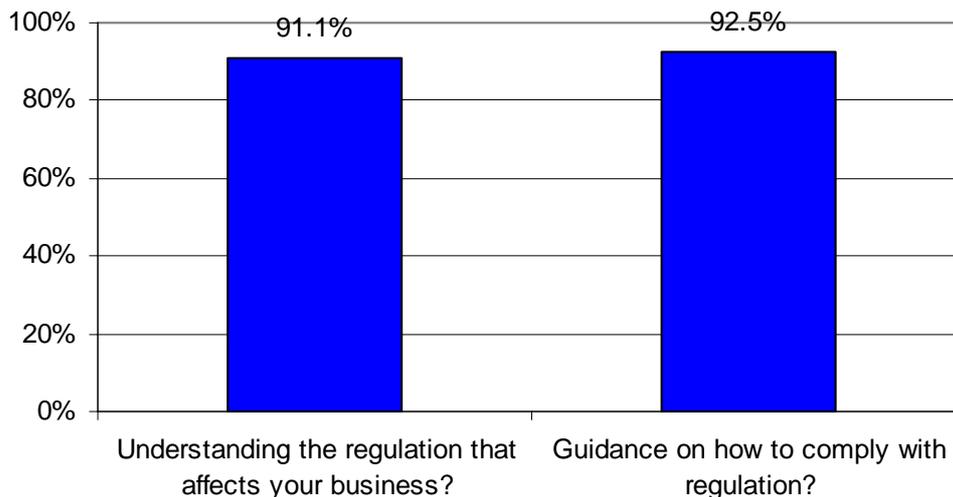
Graph 10 suggests that the vast majority of businesses (94%) feel that there is a need to improve information and advice on compliance with regulation in the East Midlands.

**Graph 10: Do you think there is a need to improve the information and advice available to businesses in the East Midlands on compliance with regulation?**



The results presented in Graph 11 suggest that any improvements in information and advice should focus on both understanding regulation, and guidance on how to comply.

**Graph 11: Should improvements in information and advice focus on...**



Graph 12 shows that the most popular media for providing additional information and advice are: website (92%), bulletins and updates (78%), and email (74%). This suggests that electronic approaches to communicating information and advice are considered preferable to face-to-face advice or workshops.

**Graph 12: How would you like to see this information provided?**

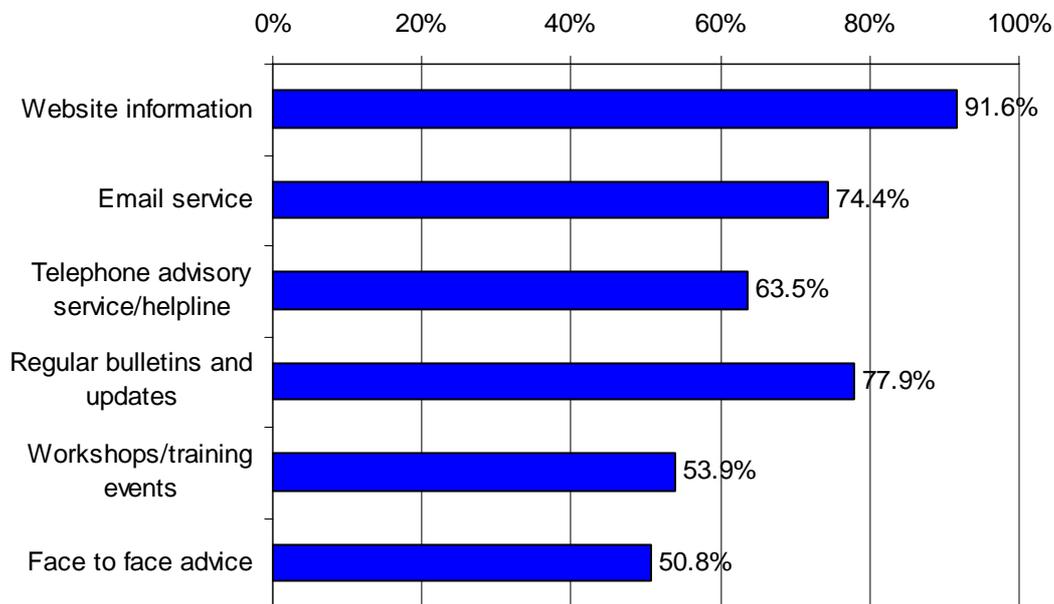


Table 8 sets out the areas of regulation that businesses feel should be addressed as a priority. The areas of most concern are employee rights and employment (9 responses), tax and VAT (8), health and safety (4), fire (3), the volume of regulation (2), ensuring consistent enforcement of regulation (2) and regulation related to waste (2).

**Table 8: Are there any particular aspects of regulation affecting your business that should be addressed as a priority?**

Issue	Number of Responses	Issue	Number of Responses
None	14	Expansion	1
Tax	6	Focus on collecting tax from large firms	1
Employment	5	Credit and banking industry	1
Employee rights a burden on small firms	4	Grants	1
Health and Safety	4	Lettings industry	1
Fire	3	Music licensing	1
Ensuring regulation is enforced	2	New regulation	1
Too much regulation	2	PBS - illegal workers	1
VAT	2	Planning	1
Waste	2	Professional ethics	1
EU legislation	2	Reducing regulation for small firms	1
Don't know	1	WEEE Regulations	1
EU funding forms	1	TOTAL	60

**Some selected quotes:**

*“Too much regulation for very small companies. In 2008 I have spent more time on making sure we are compliant than on the actual business.”*

*“The regulations seem never to be enforced; so many companies do not bother. Complying seems to put us at a competitive disadvantage.”*

*“It’s down to the Government to make sure that businesses know about new legislation. It should not be left to chance that we may see or hear about new items.”*

*“a great big bonfire of most of the regulations that are designed by people who have never run a business and don’t really have a clue how they work!”*

*“Employees right in small companies with under 20 employees should be watered down. Also we should not be burdened with levels of compliance that the public sector cannot meet.”*

*“PBS and making employers more aware of impending changes. I know there is an advertising campaign about employing illegal workers and BIA have accounts managers visiting employers, but its too little too late.”*

*“Employment Law is now heavily biased in favour of the employee, I will like to see a more equitable arrangement implemented very soon.”*

*“Outrageous extended maternity leave entitlement and the fact that all regulation is written in legal jargon when it should be written in user friendly wording.”*

**4.5 Summary and Implications****4.5.1 Finding out about regulation**

- Only half of businesses find it easy to find out information about existing legislation that affects their business. A lower proportion finds it easy to find out about changes to existing legislation or new legislation;
- The most frequently used public information sources are HMRC, Business Link, Companies House and the Health and Safety Executive;
- More than half had not used DBERR, DWP, DEFRA or the Home Office. 39% had not used the HSE, and 25% had never used Business Link;
- The most useful sources are considered to be Business Link, HMRC, HSE and Companies House;
- Fewer than half of businesses feel that regulators are helpful in providing advice to help them to comply with legislation. Over a third consider them to be unhelpful;
- The areas of regulation that businesses find most difficult to understand are employment, taxes, and health and safety;
- Businesses feel that guidance is most needed in the areas of employment, taxes, health and safety, new regulation, WEEE regulations, and the work time directive;
- Fewer than half of businesses (47%) say it is easy to access the information they need on business compliance. Just over a third (36%) say it is easy to find out how to implement business legislation that affects them.

#### 4.5.2 Improving Advice and Guidance on Regulation

- The vast majority of businesses, 94%, feel that there is definitely or possibly a need to improve information and advice to businesses about regulation in the East Midlands;
- More than 90% say that improvements in information and advice should focus on both understanding the regulation that affects their businesses, and guidance on how to comply;
- The majority of businesses would like to see information provided via a website (92%), bulletins (78%), and email (74%);
- Aspects of regulation to be addressed as a priority include: the burden of employment rights on small firms, employment law, ensuring regulation is enforced to ensure fairness, tax, and too much regulation.

#### 4.5.3 Implications

- There appears to be a clear steer from businesses that more advice and guidance on regulation is needed. However, many businesses have not used the existing public information sources such as Business Link, HSE and DWP. This suggests that there may be an opportunity for further awareness raising or signposting to existing information and advice providers;
- The findings suggest that information and advice should be focused particularly around new legislation and changes to legislation;
- There appears to be a preference for information provided via websites, emails and in bulletin form. There may be scope for an approach that combines a website with regular email bulletins. There may also be potential to increase the distribution of the bi-annual EMB Regulation Bulletin;
- The key areas of regulation that employers find most difficult (employment, tax, and health and safety) reflect those identified from studies analysed in the desk research. This suggests compliance issues and concerns experienced by businesses in the East Midlands are broadly similar to those experienced by businesses from across the UK.

## **5. WORLD CAFÉ CONSULTATION FEEDBACK**

### **5.1 Introduction**

A consultation event was held with regulators, business support organisations, and businesses on 10 March 2008. The event provided the opportunity to gather the views of organisations involved in enforcing regulation, those providing advice and guidance to businesses on regulation, as well as businesses themselves. The aim of the event was to develop consensus among stakeholders and businesses on priority areas for better information and guidance, and the identification of options and organisations that would be best placed to provide it.

The event used the world café methodology to encourage discussion around a number of key issues related to regulation advice and guidance. The methodology involved an interactive process. Two attendees per table were asked to become facilitators for specific questions. They were required to engage in conversation across all tables to ensure that all attendees had the opportunity to contribute to each question.

The event programme and list of attendees can be found in appendix 3 and 4 to this report.

### **5.2 Stakeholder Feedback**

Attendees were asked to discuss how regulation could be used as a business opportunity, and the actions that could be taken to exploit the opportunities associated with regulation.

#### **5.2.1 How can regulation bring about efficiency gains for business?**

It was felt that regulation could bring about behaviours that could result in increases in productivity. Some regulations had brought about sustainable practices within businesses. Waste regulations encouraging waste reduction, and changes in car tax laws encouraging less car usage, were given as examples. Although planning regulations were regarded as restrictive, it was felt that they did preserve the local environment. Non-compliance with regulation was identified as a potential risk for businesses. Employment law was cited as one area where non-compliance could result in the loss of money.

Although it was broadly recognised that regulation did bring about some opportunities for businesses, it was felt that regulation almost always incurred costs for businesses.

#### **5.2.2 What can businesses do to exploit the opportunities associated with regulation?**

Businesses identified that complying with certain regulations demonstrated that they had met certain standards, particularly in areas such as health and safety. This could be used as a kite mark, and for marketing their business. There were market opportunities that were associated with helping people to comply with regulation, particularly for companies involved in waste disposal. It was also identified that complying with regulation could help small businesses compete with larger businesses when bidding for work.

The following section sets out a summary of key points raised and discussed at the World Café Event. For a full list of all the points raised in the event, please see Appendix 5.

### 5.2.3 Question 1: How effective is the current position for businesses? How well are business requirements met? What are the gaps and shortcomings?

- The key areas that businesses find it difficult to get information on are VAT, Employment Law, and Health and Safety. These are areas where non-compliance can mean “proper punishment” and this can “wreck a business”.
- There are costs associated with getting VAT wrong, and fear of employment law has prevented business expansion or led to retention of inefficient employees. ACAS is cited as one source of information, but they are perceived to be on the side of the employee.
- Finding information on compliance is not regarded as a problem, but business feel they need more guidance on how it applies to them, and what they have to do to comply.
- Businesses feel the need for a source of information/advice that makes them feel certain that they have complied, but regulators are not always able to provide 100% assurance.
- Businesses tend to want definitive answers – “this is what you have to do and this is how you do it”. However, there is no clear guidance on untested legislation and managers have to make judgements which may later be challenged on ‘what is reasonable’.
- Local authorities are regarded as fairly helpful in terms of regulation, but national regulators less so.
- Businesses often talk to each other, friends, and membership organisations, rather than go to the regulators or support organisations.
- Small businesses don’t always want to or can’t afford to pay fee paying services such as solicitors and accountants - the risk associated with compliance appears to be borne more easily by larger companies, who can afford to pay lawyers and accountants to ensure that they comply.

### 5.2.4 Question 2: How effective is the system for regulators? How well are they able to provide businesses with information and advice to comply with regulation? What are the gaps and shortcomings?

- Regulators are not always the instigators but are often the recipients of regulation from central government.
- Regulations are often released without sufficient compliance guidance being offered, and guidance for regulators often arrives late.
- Local authorities have limited resources for enforcing regulations.
- There are too many agencies involved, and variation in performance between agencies so that there is not always a good relationship between regulators.
- Some regulators see their role as one of enforcement/inspection rather than of support and guidance.
- Health and Safety legislation is designed to enable the regulator to take business to task if they do something wrong - “guilty until proven innocent”.
- There is too much emphasis on interpretation rather than on clear guidance – regulators are reluctant to commit to telling a business that they are complying fully.
- Regulations are often perceived as being out of date or not relevant to the businesses that have to comply with them.
- There is a need to improve training and staff development for guidance officers.

- A 'one stop shop' is needed so that businesses know where to turn when they need help.
- Awareness raising of new or changing regulation needs to be improved.
- There is a lack of trust between the regulators and the regulated – this needs to improve so that productive relationships can grow.

**5.2.5 Question 3: How effective is the system for intermediary organisations, including Business Link, membership, trade and professional organisations, and professional advisors? How well are they able to advise businesses on compliance issues? What are the gaps and shortcomings?**

- There is a need to improve the consistency of advice across different agencies and areas.
- Improving awareness is the single most important aspect of compliance.
- Better guidance is needed on what applies to each individual business.
- Access to relevant information needs to be improved and should be user friendly, in plain English.
- A common release data for information about new regulation is a good thing, but not everyone receives the East Midlands Business Regulation bulletin - it reaches people through different media or some people not at all.
- Important regulatory changes need to be flagged more clearly than at present.
- There needs to be a single point of contact that all businesses can turn to or a central agency where information can be stored and accessed.
- There is a need for a more effective signposting type system.
- Businesses often need to be sold the benefits of compliance.
- Support for existing businesses is not as good as for new starts yet their needs are more complex.
- On-going support is crucial as the regulation changes so often.
- Finding businesses that are off the business support radar needs to be addressed.
- Business growth and expansion trigger changes in regulation guidance needs.
- A single database for rules and regulations for business in the UK is being launched, which will sit on BusinessLink.gov.uk and Direct.gov.uk, according to EMB.

**5.2.6 Question 4: What would the ideal scenario be in terms of providing the information and advice to businesses on compliance?**

- Making the most use of information that is already out there.
- One source and one point of access.
- Information to be accessible.
- Developing regulation checklists for each sector.
- Distinguish between needs of new and established businesses.
- Address business needs at times that are convenient for them.
- Information targeted at each business, and businesses to determine what information they want to receive.
- Better working together of planning, economic development, health and safety.
- Best practice should be shared between local authorities.
- Public sector agencies should share information with businesses for guidance not enforcement.

### 5.2.7 Question 5: What are the gaps between the ideal scenario and what is currently available? Which of these have greatest costs and negative impact on business?

- Good value-for-money guidance is not readily available.
- There are inconsistencies in regulation enforcement between geographical areas.
- Businesses need to be feel certain that they have complied.
- Businesses and regulators should be consulted in the design of new regulations.
- “Silo Mentality” – each regulator seeing the regulation from their own perspective.
- More trust between the regulators and businesses – not “them vs us”.
- A single point of contact so that it is clear where information can be accessed.
- More signposting to a single information source.
- A common regulatory agency that all businesses can turn to.
- A channel for discussing problems related to regulation.
- The costs of complying made clearer so that businesses can prepare for the costs.
- Businesses at different stages in their lifecycle need different types of support.
- There are not enough publicly funded advisors for the small business community.
- Businesses to be alerted to regulatory changes well in advance
- A list of recommended suppliers of regulatory guidance is essential.
- A ‘fair play’ award where the most compliant businesses are recognised.
- A coaching and mentoring scheme – whether the coaches are regulators or other businesses is not important.
- There is a lot of informal collaboration between businesses in terms of advice and support – best practice should be shared and disseminated more widely.
- Financial support should be provided to help firms comply with new regulations.
- The benefits of compliance need to be ‘talked-up’.

### 5.2.8 Question 6: What are the ideal solutions? What action is needed to implement these? Who should do this and how?

- All information to be available on the internet.
- Information available in other languages, or increase language training provision, for those using English as a second language.
- Clear notification that a new regulation has come into force.
- Legislation to emerge in the first place more clearly expressed (not needing so much “interpretation”).
- A single content source needed but multi-faceted “roll out”.
- The importance of a trusted friend (not necessarily a regulator) who can tell you whether regulation applies to you, you have understood it, and you know how to comply.
- The service must be confidential/impartial (ability to talk without being punished).
- Need one place to look for information, and need organisations to signpost to it.
- Advice and intelligence, rather than information.
- Notification of new legislation not too early or too late.
- Focus resources where the risks are highest.
- Encouraging information sharing between government departments and agencies.
- Combine business visits from regulators.
- Clear government direction (and resource) needed if service to be publicly driven.
- Should be led from central government via local authority with RDAs facilitating.
- A director (possibly company secretary) should legally accept responsibility for compliance as the “named person” who has responsibility for staying up to date.

- Openness, transparency, accountability from RDA in seeing implementation through.

### 5.3 Feedback from the Subject Area Panel

This section sets out the feedback from the Subject Area Expert Panel on a number of key questions.

#### Q1: What are the priority areas of regulation and legislation?

- Priority areas include employment law, health and safety, the environment; tax and customers, climate change, governance and director liabilities, and data protection.
- The quantity of legislation, volume of forms and compliance visits is excessive.
- There is fear associated with seeking advice from regulators.

#### Q2: How should regulation advice be delivered?

- Need to consider how electronic information is made easier within the framework.
- Need to take into account how businesses respond to new regulations: proactively or reactively.
- Recognition that advice must be brokered not delivered by Business Link.
- The need to make local authorities integral to any advice delivery as they are trusted and accountable via elected members.
- Inconsistencies in advice should be addressed.
- It is right to distinguish between low level and high level support. Business advisors should refer to appropriate information sources or professional support.
- The need to further populate the service provider register with navigable support sites, agencies, and consultants.

#### Q4: How does the desk research fit with your understanding of the current issues regarding compliance guidance?

- There is agreement that burden of compliance falls disproportionately on the small businesses and, in particular, micro businesses.
- There is a need for *definitive* guidance that is correct and up to date.
- Requirement for tailored communication to business “this is new and it applies to you”.
- Ensuring that businesses address compliance issues in a straightforward and not necessarily elaborate way, nor that they feel the need to consult fee paying services.

#### Q5 Which areas of compliance guidance work well and why?

- The Business Link website is excellent.
- Local briefings for solicitors works well.
- Plain English, short, well written with FAQ works best. Local Authorities via LACORS have good track record on this.
- Although information on websites appears to work well, it is important to provide information in a variety of formats as not all businesses have internet access.
- The need for advice from third parties that businesses can trust, not just regulators.
- A helpline for health and safety and environmental issues, equivalent to ACAS for employment issues, would be helpful

## **Q6 Which areas of compliance guidance do you feel fall short of meeting business expectations?**

- There is confusion as to where to go for advice.
- Businesses receive different answers to the same questions from different sources.
- Lots of information - therefore it takes time to read it, let alone implement it.
- There is variation across local authority and government department sites, with some very helpful and others poor.
- Guidance without practical implementation advice is not helpful.
- Regurgitation of regulations is not helpful.
- Businesses need to know that regulation mail shots are important, apply to them, and are not junk mail.
- The line “only the court can finally determine interpretation” is good for a cautious regulator but confusing to a small business wanting clear and firm advice and direction!

## **5.4 Summary**

### **5.4.1 Views of Businesses, Regulators, and Intermediary Organisations on the Current Situation**

#### **Businesses**

- Extensive information on regulation is already available and accessible.
- Businesses need clear information on what regulation is relevant to them and how to comply.
- Areas where more guidance is needed include VAT, health and safety, employment law and waste.
- Businesses feel the need for “certainty” that they have complied but regulators are not always able to provide that assurance especially where judgment is required.
- Businesses want a source of information and advice they can trust and confide in without risk of punishment.

#### **Regulators**

- Local regulators have limited resources, and often know little about new regulations before they are released; there is a need for better briefing.
- There is a need for training and development among local authority staff.
- Working relationships between regulators could be improved.
- There is a need to develop trust between regulators and businesses.

#### **Intermediaries**

- Small and especially micro firms feel the burden of compliance most heavily
- Better guidance is needed on what regulation applies to each business.
- Guidance should be consistent across agencies and areas.
- A single information/contact point is needed, with appropriate signposting.
- A bulletin needed at a single release date to inform businesses of new regulation.
- There are clear stages in a business’s development where greater levels of regulation guidance are needed.
- Better support required for established as well as new businesses.

#### **5.4.2 The Ideal Scenario for Guidance and Advice on Regulation**

- One source of information, advice and guidance.
- The source should be easily accessible, with signposting from other organisations and sites.
- There should be multi-faceted roll out, via a variety of organisations, to promote the source.
- The need for a “trusted”, impartial and confidential source of information and guidance.
- Better working together and information sharing between regulators and intermediaries.
- Engagement of businesses and regulators in the design of/changes to regulation.
- A comprehensive list of suppliers of regulatory guidance to made available.
- The need for bulletins to notify businesses about new regulation, with the function to enable businesses to determine what information they receive.

## 6. Conclusions and Recommendations

### 6.1 Introduction

The purpose of the feasibility study was to determine if the existing provision of information and advice on regulatory compliance meets the needs of SMEs in the East Midlands. We approached this project using a structured methodology comprising extensive desk research, an on-line business survey, and qualitative feedback from a panel of subject area experts, concluding with a consultation event using World Café principles.

Overall we felt that the methodology has enabled us to reach a series of conclusions and recommendations, despite the tight time constraints imposed on the project.

We would suggest that any further development of the recommendations proposed adopt similar design principles. In particular we would urge that any improvements in information, advice and guidance (IAG) be co-designed in conjunction with businesses, regulators and intermediaries. We would suggest that the engagement process be broadened to ensure that ethnically owned and women led businesses are fully represented. This was difficult in the first instance because of time constraints on the project.

### 6.2 The Current Situation regarding Business Regulation

The conclusion reached from the World Café consultation, supported by the desk research and business survey, was that businesses did require better advice and guidance on how to successfully comply with regulation and legislation. Our survey showed that 93% of businesses felt that there was a need to improve information and advice on regulatory compliance.

Our research showed that there was a lot of information available on regulation and legislation, much of it very good. In this regard the Business Link and the HMRC websites were cited as good sources of information. Moreover our survey reported that businesses found it relatively easy to find out information about existing legislation that affects, them but less easy to find out about changes to existing legislation or new legislation. Notwithstanding these findings, 28% of businesses had never used Business Link before. This would suggest that there could be scope to improve the marketing and profile of Business Link information services to businesses.

A key conclusion from our study was that a distinction should be made between *information*, which appears readily available and relatively easy to access and *advice and guidance*, which businesses found more difficult to access. Only half of businesses find it easy to find out information about existing legislation that affects their business, and a lower proportion finds it easy to find out about changes to existing legislation or new legislation. More to the point, more than 90% of businesses thought that improvements in guidance should focus on: (1) understanding the regulation that affects their business; and, (2) guidance on *how to* comply in the context of their business.

These findings were confirmed and reinforced during the World Café consultation event. Here it was noted that businesses found accessing good advice and guidance problematic. Businesses sought definitive answers and specific and tailored responses to

their questions. Will it apply to me? What will I have to do? How do I implement it within the context of my business? How much will it cost? Who can I go to for help? However they were uncertain as to where to go for this type of advice and guidance and whom to trust.

Trust emerged as a critical issue for business during the World Café consultation event. It also identified that, broadly, business managers trusted other business people but recognised that this source of advice could be variable. Businesses seemed to trust impartial sources such as Business Link, but felt hamstrung because the Business Link advisers were not able to offer directly the personalised advice and guidance sought by businesses. In general, businesses felt more comfortable seeking out advice and guidance from local regulators (such as Local Authorities) compared with national regulators (such as HSE). Some regulators were perceived as unhelpful, seeing their role as one of enforcer rather than of support and guidance. Businesses will turn to professionals for advice but have concerns about their quality and whether they too are over-complicating the compliance necessary to justify their fees.

The SAE panel and the World Café event highlighted the problem of consistency of advice and guidance. In particular, our SAE panel noted that businesses often got different answers from different sources and sometimes different advice from different people within the same organisation! This reinforced their feelings of confusion as to who and where to go for advice. This was particularly noted as a problem for businesses that operated within different Local Authority areas.

Many of these problems appear to be caused by 'supply-side' constraints - as evidenced in the World Café discussion table with regulators. They highlighted the following constraints, which in turn created the conditions that led businesses to feeling confused and uncertain:

- Insufficient regulator briefing and preparation on new legislation (market awareness, regulator briefings and awareness);
- Insufficient capacity-building within Local Authorities so that staff are prepared for the introduction and implementation of new legislation;
- No consistent funding of Local Authority regulatory advice capacity. Sometimes funding for advice is based on competitive tender, so the service can vary from council to council over time. This process almost ensures inconsistency in supply-side provision related to regulatory advice.

All of these issues will need to be addressed in any 'solution'. These factors, combined, suggest that this is a 'supply-side' issue. In other words, as much funding as can be provided and procured could be sunk into raising market awareness but problems on the 'supply-side' will continue to create ambiguity and uncertainty, regardless of this investment, until the problem is addressed.

It was difficult to calculate the real cost of compliance, but it would appear to be substantial. From our desk research we were able to confirm that BRE estimated that it to be equivalent to 10-12% of GNP in 2004 prices. Further it has been estimated that nearly half of businesses seek external advice on compliance, at a cost of £1.4bn per year.

Our research found many examples of actions taken by Government to reduce the burden of regulation such as reducing the number of regulatory bodies; removing unnecessary

regulations; simplifying and shortening forms; reducing the need for businesses to give the same information twice, and reducing the number of inspections conducted with businesses which will, in time, reduce the cost of business compliance.

We conclude that government is doing much to improve the situation. We cite the following recent actions to illustrate our point:

- Consultation on a code of practice on good guidance for regulation.
- Simplification agenda (BL to be single gateway to all government regulation by 2010).
- LBRO – to ensure consistency of IAG between Local Authorities.
- Independent review by Sarah Anderson into the best way to deliver clarity and certainty in guidance.

Nevertheless, businesses generally felt that Government was making little progress despite the UK regulatory environment being ranked 6th out of 178 economies in terms of ease of doing business.

Other important conclusions drawn from our study include confirmation that the burden of complying with regulation appears to be felt more heavily by smaller businesses. Businesses with employees are more likely to feel that regulation is excessive, compared with those without employees, and excessive regulatory burdens are shown to affect business start up and growth rates, and can constrain increasing employment.

The World Café consultation event highlighted a strong willingness from regulators and intermediaries alike to provide more tailored responses to business needs. However they felt that the sheer scale and diversity of businesses made the challenge of reaching them all and tailoring the advice very difficult to achieve in practice.

Our study found that the areas of regulation that businesses found most difficult to understand were employment, taxes, H&S and environmental issues. We also found a correlation between the business life cycle and complying with regulations. The World Café consultation highlighted the following key stages in the life cycle that impacted on regulatory issues: start up, employing staff, having business premises, reaching the VAT threshold.

Broadly it was felt the start-up businesses were well catered for regarding IAG on compliance. However, there appeared to be gap in tailored IAG provision for established businesses. Particularly when a business reaches one of the life-cycle milestones (mentioned above) or when trying to cope with the introduction of new regulations. Growth companies were also highlighted as a priority segment as they seem to accelerate through these various life-cycle milestones more quickly. Our desk research noted some evidence that excessive regulatory burdens have been shown to affect business start-up rates and growth rates.

### **6.3 The Need to Act**

Clearly, this is a complicated area in which businesses, regulators and intermediaries have differing perceptions, or are not fully aware of and do not use, the advisory sources which already exist. We need to be careful about 'apparent' as opposed to 'actual'

demand when interpreting the results from the survey and previous analysis. Our experience is that if owner-managers/key decision-makers from SMEs are asked whether or not they would like additional advice and guidance, they invariably say yes - after all, they are not paying for it and may not actually use it. However, apparent demand does not necessarily translate into actual take-up. Business owners also tend to show an anti-regulation bias which affects their responses.

A case could be made that the constraints on regulation awareness/response in the UK are not simply a result of market failures due to a lack of information (known as information asymmetries). The UK has one of the most developed business support networks in the world, and as a mature economy, has well established market mechanisms. It is difficult, given this, to anticipate future gains in improving the efficiency of information flows in this market, as this would be a high marginal cost-low marginal return argument against addressing information asymmetries between regulator and SME. This solution, in other words, is not market efficient.

There is always scope for improvement of the marketing, data-management and information provision on compliance IAG. However we need to be careful not to simply recommend the development of and investment in new compliance services that are 'sunk' and then have limited response or positive take-up from SMEs. Institutional experience indicates that setting up a new agency or service takes time to build market awareness. It took around 8 to 10 years to create awareness and usage of Business Link, for example, indicating that investment in a new regulatory service may not be the answer.

One area worthy of further investigation would be to focus investment in Local Authorities. Our survey indicated that local regulators were perceived as more responsive and helpful than national regulators (not surprisingly, as they can be contacted by phone or in person). However, these local regulators need support and investment to fulfil a broader role as consistent providers of advice and guidance with an established profile amongst local businesses.

To achieve this, it would require the following:

- Clarification and agreement on the *service specification* as standard across all Local Authorities.
- Clarification and agreement on *remit*, i.e. which regulations and on what basis, would advice and guidance be delivered through Local Authorities?
- Establishment of clearly branded *regulation advice centres* in each Local Authority. These could operate within a council or be a shared service across a number of councils depending on local arrangements.
- Development of clear *capacity-building* and development programme for staff in each centre, on a standard basis.
- Development of a clearer regulation *implementation planning* process, including briefing of staff in Centres on imminent legislation as well as agreed standard awareness-raising campaigns to run alongside their introduction.

The benefits of this approach are that it builds on existing institutional capacity, and reinforces the marketing positioning of local government as a provider of advice and guidance on regulation. It also creates a standardised 'offer' and capacity through the region that ensures that supplier inconsistency is removed. Finally, it coincides with the

impending remit of local government on local economic strategies and enhanced planning and development control.

## 6.4 Providing a Structure for a Solution

Before we consider our recommendations, it is perhaps useful to review and refine the problem at hand. Let us first remind ourselves of the challenge set for this feasibility study.

*emda's* tender specification was to design and undertake a detailed feasibility study to:

- Identify any areas or methods of regulatory compliance information and advice to SMEs in the region that are inadequate or deficient.
- Recommend additional compliance information/advisory services that will benefit the SMEs in the region. Any recommendations should take into account:
  - Costs and funding sources
  - Impact on the *emda* corporate plan and RES
  - The simplification agenda and other publicly funded services
  - State aid, legal liability, environmental and equality issues
  - Other implications
- Recommendations need to be sustainable, cost effective and open to all.

Clearly the effectiveness of any information, advice and guidance to business on compiling with regulations will depend on many factors.

We have identified seven factors worthy of consideration:

- How regulations are initially designed.
- The level of business awareness of the regulation.
- The accessibility of information, advice and guidance.
- The decision making process (the reasonableness test).
- The level of support made available for implementation.
- The process by which a regulator confirms a business is compliant.
- The route from non-compliance to compliance.

As part of the invitation to tender, *emda* set a number of specific questions to be addressed. These are broadly covered in section 6.1 above and the findings and recommendations are set out below. However, specific responses to these questions can be found in Appendix 6.

## 6.5 Key Findings and Recommendations

We have used the above factors to refine the key findings of the feasibility report and as a framework to structure our recommendations. Each of these factors are examined in more detail.

### 6.5.1 How regulations are initially designed

Whilst BRE suggests that Government should issue guidance 12 weeks before any regulation comes into force, this is yet to materialise in practice. Regulators at the World

Café event cited recent examples where a new regulation came into force before the guidance was released to local Authorities.

The Government has set up a consultation on a code of practice on good guidance on regulation. The code proposes 8 golden rules (see page 18). This code states in golden rule 2 that regulations should be “designed with input from the audience and their representative bodies”.

Our research has highlighted that if all regulators adopted this code, many of the problems raised by businesses would be addressed. Intermediaries and regulators need to take such steps as simplifying complex rules; improving access to information that spells out clearly the regulations that apply to a business; guidance that uses clear and simple language to explain how to comply; not having to produce the same information more than once; and consultation with a business before changes are made to regulation should be designed in at source.

On this basis, we see no need for *emda* to further invest in this aspect of regulatory design. Instead, *emda* should help encourage networks of businesses, intermediaries, regulators and professionals to collaborate and provide central government with simple channels to engage with the East Midlands business community.

### **Recommendation 1**

*That emda consider the establishment of a network of businesses, intermediaries, regulators and professionals to collaborate and provide central government with feedback and suggestions on the design of new regulations and the supporting IAG material.*

This network could be virtual and relatively informal, with participants only participating and contributing on a needs-led basis. The network should comprise individuals who have a deep understanding of the various regulatory areas covered within this report. Drawn from Local Authorities, professional bodies, intermediaries and the Business Champions network, they would become the subject area experts panel members of the future. This grouping could in effective be the “virtual” regulation advisory “service” across the region. They would act as the SAE panel members who would facilitate web based forum discussions hosted by the regional Business Link, the content authors for locally tailored information on regulatory compliance and advice, as well as the focus group brought together to respond to national regulators requests for collaboration on the design of new regulations.

### **6.5.2 The level of business awareness of the regulation**

Despite common release dates for new regulations, numerous comprehensive regulatory websites, and a commitment to create a single database for all rules and regulations for business in England on the [businesslink.gov.uk](http://businesslink.gov.uk) site website, many businesses remain unaware of these regulations or even of Business Link itself.

More research needs to be conducted as to why so many businesses remain unaware of Business Link. Is this an attitudinal problem or one of poor marketing?

As many as 25% of businesses say they have never used Business Link services. With so many businesses unaware of the information and support available, there remains a need to increase general awareness of the information and advice available.

**Recommendation 2**

*Emda should consider further investment in refining, populating and cleansing the database of businesses and the knowledge bank in the RBSIS system. This will include enabling brokers to search for businesses likely to face compliance issues based in their position on the business life cycle.*

At present RBSIS has over 6000 businesses registered of which 3000 have provided details of referees to provide an indication of quality assurance. The database however is not necessarily structured to enable searches for professional firms with expertise in particular areas of regulatory compliance (except for Health and Safety). We believe that for the East Midlands Brokerage Service to be effective in connecting businesses with professional advice in this area (outsider of Local Authorities and National regulators) it will require a more sophisticated search facility to enable business brokers to identify providers with specific skills in regulatory compliance. Moreover a facility to search the RBSIS system using certain points on the business life cycle to identify businesses that might require specific regulatory advice and guidance would also be welcomed.

**Recommendation 3**

*emda should review their planned Business Link marketing expenditure to see whether this investment could be used better to help raise awareness around compliance issues. Any campaigns proposed should build the BL brand franchise as the gateway-single access point and entail a “call to action” element, which encourages businesses to register for newsletters, e-bulletins and email alerts. These campaigns should focus on the positive benefits rather than the negative aspects of compliance.*

**Recommendation 4**

*emda should commission further research into whether business attitudes towards regulation could be changed, i.e. whether “avoiders” of compliance can become “vulnerable” compliers. This research should involve Local Authority staff with the responsibility for advice and guidance.*

The research would build upon the findings of this report. Its purpose would be to explore in more depth how businesses really respond when regulatory issues affect them. Understanding the attitudes of business managers towards regulation and the need to obtain information and guidance is critical. Why do some businesses respond proactively whilst others behave reactively? The proposed qualitative study will aim to gain a deeper understanding of the potential drivers that could shift behaviour in those businesses that behave as compliance avoiders into compliers. The research would also help refine emda’s understanding of areas of advice and support required by business to the next level of granulation. This will help develop a shared language and descriptors, which could be subsequently used to help sharpen the East Midlands Brokerage Service codification and search mechanisms. The study could adopt similar design principles used in this project (desk research, Businesses Survey, SAE panel and world café consultation). It would be important to ensure a representative mix of businesses.

**6.5.3 The accessibility of information, advice and guidance**

As previously mentioned, a distinction should be made between information and advice and guidance. Our research found that information was readily available for those

wishing to seek it. There was a clear preference for finding the information via the web (92%).

Accessibility of advice and guidance was another matter. BRE have made the commitment to examine and develop new ways of contacting businesses directly by post or email; improving the provision of high quality information on regulation to intermediary organisations; providing an indication to businesses of the amount of time it will take to comply with a regulation; and setting up web forums to allow businesses to share information and advice.

Much of this has yet to materialise but all is good practice and merited. Our view remains, however, that compliance IAG is not primarily a marketing awareness problem but more of a supply side constraint. More investment is required in capacity building the regulators charged with providing advice and guidance (see Recommendations 6 and 11)

We are encouraged by Government's commitment to have a single database for all rules and regulations affecting business. There will be benefits for businesses if all Trade Associations and other professional bodies draw their IAG on compliance from the same single source.

Regulators, Trade Associations and the regional Business Link see merit in better collaboration on information provision, shared content on websites, joint events and improved referral mechanisms. Their roles need to be clearly defined with the Business Link providing an information and brokerage service with regulators and Trade Associations providing advice and guidance on the 'how-to' aspects of compliance.

The relationship between professional bodies and consultants with the regulators and intermediaries is more problematic and can give rise to conflicts of interest, as consultants for example may have a vested interest in 'boilerplating' and increasing the apparent complexity of compliance arrangements. This needs to be handled differently.

There was common ground between both regulators and intermediaries for better referral mechanisms between each other. This could be achieved by making the supplier directory the source by which businesses referrals are made.

### **Recommendations 5**

*emda should consider investing in improved referral mechanisms between Business Link and the Local Authorities. There are different ways in which these referrals could operate. We believe that, given the comprehensiveness of the [businesslink.gov.uk](http://businesslink.gov.uk) website, that this should be positioned as the first port of call to businesses seeking information on regulations. Business Link would then be responsible for onward referral to the appropriate Local Authority or national regulator.*

It practice we would envisage businesses contacting the Local Authorities as the local point of entry on regulation and compliance and then being referred on as necessary. We propose that the Local Authorities be positioned as the definitive IAG provider, providing comprehensive solutions and answers, and building expertise in this (see recommendation 6). We also propose that Local Authorities have access to RBSIS to enable them to undertake searches of businesses that are more likely to need regulatory IAG for example based on certain points in the business life cycle.

It would appear that the current referral mechanisms between Business Links and Local Authority teams responsible for compliance advice and guidance are variable. A more systematic method for referrals, named contacts, the generation of shared content of websites, and shared use of data via RBSIS would be beneficial for both businesses and support providers alike.

**Recommendation 6**

*emda should consider working with the Local Better Regulation Office (LBRO) to help Local Authorities build the capacity of their advice and guidance services and to ensure that they are consistently available across the region. Our research found that the systems and processes for the development of skills varied between Local Authorities and whilst there was a strong willingness to collaborate, work together and share best practice, in reality this seems to happen in an ad-hoc way with the most willing Local Authorities leading the way.*

Clearly a structured approach to supporting collaborative working between Local Authorities to build the skills and collateral necessary to underpin delivery of an advice and guidance service is important. This ambition fits with the aims of LBRO who wish to raise the quality bar on Local Authority regulatory services, encouraging the shift from enforcement to guidance and ensuring greater consistency across the region. We see opportunities for *emda* and LBRO together to work together with the region's Local Authorities on the development of a regional structured programme of development and training. This should be designed to ensure that the business processes adopted across the region dovetail with the regional Business Link IDB offer, so that knowledge collected is stored within the central RBSIS infrastructure.

**Recommendation 7**

*emda should consider investment in building the portfolio of professional firms and consultants who provide advice and guidance on regulatory matters registered on the supplier directory.*

At present it is difficult to determine which of the 6000 businesses registered on the East Midlands Brokerage service are information and guidance providers, skilled at providing advice and guidance on regulatory compliance. Once the database reach and codification mechanisms have been refined, two subsequent challenges lie ahead. Firstly to review existing registered businesses, and to recruit professional bodies onto the register with regulatory compliance skills. Secondly, to train Business Link brokers and Local Authority staffing in accessing and using the brokerage platform when advising and referring clients.

**6.5.4 The decision making process (the reasonableness test)**

Businesses seek clarity on whether (or not) their actions comply with regulations. This is recognised as being more difficult to provide in practice. To illustrate, a health and safety enforcement inspector may visit a business one day and commend them on their good practice, but following a serious accident will find flaws in the same company's H & S management.

What is 'reasonably practicable' is clearly defined in law but is not scientific or 'black and white' and therefore open to interpretation. For example the HSE publication HSG65 refers to a management system for H & S and states that a company that follows the guidance will normally be doing enough to comply with the law. This outlines a systematic approach to the management of H & S along the same lines as an ISO 9000 quality management system. The Management of Health and Safety at Work Regulations outlines the legal duty to carry out risk assessments and the planning, organising, control, monitoring and review of the preventive and protective measures associated with the risk assessments.

Our research found that those companies that undertook their risk assessments (thus complying with one requirement) but then let them sit on the shelf gathering dust; and those that went beyond this turning their risk assessment into action plans, implementing the actions and monitoring the results; were treated the same by regulators when a serious incident was reported.

More businesses would be encouraged to take a risk-based approach to regulatory compliance if positive actions were taken into account by the regulators themselves. A test of reasonableness should form part of any “how to” guidance.

**Recommendation 8**

*That the networks of businesses, regulators and intermediaries and professionals proposed (recommendation 1) be used as the vehicle to help road-test any risk-based assessments proposed by regulators.*

The assembled SAE panel as part of the “virtual” regulation advisory service could be tasked at beta testing any proposed risk based assessments developed by national or local regulators (i.e. Local Authorities). It is worth noting that there is already much good work happening in this area to build on. For example the HSE, The Food Standards Agency and the Local Authority Co-ordinators of Regulatory Services (LACORS) do provide guidance to Local Authorities in shaping their risk assessment programmes.

**6.5.5 The level of support made available for implementation**

How best can regulators, intermediaries and professional bodies help support businesses met the requirements set out in regulations and legislation?

A key factor here is the level of training and support provided the staff in regulatory bodies or Local Authorities who have the responsibility to offer advice and guidance to businesses. The World Café event highlighted some deficiencies in this area.

To address this we propose the following recommendations:

**Recommendation 9**

*That emda consider working in liaison with LBRO and Local Authorities to seek clarification and agreement on:*

- *A service specification as standard across all Local Authorities*
- *A clear remit, i.e. which regulations and on what basis, would advice and guidance be delivered through Local Authorities?*

We see close linkages between recommendation 6 and recommendation 9. Setting out the service specification, standard and remit (recommendation 9) are precursor requirements that must be in place before any training and development programme is commissioned (recommendation 6)

**Recommendation 10**

*That emda, LBRO and Local Authorities consider the merit of establishing regulation advice centres in each Local Authority. These could operate within a council or be a shared service across a number of councils depending on local arrangements.*

Each Local Authority has a statutory duty to provide specific regulatory services, covering trading standards, food standards and food safety, health and safety (shared with HSE), and the environment. The levels of resources available and how they are deployed varies and is dependent on the type of Authority - county, unitary or district. Local Area Agreements present an opportunity to share and integrate some of these services to deliver critical mass, improved efficiencies and raised profile.

### **Recommendation 11**

*That emd should consult with , LBRO and Local Authorities to influence the development of a capacity building programme for staff in each centre, on a standard basis. This should include the development of a clearer regulation implementation planning process, including briefing of staff in Centres on imminent legislation as well as agreed standard awareness-raising campaigns through Business Link to run alongside their introduction.*

A significant factor in the ability of small firm management in relation to regulatory compliance is management skills. Whilst it is clear that information on compliance is readily available, small firm management generally regard compliance issues as an undesirable overhead over which they have little control nor incentive in being able to manage in a proactive way. This tends to lead to reactive orientation towards 'keeping up with' regulation.

If small firms are able to develop the management focus, skills and systems to ensure regulatory compliance, the 'burden' can actually be reduced through being managed more efficiently in a systematic way. This is similar to, but very much a scaled-down version of, the corporate governance/social responsibility function of larger organisations.

### **Recommendation 12**

*Management skills development for managers of smaller firms should focus on provided a systematic approach to the following process:*

- *Regular scanning and identification of current, new or changing aspects of legislation and regulatory compliance, tailored to take into account the business life cycle, – 'what applies to us?';*
- *Appraisal of the implications, exposure to risk involved in regulatory compliance – 'what does this mean for us?';*
- *Investigation of the detailed requirements, obtaining choice and guidance where required, to decide action required;*
- *Implementation of systems to ensure compliance and to gather evidence (where required) of compliance;*
- *Regular review of compliance with regulation;*

*This could take place through the Route to Market development programme sponsored by emda.*

## **6.5.6 The process by which a regulator confirms a business is compliant**

Different regulators use different processes to ensure businesses are compliant. Some provide clear and simple rules (e.g. ACAS on terminating employment), some use audits, whilst others use risk assessments. The use of different processes for confirming compliance is a further area for confusion with business. This task can be incorporated within recommendation 8.

## **6.5.7 The route from non-compliance to compliance**

There are numerous ways by which a regulator may address non-compliant businesses. These include improvement notices and prohibition notices. These are often seen as reactive tools. Perhaps a move towards to a more comprehensive risk assessment link to quality improvements with scoring and benchmarks could act as a more positive incentive. It is worth noting that insurance companies are encouraging their clients to do this as it reduces premiums. This task can be incorporated within recommendation 8.

## **APPENDICES**

- 1. Business Survey Questionnaire**
- 2. SAE Panel comments**
- 3. World Café Stakeholder Event Pro Forma**
- 4. Attendees of the World Café Stakeholder Event**
- 5. Feedback from World Café Stakeholder Event**
- 6. Addressing *emda*'s questions**
- 7. Project Application Details**



### 1. Questionnaire for small businesses on compliance with regulation

1. How long has your business been trading?

Less than one year

Between one and three years

More than three years

2. How many employees work for your business?

Up to 5

6-25

More than 25

3. What is your core business activity?

4. Using the options provided, please answer the following:

Very easy      Quite easy      Quite difficult      Very difficult      Unsure / Not applicable

In general, how easy is it for you to find out about the legislation affecting your business?				
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How easy is it for you to find out about existing legislation your business has to comply with?				
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How easy is it for you to find out about changes to legislation affecting your business?				
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How easy is it for you to find out about new legislation affecting your business?				
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5. Which of the following public information sources do you use regularly to find out about legislation affecting your business? Please rate how often you use them and their usefulness.

	Frequency of use	Usefulness
Business Link	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
Her Majesty's Revenue & Customs	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
Health & Safety Executive	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>

	Frequency of use	Usefulness
Department of Work & Pensions	<input type="text"/>	<input type="text"/>
Companies House	<input type="text"/>	<input type="text"/>
Dept Business Enterprise & Regulatory Reform	<input type="text"/>	<input type="text"/>
Dept Environment Food & Rural Affairs	<input type="text"/>	<input type="text"/>
Home Office	<input type="text"/>	<input type="text"/>
Other (please specify)	<input type="text"/>	

6. Are there any specific areas of regulation or legislation that you find are difficult to understand? Please say what these are.

7. Are there any specific areas of regulation or legislation where you think more guidance is needed to help businesses to comply? Please say what these are.

8. How helpful are regulators in providing advice and guidance to enable you to comply with relevant legislation?

Very helpful

Quite helpful

Not very helpful

Not helpful

Unsure / Not applicable

9. Do you rely on any non-government service to inform you on the legislation which affects your business? Please rate how often you use them and their usefulness.

	Frequency of Use	Usefulness
Accountant	<input type="text"/>	<input type="text"/>
Lawyer	<input type="text"/>	<input type="text"/>
Chamber of Commerce	<input type="text"/>	<input type="text"/>

	Frequency of Use	Usefulness
Enterprise agency	<input type="text"/>	<input type="text"/>
Professional institute	<input type="text"/>	<input type="text"/>
Industry or trade body	<input type="text"/>	<input type="text"/>
Other (please specify)	<input type="text"/>	

10. Using the options provided, please answer the following:

Very easy      Quite easy      Quite difficult      Very difficult      Unsure / Not applicable

In general, how easy is it for you to access the information you require on business compliance?

How easy is it for you to understand the information you require on business compliance?

How easy is it for you to find out how to implement the business legislation which affects you?

11. Does compliance with professional institution or trade body requirements (e.g. codes of practice) affect your business? If so, how important is this?

- Very important
- Quite important
- Not important

12. Do you think there is a need to improve the information and advice available to businesses in the East Midlands on compliance with regulation?

- Yes
- No

Possibly

13. If you answered yes or possibly to the previous question, should improvements focus on:

Y/N



## 2. Subject Area Panel Responses

Panel Member	Q1 Drawing from your own experience and given the scope of the project, which areas of legislation and regulation do you think we ought to focus our attention on?	Q2 Are you aware of any recent pieces of research that you think we ought to consider. If so, can you please list them	Q3 What are your thoughts on the proposed Service Design Framework? How can it be improved?
Regina Duggan Environment Agency	<p>I think there should be more information available on different types of wastes, especially the WEE directive that seems to be confusing for a lot of SMEs. Also the new regulations pertaining to the Construction Industry and there need to have zero waste going to landfill by 2020.</p> <p><i>Climate Change adaptation and mitigation should be addressed as most SMEs are not sure how best they can cope with the impacts.</i></p>	<p>No, the Environment Agency engages in research but that is to affirm their own guidance to the various industries. We do have a research section available on the website.</p>	<p>There is a lot of environmental regulatory advice on the Environment Agency's website -NetRegs- and this is now sectorised. However we find that deliverers, solicitors and local authorities mostly use it.</p> <p>If it is to be used by SMEs directly I think it needs more summary versions, or better interpretative mechanisms to answer a particular business query again either a deliverer or more interactive websites. I think you Service Design Framework needs to consider how electronic information is made easier and more meaningful to SMEs. The EA is working with Business Link to better deliver environmental information and risk awareness to SMEs in the next financial year.</p> <p>I think for most SMEs where time is limited, a Medium level of intervention would be the most appropriate unless there is some very complicated industrial process involved e.g. the chemicals industry where the legislation is becoming more stringent with regard to defining all the risks pertaining to all known chemicals.</p>
Phil Wass H&S consultant	<p>From my own experience I believe that employment law + health &amp; safety are probably the top two most troublesome areas for small business with environmental coming in a close second depending on the particular sector the business is trading in (i.e. some sectors are under more compliance pressure here than others - two examples I have been involved in personally to illustrate what I am saying have been a motor vehicle dismantler and a shopping trolley zinc plating business). I believe that most of the 'forming a business' compliance information is readily available to a start up / small business via either their accountant or via business support organisations (such as Business Link, FSB, etc.).</p>	<p>Within my main specialist field of health and safety I am aware (although only fairly vaguely) of some research by Deborah Walker (CHARM centre - Loughborough University) on small businesses and health and safety compliance challenges (which I believe she carried out on behalf of the HSE). This may be worth a closer look.</p>	<p>I think that the SDF is perfectly logical. My only comments are (and these again specifically relate to my own specialist area of health and safety) that I feel there is potentially massive conflict in escalating a higher level of support / guidance via the regulator (in this case the HSE) themselves. My own personal experience suggests that small businesses have to make compliance compromises in order to compete and trade effectively at some stages of their development however the regulators cannot condone any amount of non compliance and are not interested in profitability just compliance - a major conflict. The insurance industry are driving up health and safety standards dramatically but often they signpost to private support organisations from which they are receiving commissions - quite a conflict of another kind. Meanwhile the world of consultancy in this area of compliance is unregulated - anyone could set up in business tomorrow as a health and safety consultant and therefore advice / guidance can be very inconsistent. Finally too many private sector support solutions offer just one standard solution (e.g. Peninsula) and attempt to tie small businesses into long-term financial commitments. The banks have tried to cash in on this market as well (e.g. Nat West via their 'Mentor' scheme). Therefore small businesses are very confused. They find it hard to discover what they need to comply with in the first place and are then bombarded with a confusing array of</p>

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			alternatives with ref. to support options available. Organisations such as Business Links, FSB, etc. are probably the only impartial offer available and are in a unique position of trust which gives them real scope to expand their particular offer around some of these areas of compliance.
Douglas Kerr IOD	There are some important topics that are not explicitly mentioned as being within the scope of the study, although I suspect they may be implicit. These include: Corporate Governance and the Duties of Directors Planning Consents and Building Regulations I also consider Data Protection to be worthy of identifying as a topic in its own right as it is so easy to fall foul of inadvertently.	I am aware that my own professional accountancy body (ACCA) has undertaken and commissioned quite a lot of research relevant to the SME sector (one of their specialist interest areas). I have had a quick review of the material and there is nothing very recent that looks to be of direct relevance. I used to be on the governing council but one of my contacts has left and another has gone on holiday for Easter so I have only been able to make a superficial assessment - it may be something that we can come back to if it would be useful.	<p>Before addressing the Service Design Framework I would like to make an observation. Business meets regulation in two ways - proactively and reactively. Often, although not always, when being proactive a business will conduct research and actively seek advice when contemplating a projects, or will undertake a compliance review of some sort. However, without the stimulus of a new project or a review (which is rarely a high priority unless it is triggered by something going wrong) businesses often remain oblivious to regulations and compliance requirements until a trigger event (often a crisis) arises. Then they generally find too late that they have been non-compliant. It would be really helpful, I would have thought, to find a way to provide a prompt to businesses to be aware of regulatory issues that affect them and stimulate proactively. I cannot quite see how that need is being addressed in the Framework.</p> <p>On a separate note, I think there is a potential problem with integrating information and guidance and getting Regulators, Trade Associations, Professional Bodies and consultants to use co designed risk assessment tools. Many entities use the same frameworks in many different contexts and even different countries. Often they use bespoke proprietary approaches that convey some competitive advantage and are part of a unique integrated process. Those are high barriers to overcome. What may be more useful is to develop and interface methodology, analogous to the use of Integration software in IT application to ensure an effective interface for various separate application programmes.</p> <p>Overall, the Framework approach and Project Plan look very good and I am encouraged that we may make rapid progress.</p>
Richard Hodge Notts County Council	1 Businesses concerns re regulation can have 3 key thrusts a) Its unnecessary and is just a unwanted burden b) Forms, quantity and Quality. This seems mainly aimed at national regulators eg Tax and Customs!	2 Research.... Loads...Hampton et al. Hopefully engagement with LBRO will ensure we don't replicate or overlook bur there is also the BRE and the BERR work in these areas.	3 SDF looks OK

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	c) Enforcement/ Compliance visits		
Uday Dholakia LBRO	The study addresses a major area of concerns impacting businesses. The important case, for it impacting micro businesses and lifestyle businesses disproportionately has been made. However, the Hampton principles need to be seen in light of an intelligent regulatory framework that makes, UK plc, or rather East Midlands plc as a “business friendly” environment to start, develop and diversity business, in harmony with interests of customers, employees and the environment. This takes us into the realm of Leadership! What sustainable mechanism or culture shift needs to be in place for this to happen?	Richard Hodge makes a salient point that UK local authorities are overall good example of effective and user friendly compliance. I have worked with local authorities around the world in context of business regulation. I have to say ours is the best. However, in a globally competitive environment how can we make existing best practices better in terms of consistency, transparency and accountability? The regulatory services of local authorities play a vital role in economic prosperity and community well being. They help to ensure that the food we eat is safe, that the air we breathe is clean, that the goods we buy are fairly traded, and that our workplaces are safe. By making sure that businesses comply with regulation in a way which is consistent and intelligent and which avoids creating unnecessary burdens, they contribute significantly to the conditions for sustainable economic growth.	The acid test has to be the trust of and value to businesses. Local authority regulation works well over all because of it accountability with elected members. The legalisation around environmental health and trading standards is robust, in many instances; they are projected on a background of economic development and local prosperity. This gives scope for good rollout of legislation that is meaningful.  The challenges we have are around: 1. Enthusiastic interpretation and implementation of emerging European legislation. 2. Issues around food manufacturing and distribution. 3. Inconsistency in advice, my view is that there ought to be a direct marriage between the government and membership based business organisations like, FSB, CBI, FPB and Chambers etc with tax payer’s money underpinning a joint rollout of best in legislation promotion, execution, support and evaluation.
Richard Gill EMB	There are two parts of business compliance with regulation and legislation agenda. Some overlap and others may be hidden behind the corporate veil. I am referring to those that are purely business issues and those where Directors have a personal responsibility and liability. That usually gets them interested, ignorance is no defence.		Service Design Framework  I think you are right to differentiate between low level and high-level support. Its dangerous to get amateurs involved in giving advice about matters that can come back and bite you. It should be your area of professional expertise backed up with appropriate PII and all the necessary health

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	<p>Health and Safety and environmental compliance does cover both the business as a legal entity and the Directors; they have clear accountability and can be personally fined or imprisoned for failure to carry out their responsibilities. e.g. contamination, producer regs, corporate manslaughter.</p> <p>This will also apply to matters to do with insolvency and their responsibilities shifting from a responsibility to shareholders to a responsibility to creditors if the business becomes insolvent. Directors will often see this coming and take the appropriate advice; H and S and Environmental may be ignored due to ignorance or concern about seeking advice for fear of being found out! This raises one of the issues to do with seeking advice, that is confidentiality; e.g. inland revenue confidential helpline, envirowise client anonymity.</p> <p>We should also include the forever changing employment legislation, how to keep up to date, I note a previous comment about inconsistent advice, witness ACAS.</p>		<p>warnings. That's not what Business Advisers do; we should help clients to understand their compliance issues but not advise them whether they are complying but to refer them to appropriate information sources or professional support.</p> <p>This leads us to an area which no doubt Phoebe will be promoting tomorrow and that is populating the service provider register and the knowledge bank with relevant and easily navigable support sites, agencies, enterprise and consultants.</p>
Panel Member	Q4 How does the desk research fit with your understanding of the current issues regarding compliance guidance? Are there any gaps?	Q5 From your own experience, which areas of compliance guidance work well and why? Do you have any examples of good practice in this area?	Q6 Again, from your own experience, which areas of compliance guidance do you feel fall short of meeting business expectations? And why?
Cath Lee FSB	<p>A very comprehensive report covering all of the aspects that I could think of!</p> <p>My only comment is that the report correctly identifies that legislative and regulatory burden disproportionately affects small businesses. I feel that it could have gone further and made a distinction between small (less than 50 employees) and micro (less than 10 employees) businesses. According to SBS statistics for 2005 released in 2007, in the East Midlands 95% of businesses are micro businesses. These 'micro' businesses tend to suffer to an even greater extent than 'small' businesses for the reasons stated in the report.</p>	<p>For small businesses, guidance that works well is quick and easy to access, relevant to small firms, written or spoken in 'Plain English', short and practical, but with signposting available to more complex and detailed information if required.</p> <p>The information on the Business Link website is excellent, but at present not well publicised or know about.</p> <p>The FSB itself offers an advisory service to members on legal and taxation issues. I understand the feedback from members who use the service is good. The service is accessed mainly through telephone help lines, but there is also a service available on the web. See <a href="http://www.fsb.org.uk/data/default.asp?id=15&amp;loc=FSBbenefits">http://www.fsb.org.uk/data/default.asp?id=15&amp;loc=FSBbenefits</a> for more information.</p>	<p>I can only speak from anecdotal evidence of FSB members here. A couple of points that may be relevant. One is confusion over where to go for advice – the relevant Govt department, Business Link, trade association, private sector consultant, or other? The other is that I have heard of businesses getting different answers to the same question from different sources, or even from different people within the same Govt department. Again, this adds to confusion.</p> <p><u>Other comments</u> I see that the report mentions one or two</p>

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		<p>Website advice works well for most businesses, but we need to recognise that not all small firms have internet access. Good alternatives therefore do need to be available.</p>	<p>pieces of FSB research. There are a couple of other FSB research reports that have been produced recently which may be relevant:  <a href="#">Key Facts in Employment Law</a> – covers regulatory and administrative burdens of employment.  <a href="#">Whatever Happened to Common Sense?</a> – Covers occupational health and safety legislation and regulation  Click on above links to access the documents on the website.</p>
Phil Wass H&S Consultant	<p>From my own experience, I wholeheartedly agree that a disproportionate burden falls on very small business. Very often these comprise of an owner manager already working all hours available to run his / her business. The capacity for embracing, understanding and implementing new regulations just is not there. Even if it was - obtaining the RIGHT information for compliance is a real problem. Although organisations (such as the HSE) will publish lots of data this will by its sheer nature not be an easy read.</p>	<p>Things that I have seen tried and work quite well include local briefings by (for example) solicitors. These will be free or low priced but are likely to again be technical and may hold back the simplification of compliance as the 'hook' to attract business. Meanwhile at the opposite end of the scale are organisations such as NOSHA - formed by Boots. These meetings are available to all for an annual fee of around £15. However, few small businesses seem to know of its existence or find the timings of its meetings convenient (1400 - 1600). This organisation used to have a free helpline as well but they were unable to continue funding this. Again, no matter how helpful things like this actually are they will only give broad compliance suggestions when many small businesses need specific guidance pertinent to their own particular business situation. Another route available to small businesses are articles in trade journals and often these can be a little more specifically tailored to the needs of the business (and its sector) and less generic. But of course time is needed again to find these and read these.</p> <p>We have to remember that no matter how 'user friendly' the enforcer (e.g. HSE) become, they are still seen by small business as the 'enforcer' with all the powers that go with that and the associated 'fear'. Small business does need an impartial third party who has the knowledge and can</p>	<p>So in summary. There is lots of info. out there. However it takes time to find it and read it - never mind then interpret and implement. Most is reactively available - but little is proactively provided.</p>

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		<p>constructively guide and who they can engage with informally and confidentially.</p> <p>If a small business has an employment law issue they can phone an ACAS helpline however it is difficult for them to find an equivalent 'free' alternative with ref. to H &amp; S in particular but also Environmental issues too.</p>	
Richard Hodge Notts County Council	4 Feel report is comprehensive	<p>5 Particularly for small businesses I feel the guidance that works well is short, written in plain English and practical. Frequently asked Q' is a useful section of advice.</p> <p>Access via internet is important so businesses can access when they want to. Plus contact details for further advice.</p> <p>Local Authorities individually and jointly eg through LACORS have a good track record on this.</p>	6 Guidance breaks down when it is dogged by lack of uniformity and consistency across a businesses market. Guidance with out practical implementation advice is not helpful nor is simple regurgitation of the Regulations. The status of guidance is also sometimes confusing to business. The line only the courts can finally determine interpretation is good for a cautious regulator but confusing to a small business wanting clear and firm advice and direction!
Douglas Kerr IOD	<p>Enjoyed the paper, although it did wear its academic credentials on its sleeve, particularly in the final bullet point on page 12! Nevertheless a nice positioning piece with which I found myself in broad agreement, both from my own experience and sharing with others in various forums.</p> <p>In response to the various questions, with some inevitable crossover between them:</p> <p>Q4 One thing, which is not made explicit, is the need for definitive guidance. For example the business link website does a good job in addressing all of the issues that a business is likely to face, but can I rely on it being correct and up to date. Even if I follow the link to the departmental website, can I</p>	<p>Q5</p> <p>To be fair, most national government websites are pretty good and have become quite user friendly and intuitive (some quite recently). Inevitably they suffer from the desire for self-promotion and the desire to give prominence to new initiatives, which sometimes obscures the meat and makes it awkward to find the data you need.</p> <p>The business link site and the DBERR sites are particularly well organised and laid out from a business perspective (well you would hope so) with clear referencing. They work because they deal with subject areas rather than being organised departmentally, or by reference to legislative measure or policy topic.</p>	<p>Q6</p> <p>Local authority sites are much more variable, some are frankly appalling and often have a strong consumer bias with very incidental support for business. The implication is that business can and should look out for itself and has or can afford to hire expertise to guide it - not necessarily true for the majority of SMEs.</p> <p>One weakness of national government websites is that they are organised departmentally (probably inevitable). Generally the links aren't too bad, but they are not complete. For example, if I am an employer seeking pension</p>

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	<p>rely on the information there as being current and definitive (i.e. will it be a sufficient defence in future to say, "I checked the website and followed its advice".) In my experience many people either refer to expensive external advisers (generally lawyers or accountants) or duck the issue altogether because of this uncertainty.</p> <p>On a similar theme, different communication media are appropriate for different reasons. For new regulations I need direct mail contact to say, "This is new, it applies to you, it applies from [date] and you can get more information at [source]". However, that mail needs to be from a source I know is authoritative - I get lots of mail from many organisations anxious to help me with my "problems" and most of it is spam/junk. Conversely, when looking proactively for help I need a website that will provide or guide me to definitive support. Intermediary organisations and web forums are really useful when I don't know what to do.</p> <p>There is a lot of information available on what to do, but advice on how to do it is patchier and less consistent or simply less good. Again this is what drives people into the hands of the professionals - we all know how challenging it is to actually complete a tax return despite having a pretty good idea of what we need to do.</p> <p>Politics seems to intrude. Where the media picks up an issue (positively or negatively) we all know about it. I cannot imagine that anyone did not know about the 2004 Pensions Act and its consequences triggering proactive enquiries from affected businesses. But there are thousands of regulations that go unremarked (or positively buried). This triggers the "if I haven't heard of it, is it real?"</p>		<p>information, I can easily get from DBERR to Business Link to DWP, but I there find no easy reference to the Pensions Regulator if that is where my enquiry has to go. That compounds the other main weakness - how far do I need to dig until I get the definitive answer referred to above.</p> <p>Mail shot publications are generally not very good. In a bid to make them accessible, many are indistinguishable from commercial junk mail and obscure the message behind graphics and banal self-promotion statements. This treatment does not make them more accessible, just less likely to be read. They generally fail the simplicity test - "this applies to you, this is effective from [date] and you can find out more from [source]". What generally gets noticed is a personally addressed official form with a bold red top saying "Final Notice - you have failed to comply". Alerts to new regulations do not need to be that hostile in content, but could borrow from the simplicity of style. Oh, and only communicate once - the junk mail tide is big enough - but gets the timing right. Too far in advance and I forget about it, too short notice and I panic (and moan about it). And don't refer me to a website that is not yet there - I won't remember to go back! I have experience of all of the above although I cannot quote specific examples.</p> <p>Some web sites have good, well-written</p>

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	<p>syndrome. Many consultants and advisers make a lot of money by helping business address issues unnecessarily or in an over elaborate and expensive way. How much does this contribute to the cost of regulation? I have had previous experience of being a regulator and being horrified at over elaborate compliance regimes set up in response to what was a simple issue or intended as a light touch regulation. I can see that the government is unable to endorse individual purveyors of advice, but how can I know that the nice consultant I have just hired is addressing a real issue in an appropriate and proportionate manner?</p>		<p>content that can help the general reader with limited expertise; others can assist those with a little more knowledge. However, navigation in the latter case is not often helpful. I have found very useful special information on the HMRC website which is well written and understandable, but requires considerable persistence and ingenuity to find. I have had similar experience with the Pensions Regulator's site. And dumping you into a database which quotes primary legislation verbatim with no help to find further guidance or interpretation is an absolute no-no.</p> <p>Access to on line documentation (forms, literature etc.) is patchy whether a download or a postal request. This is one of the important helps with the "how?" issue described above. I generally find this easiest when the reference is within the section where the subject information is held rather than in a separate "publications module" - I'm afraid I've downloaded wrong forms in the past. The HMRC site is (or at least was when I last used it) mixed in this regard - sometimes it did, sometimes it didn't.</p> <p>Interestingly, while I have noticed a big improvement in simplicity of information documentation which is now quite well written in a simple straightforward fashion, forms and returns do not seem to have had the same degree of attention, making them difficult to</p>

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			complete, confusing, jargon filled and repetitive, leading to poor compliance or requiring expert advice. How often have I felt that a blank sheet of paper would be simpler and more effective! I know from discussions with people who are much more hands on in their compliance than I need to be that they often understand the issue clearly and can deal with the practicalities of compliance, but hire a professional just to complete the documentation correctly.

Panel Member	Q7. Which of the 12 recommendations in the report do you agree with and support?	Q8 Do you disagree or wish to amend any of the recommendations? If so please state why.	Q9 If you were asked to prioritise the 3 most important recommendations, which would they be?
Cath Lee FSB	I agree with and support all of the recommendations, however I am not quite sure about 'recommendation 4'. My personal view is that attitude to regulation is probably more to do with the individual's personality rather than external forces. I do not have any evidence of this however and therefore could not really argue against the recommendation for further research.		Difficult! However, I think I would probably have to go for 2,3, 6 & 9 (can I be allowed 4 priorities please
Richard Hodge Notts County Council	I broadly support the recommendations you are proposing and share your view e need to build on what is there.  My first overall point reflects the cultural difference which central government appear to have on this matter which I feel is potentially divisive at ground level.  From an economic development standpoint this is classed as Business Support from a Regulators		

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	<p>standpoint it is classed as compliance. In my mind we need to roll it all into something like Business and Consumer Prosperity and Wellbeing.</p> <p>You have clearly identified goodwill from Regulators to assist and locally they are doing this in a more joined up way. Regionally with TS and EH on a county basis. These links can and need to be extended to include the national regulators.</p> <p>I share Uday's view that there could be scope for a Regionla pilot through EMDA but LBRO must be on board as well. This is worth exploring further if EMDA will fund it !</p>		
Regina Duggan Environment Agency	<p>Nos 1and 8 The East Midlands had a net based setup called EMBREM which was very effective which ceased operation last October 12 months but to reintroduce it would definitely meet a gap.</p> <p>No3 I see a need for this type of work in all regions</p> <p>No 9 I think that Local authorities whilst seen as a good place to start do not really do environmental compliance with industry and it would be good to define what levels would be done by them at the moment they act mainly as signposters</p>	I disagree with 5,6, and 10 because this proposal would be impossible to maintain and there would be a built in difficulty with ensuring consistency across local authorities. Resources could easily be diverted for other purposes.	My top three would be 1,8 and 3
Douglas Kerr IOD	<p>Congratulations to you and your colleagues on a very good and comprehensive report. I enjoyed reading it.</p> <p>Before addressing the questions you have raised for specific comment let me make an observation. The fundamental point emerging from the study is that there is a need felt by business for better support in being aware of and able to respond appropriately to</p>	<p>I have the following concerns about the others:</p> <ul style="list-style-type: none"> <li>- Recommendation 7. I have concerns about how useful this exercise is going to be unless emda is prepared to provide some sort of quality endorsement of the advisors' expertise in various areas and I have serious concerns about the practicalities and legitimacy of providing such an endorsement. emda risks becoming a broker of</li> </ul>	<p>My top three picks (in order) from the recommendations made are:</p> <ul style="list-style-type: none"> <li>- Recommendation 3. Throw everything behind making Business Link the best friend business ever had, with authority to speak for the regulator, influence the legislators and help the willing to know</li> </ul>

Panel Member	Q7. Which of the 12 recommendations in the report do you agree with and support?	Q8 Do you disagree or wish to amend any of the recommendations? If so please state why.	Q9 If you were asked to prioritise the 3 most important recommendations, which would they be?
	<p>regulation. What also emerges is that the bones of a solution exists in Business Link and its website. The report rightly identifies building on that as a key priority. It seems to me that it is important to do everything possible to enhance both awareness and the perceived authority of Business Link while emphasising its role as a helpful friend to business (not a regulator in disguise). It is also important to avoid doing anything which would detract from giving it the image of being "the place for help and advice on regulation".</p> <p>With that in mind I would respond to the questions as follows:</p> <p>I agree with and support recommendations 1,2,3,4,5,6,8,9,11 as they stand.</p>	<p>professional services if this is followed through to a logical conclusion.</p> <p>- Recommendation 10. I have no problem with the creation of regulation advice centres which seems on the face of it a good idea. However, I worry about the "branding" detracting from the position of Business Link and creating confusion about who the real authority is. In my experience every regulator/professional body/advisor seeks to promote his or her own version as the best (and why not) but aren't we trying to simplify the thickets of advice and guidance on offer to business. Let the "branding" be with Business Link even if it results in onward referral to a regulation advice centre. This may also have the effect of making it easier to create a mental separation between "regulator" and "helpful friend".</p> <p>Recommendation 12. This seems like a very worthy recommendation and I absolutely endorse the view that business owners and managers can and should help themselves and be assisted to do so. In practical terms, however, what does it mean? Where is this business education going to come from? Who will do what as a consequence of this recommendation being accepted?</p>	<p>understand and comply with their regulatory obligations.</p> <p>- Recommendation 5. More of the same. Build on what exists rather than reinvent the wheel but make Business Link the gateway.</p> <p>- Recommendation 8. Not only should the networks be able to help improve the experience of regulatory enforcement, but it will also reinforce the sense that the regulator is willing to listen (and respond).</p>
Uday Dholakia LBRO	<p>I have gone through the recommendations, its comprehensive and well structured.</p> <p>On a positive front I feel recommendations 5,6,9,10 and 11 have merit in engaging LBRO on "pilot" basis. I will obviously have to run this by the LBRO board and the Chief Executive. I feel reasonably confident if you/colleagues can make robust business case for this also with willing partners: emda, local authorities in the East Midlands, FSB, Chambers, CBI etc, we should be able to get folks at LBRO to sit around the table and look at the possibilities.</p>	<p>I don't like to labour on issue round ethnic businesses, but feel the figure is higher than that of 28% who don't engage with Business Link. It will be of no surprise that regulation hits them disproportionately in areas of Environment Health etc say in the food businesses (the only real growth area in manufacturing). You may want to turn this limitation into an opportunity in your final report for emda to do something measurable in this area. Can I leave this with you!</p>	5,6,9,10,11

Panel Member	Q7. Which of the 12 recommendations in the report do you agree with and support?	Q8 Do you disagree or wish to amend any of the recommendations? If so please state why.	Q9 If you were asked to prioritise the 3 most important recommendations, which would they be?
	Our next board meeting is on 22nd / 23rd April, if we can get the request formalise by than, I'm happy to push the boat out on this.		
Phil Wass	<p>Just before I move onto the 3 questions, I wonder whether an emphasis might be put on the disproportionate burden placed on 'micros' in particular at page 49 (para 3) - rather than just referring to a disproportionate burden on 'small business' ?</p> <p>I broadly support all of the 12 recommendations made</p>	I do not strongly disagree with and would not wish to substantially change any of the 12 recommendations	<p>I would personally prioritise recommendations 3, 4 and 7</p> <p>I feel that a bit more explanation is required around the above as follows. Whilst not disagreeing with the slightly different approach within 5, 6, 9, 10 and 11 - I personally preferred the approach via 1, 2, 3, 4, 7, 8 and 12. By a process of elimination to come to my top three, 1 &amp; 8 seem to sit together and slightly in isolation from some of the other key issues for me such as 2, 3, 4, 7 and 12 which I found very difficult to then separate in coming up with the final three</p>

**Annex 2 cont'd****Environment Agency Response to Compliance Guidance Feasibility Study****1. Which of the 12 recommendations in the report do you agree with and support?*****Recommendation 1***

*That emda consider the establishment of a network of businesses, intermediaries, regulators and professionals to collaborate and provide central government with feedback and suggestions on the design of new regulations and the supporting IAG material.*

Agree. This would be a very useful group. However South West region and North West region have more hands on networks which seem to work well. They provide advice and guidance but go further in that they also provide an opportunity to mentor the businesses to at least compliance if not 'proactive learners'.

***Recommendation 2***

*Emda should consider further investment in refining, populating and cleansing the database of businesses in the RBSIS system.*

Agree.

***Recommendation 3***

*emda should review their planned Business Link marketing expenditure to see whether this investment could be used better to help raise awareness around compliance issues.*

Agree – this should also be linked to regulators communications strategies to get maximum benefit for the region. It would also be sensible to ensure high priority sectors are focused on to ensure best value for money

***Recommendation 4***

*That emda commissions further research into whether business attitudes towards regulation could be changed, i.e. whether “avoiders” of compliance can become “vulnerable” compliers.*

Agree – I could envisage the Environment Agency wanting to do this type of work in their advice and guidance policy work. Therefore if we can be involved in this through yourself Regina that would be excellent

***Recommendations 5***

*emda should consider investing in improved referral mechanisms between Business Link and the Local Authorities*

Concerned – Local Authorities are not able to offer definitive advice on many aspects of environmental legislation as they are not the regulator. They also have opposing views with regard to planning for example that could be detrimental to the environment. It would therefore be more effective for them to a signposting service rather than an expert on environmental advice (where they are not the regulator). Agree that there should be better referral mechanisms in place

***Recommendation 6***

*emda should consider working with the Local Better Regulation Office (LBRO) to help Local Authorities build the capacity of their advice and guidance services and to ensure that they are consistently available across the region.*

Disagree – would rather see the network, that is being suggested to be developed, be the trainer of Local Authorities and Business Links. This would offer a consistency of approach and allow the networks to train in priority areas from their experience in delivery of advice and guidance.

***Recommendation 7***

*emda should consider investment in building the portfolio of professional firms and consultants who provide advice and guidance on regulatory matters registered on the supplier directory.*

Agree – building the portfolio of professional firms and consultants will be very useful.

Agree the reasonableness test is also useful, but would need to be done by each regulator and agreed at a national level.

### **Recommendation 8**

*That the networks of businesses, regulators and intermediaries and professionals proposed (recommendation 1) be used as the vehicle to help road-test any risk-based assessments proposed by regulators.*

Agree

### **Recommendation 9**

*That emda, LBRO and Local Authorities work together to seek clarification and agreement on:*

- *A service specification as standard across all Local Authorities*
- *A clear remit, i.e. which regulations and on what basis, would advice and guidance be delivered through Local Authorities?*

Agree – and would suggest that Environmental regulations that the Environment Agency regulate should be out of remit for delivery by Local Authorities

### **Recommendation 10**

*That emda, LBRO and Local Authorities consider the merit of establishing branded regulation advice centres in each Local Authority.*

Agree in principle – with the proviso that an Environmental specialist is included in this advice centre

### **Recommendation 11**

*That emda, LBRO and Local Authorities consider the development of clear capacity building and development programme for staff in each centre, on a standard basis.*

Agree in principle - as long as development includes using experts to help train and to signpost to those parties that are more appropriate to deliver advice and guidance. However this approach may be very costly and may not give the benefits anticipated. I suggest a pilot project should be developed to see if the approach worked before going ahead across the whole of the RDA. In other regional schemes businesses are signposted to Envision and Enworks and then mentored with agreed action plans and success is measured. Measuring success should be one of the criteria of the pilot project.

### **Recommendation 12**

*Management skills development for managers of smaller firms should focus on provided a systematic approach*

Agree in principle – but there may be ways to help small business e.g. e-alerts to update on legislation, so they don't have to regularly review. Also any system that ensures compliance should also be reviewed – who will do this?

## **2. Do you disagree or wish to amend any of the recommendations? If so please state why.**

### **Recommendation 1**

Have a series of networks available for mentoring businesses towards compliance. An example would be an environmental compliance network. This network would have a target to deliver and mentor a number of businesses in priority sectors (i.e. those that have the most potential to pollute) toward proactive learner. Success criteria would include the number of tonnes of waste diverted from landfill/water consumption reduced etc.

## **3. If you were asked to prioritise the 3 most important recommendations, which would they be?**

Recommendation 1, 2 and 3 would be the most helpful for the Environment Agency.

### 3. World Café Stakeholder Event Pro Forma

#### **Consultation with businesses on advice and information for business compliance with regulation and legislation.**

Nottingham Gateway Hotel on **Thursday 20 March 2008**, 10am-2pm.

#### **‘World Café’ style consultation event**

for businesses, support and membership organisations, regulators and professional advisors in the East Midlands

***Is there is a need to improve advice on business regulation?  
How can this be achieved?***

#### **Purpose**

East Midlands Development Agency (*emda*) recognises that compliance and regulation for business may be an emotive issue and any consultation on the subject has the risk of polarising opinion. To avoid this we propose an imaginative approach to consultation and consensus building: World Café methodology.

World Café is a proven methodology that uses a conversational process and a set of design principles to enable the collective intelligence within a group to emerge. It works best when building consensus, by increasing people’s capacity for effective action in pursuit of common aims.

The purpose of this event is not to debate good or bad regulation, but simply to use our collective intelligence to better help those businesses who wish to trade legally and ethically, enabling them to positively comply, improve and be more economically productive.

We will seek to identify areas of consensus between businesses that seek better information, guidance and advice and those organisations, public or private, that are best placed to provide it.



**Programme**

10.00 Sign-in & coffee

10.15 Welcome & introduction

Overview of the changing picture on business regulation: 'better regulation'  
Is there a need to improve business support in the East Midlands?  
Results of the business survey to date.

10.45 World Café round table groups

Question 1:

How effective is the current position for businesses? How well are business requirements met? What are the gaps & shortcomings?

Question 2:

How effective is the system for regulators? How well are they able to provide businesses with information and advice to comply with regulation? What are the gaps & shortcomings?

Question 3:

How effective is the system for intermediary organisations, including Business Link, membership, trade and professional organisations, and professional advisors? How well are they able to advise businesses on compliance issues? What are the gaps & shortcomings?

11.45 Report back on questions 1-3

12.00 Café break, buffet available

12.30 World Café round table groups

Question 4:

What would the ideal scenario be in terms of providing the information & advice to businesses on compliance?

Question 5:

What are the gaps between the ideal scenario and what is currently available? Which of these have greatest costs & negative impact on business?

Question 6:

What are the ideal solutions? What action is needed to implement these? Who should do this and how?

1.30 Report back on questions 4-6

1.45 Next steps: using the World Café knowledge to prepare recommendations for *emda*.

#### 4 **World Café Consultation Attendees 20 March 2008**

Andrew Atherton	University of Lincoln
Jane Avery	Co-operative and Social Enterprise Development Agency
Lynne Butler	Lincolnshire County Council Trading Standards
Justin Conroy	HTC Associates Ltd
Anna Coombe	Castlefield Kennels
Uday Dholakia	LBRO
Pheobe Edwards	East Midlands Business Ltd
E J Foxall	Business Champion
Kirk Frith	University of Lincoln
Manny Gatt	Faster Futures Ltd
Julia Hackett	Energy Performance Assessors
Mark Hughes	Nottinghamshire County Council
Cath Lee	Federation of Small Businesses
Douglas Kerr	Institute of Directors
Jo Parkin	East Midlands Development Agency
Stuart Parr	Nottinghamshire Business Venture
Sharon Payne	Leicester City Council, Food & Safety Training Unit
Liz Price	University of Lincoln
David Rae	University of Lincoln
Cathy Rawsthorne	Winning Works Ltd
David Rennie	Croner Consulting Ltd
Mark Taylor	North Kesteven District Council, Environmental Services and Building Control
Phil Wass	Wass Management Ltd
Malcolm Yates	Focus Management for Business Ltd

## 5. Feedback from World Café Stakeholder Event

### How can regulation bring about efficiency gains for business?

- Legislation drives behaviours that can result in profitability gains, e.g. reducing waste;
- Sustainability - increase in taxation on cars changing behaviours, e.g. home working/conferencing, car sharing, encouraging work life balance and retaining key staff;
- Planning regulations are viewed as a bane, but they do preserve heritage and the environment;
- Complying with employment law is important – if a business gets it wrong, it could lose a lot of money;
- Some regulation can be an opportunity, but it is unrealistic to say that that can happen straight away;
- There is still a cost associated with complying with regulation, even if it does bring opportunities;

### What can businesses do to exploit the opportunities associated with regulation?

- Complying with regulation can demonstrate that a business meets certain standards, e.g. health and safety, investors in people;
- Compliance can be perceived as a kite mark – that customers can trust the organisation;
- Market opportunities associated with helping businesses to comply with regulation, e.g. asbestos removal;
- Complying with certain regulations can help small businesses compete with larger businesses;
- Business opportunity – exploiting people’s fears, e.g. H&S fears, especially when dealing with school

### Broader Issues related to Regulation Compliance

- Health and Safety legislation is designed to enable the regulator to take business to task if they do something wrong - “Health and Safety - guilty until proven innocent”;
- Look at Audit and Review culture, and segmenting by risk perception;
- Issues for businesses – more joined up thinking needed;
- Need a common sense test (ref FSB research):
  - Move from blame and claim
  - Need to get balance between risk and compliance
  - Will require a cultural shift, e.g. drink driving
  - Broadband – rollout inconsistent, lowering opportunities for home working;
- There are inconsistencies in the way that regulation is enforced across the UK (e.g. there are disparities between local authorities), which is not fair on those that comply;
- The costs of complying with regulation can make UK businesses uncompetitive with businesses in other countries that have less regulation or have unethical practices;
- Businesses feel the need for a source of information/advice that makes them feel certain that they have complied, but regulators are not always able to provide 100% assurance, e.g. health and safety law is, according to some regulators, impossible to comply with. It’s about enforcing the regulation and making as assessment as to what is “reasonable” but this won’t protect a business from being sued in the case of an accident;
- Not all businesses have internet access to enable them to access online information on compliance;
- The risk associated with compliance appears to be borne easier by larger companies, who can afford to pay lawyers and accountants to ensure that they comply;
- There appears to be a lot of information on compliance, but there is a need to raise awareness of this;

- A single database for rules and regulations for business in the UK is being launched, which will sit on BusinessLink.gov.uk and Direct.gov.uk (according to Phoebe Edwards, EMB).

**Question 1: How effective is the current position for businesses? How well are business requirements met? What are the gaps & shortcomings?**

- The key areas that businesses find it difficult to get information on are VAT, Employment Law, Health and Safety. These are areas where non-compliance can mean “proper punishment” and this can “wreck a business”;
- VAT: it is difficult get information on VAT. Sometimes HMRC refers customers to different sources, and it is difficult get a black and white answer. There are costs of getting it wrong, e.g. not charging customers VAT and then “when you found out you should have done, it is too late to get it back”;
- Employment Law: Fear of not complying with employment law means that some businesses are scared to employ or dismiss people. It can prevent expansion of the business, or mean that businesses retain inefficient employees that they are afraid to dismiss. ACAS is one source of information, but “they don’t advise you – they just recite the legislation” and “they seem to be on the side of the employee”;
- There is not clear guidance on untested legislation;
- Good experiences: The Fire Service is customer focused and good to deal with, but do people know to go to them? There are also good experiences of dealing with local authorities;
- Businesses often talk to each other, friends, and organisations like the FSB, rather than go to the regulators or support organisations;
- Small businesses don’t want to or can’t afford to pay solicitors, accountants etc;
- It would be good to have a source of information or guidance that businesses could use before using a fee paying service.

**Question 2: How effective is the system for regulators? How well are they able to provide businesses with information and advice to comply with regulation? What are the gaps & shortcomings?**

- Regulators are not always the instigators but are quite often the recipients of regulation from central government;
- Guidance for the regulators often arrives late;
- Limited funding for local authorities, and limited resources – small teams;
- There are too many people/agencies involved;
- There is too much emphasis on interpretation rather than on clear guidance;
- There is a mismatch between guidance and the law – no-one wants to commit to telling a business that they are doing fine;
- Regulations are too often released without appropriate and sufficient compliance guidance being offered;
- The impact of some regulatory changes can be significant but there is no funding in place to help businesses cover the costs of compliance;
- Too often the regulators themselves do not appear to know what is going on;
- There is a lot of variation in performance between agencies and so it is not always easy to build up relationships;
- There is not enough consistency across agencies and across geographical spaces;
- Some regulators are not helpful and see their role as one of enforcement rather than of support and guidance;
- There are too many regulations that have to be complied with that are either out of date or are simply not relevant to the businesses that have to comply with them;
- Guidance officers do not receive enough training and so cannot offer the quality of service that is demanded by the business community;
- A ‘one stop shop’ is needed so that businesses know where to turn when they need help;

- New regulations or changes to existing regulations occur so often that many businesses do not notice them – awareness needs to be improved;
- There is not enough trust between the regulators and the regulated – this needs to improve so that productive relationships can grow;
- There is too much emphasis on inspection and not enough on advice;
- The methods used to indicate regulatory changes are not adequate and, as a result, too many businesses are unaware of changes as they occur;
- Businesses need to be able to see the benefits and so far regulators have not been able or have not wanted to do this;

**Question 3: How effective is the system for intermediary organisations, including Business Link, membership, trade and professional organisations, and professional advisors? How well are they able to advise businesses on compliance issues? What are the gaps & shortcomings?**

- Not everyone receives the East Midlands Business bulletin on regulation - it reaches people through different media or some people not at all;
- There seems to be a lack of consistency across agencies and across different areas;
- Advice needs consistency so that it can be trusted;
- There seems to be some indication that advisors are being used to communicate new regulations to businesses although this is perhaps not the most effective means to communicate with all businesses as some businesses are off the radar;
- There needs to be a single point of contact that all businesses can turn to;
- The information on guidance that is offered needs to be more effectively targeted so as to reduce the information burden on businesses;
- There needs to be better guidance with regards to what applies/what is relevant to each individual business;
- Businesses need to be given more direction – things need to be made clearer;
- Common commencement campaign is good but it does not reach all businesses;
- Important regulatory changes need to be flagged more clearly than at present;
- There is a clear and pressing need for a central agency where all this information can be stored and, when necessary, accessed;
- There is a need for a signposting type system;
- Access to relevant information needs to be improved;
- Information should be made as user friendly as possible;
- Simple English should be used at all times;
- There are variations in attitudes towards compliance which should be addressed;
- Awareness is the single most important aspect of compliance;
- There seems to be a need to improve perceptions of regulation – businesses need to be sold the benefits of compliance;
- Support for existing businesses is not as good as it is for new starts;
- Continued or on-going support is crucial as the regulatory framework changes so often;
- Finding businesses that are 'off the radar' is difficult but needs to be addressed.

Triggers for change:

- Growth/expansion occasions a large number of problems;
- Threshold issues – there appear to be critical steps that need to be overcome;
- There are key times in a business lifecycle that stand out as very challenging;
- Critical moments need to be well supported.

**Question 4: What would the ideal scenario be in terms of providing the information & advice to businesses on compliance?**

- ONE point of access – one “source” and then filter out to information needed;
- Needs to be accessible;
- The information is there, but how do you find it?;

- Guidance needs to start at the beginning, e.g. Inland Revenue site, button through to Business Link;
- Checklist in sector promoted;
- Distinguish between needs of new businesses and “established” businesses;
- Address business needs for help at their convenient times – not always 9-5!;
- One arm for regulation, one arm for information;
- Specifically targeted information;
- Ability of businesses to determine what information they want to receive;
- Not just for today’s businesses;
- Planning, economic development, and health and safety – all working together – and Single Regulator...
- But skill set needed by regulator and large amounts of time spent at one time in the business;
- Best practice shared between local authorities;
- Public sector to share information on businesses for guidance not enforcement;

**Question 5: What are the gaps between the ideal scenario and what is currently available? Which of these have greatest costs & negative impact on business?**

- Funds to ensure guidance are not sufficient;
- Good value for money guidance is not readily available;
- The regulators and regulated have different priorities;
- Businesses that traverse geographical spaces can find it difficult to comply if there is not regulatory consistency;
- Variations in interpretation of regulations make it difficult for businesses to be sure that they are in a state of compliance;
- Businesses need to be able to effectively and efficiently ascertain whether or not they are in compliance – a simple compliance menu would be very helpful;
- There needs to be more trust between the regulators and the businesses they regulate – too often it seems to be a case of ‘them vs. us’;
- A single point of contact needs to be developed so that it is clear where the information needed can be accessed;
- There needs to be a common regulatory agency that all businesses can turn to irrespective of their concerns;
- Currently it seems that there are different systems in place for different regions which makes it very difficult for businesses that operate across regions as well as businesses that relocate;
- There seems to be no accountability – if the regulation is bad or the guidance offered is inadequate there is not a channel for discussing problems;
- There needs to be more transparency – the rationale for the new regulations should be explained and the costs of complying should be made more explicit so that small businesses can prepare themselves for the costs;
- There needs to be more trust between parties;
- It isn’t always clear where to go to find the information that is required;
- There appears to be key trigger points in the business lifecycle where certain regulations appear to apply where previously they were not a consideration – more attention and support needs to be given to firms undergoing these transitional stages;
- There needs to be one point of contact – even if it is nothing more than a signposting service;
- There are not enough publicly funded advisors provided for the small business community;
- The way that information is presented and disseminated is, at present, not consistent – this needs to change so that businesses can familiarise themselves with the language and style of regulation;
- With the number of changes that are occurring within the regulatory framework, it is very difficult for businesses to keep in touch with what is going on – businesses need to be alerted to changes well in advance of those changes coming into effect;

- There are direct and indirect costs which seem not be considered by those implementing the regulatory changes – businesses need to be consulted with so that they can provide a measure of the true cost of regulatory change;
- There is no clear guidance as to who is best to turn to in a crises – a list of recommended suppliers of regulatory guidance is essential;
- Regulators should be more approachable and should be seen as friends rather than as enemies;
- There is little recognition for the good guys – there should be a ‘fair play’ award where the best, most compliant businesses are recognised and rewarded;
- A coaching and mentoring scheme could be really useful – whether the coaches are regulators or other businesses is not important;
- Businesses at different stages in their lifecycle need different types of support – there is no recognition of this to date;
- There are clear transition stages in terms of volume of regulation – there appears to be a ‘light touch’ scheme in place for small and new start businesses, but businesses that are undergoing growth do not get a similar level of support;
- There is a lot of collaboration that occurs between businesses in terms of advice and support – although this is currently only an informal situation, it might be possible to encourage best practice to be shared and disseminated more widely;
- More needs to be done in terms of providing financial support to firms attempting to adhere to new regulations;
- Poor compliance needs to be more heavily punished so that one bad egg doesn’t spoil the reputation of the whole industry;
- There needs to be more consultation with businesses so that their perceptions of regulations can be taken into consideration when designing new regulations or changing existing ones;
- More guidance is still required;
- There is a silo approach – there is no cohesion across agencies;
- The agencies need to be more integrated;
- There needs to be greater cohesion;
- Things seem to be driven by the regulator rather than by the businesses - are business ‘customers’ of the regulators?;
- There is no thought for simplicity – the simpler the better...;
- There is too much overlap and cross reporting – one single centre point is required;
- Coaching and enforcement could be interlinked;
- There is not really one single point of advice to go to if you are having problems;
- The benefits of compliance need to be ‘talked-up’;
- There needs to be more support offered to businesses and the time it takes to check and comply with regulation needs to be reduced;
- Much of the time involved in regulation and compliance comes out of personal rather than business time and, as a result, there is a lot of ill-will towards regulation and regulators;
- There needs to be more signposting so that businesses can more easily keep up to date with changes in the regulatory framework.

#### Key Points/Recommendations:

- There needs to be more trust between the businesses and the regulators;
- There needs to be a ‘one-stop shop’ approach;
- The costs/penalties of not complying make the whole area very worrying and stressful for business owners – there needs to be more emphasis placed on the positive aspects of compliance.

#### Key Suggestions:

- Community forums
- Exemplary sites
- Case studies
- Big brother advice
- Sector collaboration

- Best practice
- Bringing together of friendly faces
- Business buddies
- An ideas sharing platform
- Networking events/facilities

**Question 6: What are the ideal solutions? What action is needed to implement these? Who should do this and how?**

- All information available on the internet – most businesses have or use the internet;
- Issue about providing information in other languages? Should it provided through non-English sites? Or should further language training be provided?
- As a first stage, you need to be told that a new regulation has come into force;
- You need somebody that you can talk to about it – a business friend/buddy rather than regulator – who can confirm you that that the regulation applies to you and that you have understood it and that you know what to do in terms of compliance;
- Advice and intelligence, rather than information – need to know how it applies to the business;
- It's important that they're a friend, somebody you can confide in. A regulator is not a friend at first;
- Timing is crucial – it's notification of new legislation is too early then you tend to forget about, if it's too late then it's too late to implement the changes;
- A need to focus resources where the risk is higher, e.g. looking at the size of the business and the potential impact (such as farmers market stalls selling food);
- Encouraging information between government departments and agencies (although a data protection issue?);
- Combining visits from regulators;
- Need one place to look for information, and need organisations to tell businesses where it is;
- More emphasis on associations;
- Responsibility of government – local and central;
- Buy with Confidence (TS Model);
- It needs to be a single content source BUT multi faceted “roll out” (via banks, accountants etc);
- Single channel of banks and accountants (which most businesses all use) will catch most but not all “micros” who may run business through a personal account;
- The service must be confidential/impartial (ability to talk without being punished);
- Clear government direction (and resource) needed if this service is to be “publicly” driven;
- There was one small business support organisation in the East Midlands but now there are many all competing!
- EMDA good at giving out funding but do not really understand “enterprise”;
- Timescale on which legal interpretation becomes available is a problem as still being “interpreted” as businesses asking for direction;
- Legislation needs to emerge in the first place much clearer (not needing so much “interpretation”);
- Solution: should be lead from central government via local authority with RDAs purely facilitating;
- A director (possibly company secretary) should legally have to accept responsibility for legislative compliance as the “named person” who accepts responsibility for staying up to date;
- Openness, transparency, accountability from RDA in seeing this through.

## 6 Addressing *emda's* questions

- **How does complying with legislation impact on a business?**
  - Compliance does have a cost to business (estimated at 10-12% of GDP). This includes the opportunity cost lost to businesses that could have invested this time in wealth creating activities.
  - Good regulation can have positive benefits to business and wider society (as shown by feedback at the World Café event (p. 41). Regulation can lead to changes in behaviour that can bring about sustainable practices and cost savings.
  - There is evidence to suggest that better information, advice and guidance will reduce the cost of compliance.
  
- **Are there certain points in a business's life cycle when complying with legislation is more relevant/time consuming? i.e. is this during start up/growth?**
  - Yes, key points in the life cycle include start up, employing staff, having business premises, reaching the VAT threshold.
  - Broadly it is felt the start-up businesses were well catered for regarding IAG on compliance. The gap is IAG for established businesses reaching one of the above milestones or coping with the introduction of new regulations, or growth companies that accelerate through these various thresholds quickly. .
  
- **How do businesses find out about legislation requirements and changes in legislation? Are these sources reliable and up to date?**
  - Businesses find it fairly easy to find out information about existing legislation that affects their business, but less easy to find out about changes to existing legislation or new legislation;
  - The most frequently used public information sources are HMRC, Business Link, Companies House and the Health and Safety Executive;
  - More than half had not used DBERR, DWP, DEFRA or the Home Office. 40% had not used the HSE, and 28% had never used Business Link;
  - The most useful sources are considered to be Business Link, HMRC, HSE and Companies House;
  - More than half of businesses feel that regulators are helpful in providing advice to help them to comply with legislation. However, more than a third consider them to be unhelpful;
  - More than half of businesses (65%) say it is easy to access the information they need on business compliance. However, fewer than half (47%)
  
- **Are there any sectoral, geographical, size, activity, or client characteristic patterns or issues?**
  - Excessive regulatory burdens are shown to affect business start up and growth rates;
  - The burden of complying with regulation appears to be felt more heavily by smaller businesses;
  - Businesses with employees are more likely to feel that regulation is excessive, compared with those without employees.
  
- **Are there any areas that should be addressed as a priority? i.e. environmental legislation**
  - The areas of regulation that businesses find most difficult to understand are employment, taxes and health and safety;
  - Businesses feel that guidance is most needed in the areas of employment, taxes, health and safety, new regulation, WEE regulations, and the work time directive;
  
- **Do regulators work together or with business support organisations to raise awareness and promote changes? If not, do they think this would be beneficial?**
  - Some anecdotal examples cited. An area for future development.

- **What are the common issues SMEs faces in ensuring they are compliant**
  - According to the businesses and professionals present at the world café event, information on regulatory compliance was not the problem. Businesses felt able to find out quite quickly about any regulation.
  - It was at the next stage of advice where businesses expressed a gap in support. Businesses wanted more specific and tailored responses to their questions. Will it apply to me? What will I have to do? How do I implement it within the context of my business? How much will it cost? Who can I go to for help? Can I trust them?
  - Businesses found that the intermediaries lacking in this regard. They weren't experts in this area. The regulators were seen as a mixed bag. Some were helpful others not so. Broadly this was split between Local Authorities, which were seen as overall quite helpful and national regulators less so.
  - Employment law was cited by businesses as a particular area of concern. Advice from ACAS was perceived to lean in favour of the employee. Hence businesses turning to lawyers for advice. - At a cost.
  - Businesses will turn to professionals for advice but have concerns about quality and whether they too are over-complicating the compliance to justify their fees.
  - Businesses do trust other businesses and will speak to them. This is seem as a no cost option, but is hit and misses.
  - Businesses tended to want definitive answers; this is what you have to do, and how to do it. However they recognised that this was not easy because whilst legislation will set a framework, the precise application will be tested and made by case law. Hence definitive answers are impossible.
  
- **What are the common issues regulators faces?**
  - Regulators seemed to have much in common with businesses.
  - They often know little about new regulations/legislations before release.
  - Advice and Guidance was typically not ready in time
  - Staff lack training
  - Information was developed in an ad hoc way
  - Skills development of local Authority staff was an issue
  
- **Is there scope for regulators to link with the regional Business Link service?**
  - Yes, improved referral mechanisms, coordinated marketing activity, shared content on websites, joint local events.
  
- **What public and private sector support is already on offer?**
  - Support available from regulators, intermediaries (Business Link) Trade Associations and Membership bodies, professional and consultancy practices.
  - Concern over whether businesses can trust he sources of advice.
  - Concern over inconsistencies of advice from difference sources.
  
- **What support is already available from the regional and national Business Link and how useful do SMEs find that support?**
  - Business Link website highly regarded as sources of information
  - Business Link unable to provide advice on regulation itself but will broker to others
  - Brokerage mechanisms with private sector (supplier directory) require further development
  - Referral mechanisms with Local Authorities and joint working could also be improved.
  
- **Does voluntary compliance with trade bodies/institutes cause issues with SMEs? If so how? Is there need for intervention?**
  - The tailoring of IAG on regulations undertaken by trade bodies is seen a broadly a good thing. I.e. making it more relevant to the target audience.
  - However it can lead to confusion with different advice from different sources.
  - Voluntary compliance via trade associations is seen as positive. It helps encourage behaviours and processes in businesses that lead to compliance.

- **What impact does the governments ‘Regulators’ Compliance Code’ consultation and Delivering Simplification activities have on this study?**
  - Significant implications to the study. Investment undertaken by central government in following areas:
    - Code of practice on good guidance for regulation
    - Simplification agenda (BL to be single gateway to all government regulation by 2010)
    - LBRO – consistency between LAs
    - Independent review by Sarah Anderson into the best way to deliver clarity and certainty in guidance.

**Is there a need for intervention by *emda* or other bodies? If so, what form should this intervention take? How should it be funded? Who is responsible?**

This question is addressed in the recommendations set out in Section 6

## 6 Project Application Details

Recommendation Number	1 and 8	2	3	4
Recommendation description	That emda consider the establishment of a network of businesses, intermediaries, regulators and professionals to be the “virtual” regulation advisory “service” across the region	<i>Emda should consider further investment in refining, populating and cleansing the database of businesses and the knowledge bank in the RBSIS system. This will include enabling brokers to search for businesses likely to face compliance issues based in their position on the business life cycle.</i>	Emda should review their planned Business Link marketing expenditure to see whether this investment could be better used to help raise awareness around compliance issues. Any campaigns proposed should build the BL brand franchise as the gateway-single access point and include a “call to action” element, which would encourage businesses to register for newsletters, e-bulletins and email alerts. These campaigns should focus on the positive rather than the negative aspects of compliance.	That emda commission further research into whether business attitudes towards regulation could be changed, i.e. whether “avoiders” of compliance can become “vulnerable compliers. This research should involve Local Authority staff with the responsibility for advice and guidance

<b>1.9 Area of Impact</b>	This project has the potential to benefit all businesses located across the East Midlands
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	<p>consultations, provide an advisory group to oversee the implementation of the recommendations within this report, and act as SAEs and business champions on web-forums and discussion groups.</p> <p>The assembled SAE panel would also be tasked at beta testing any proposed risk based assessments; audits and routes back to compliance developed by national regulators or local ones (.see recommendation 8). It is worth noting that there is already much good work happening in this area to build on. For example the HSE, The Food Standards Agency and the Local Authority Coordinators of Regulatory Services (LACORS) do provide guidance to Local Authorities in shaping their risk assessment programmes.</p>			<p>avoiders into compliers. The research would also help refine emda’s understanding of areas of advice and support required by business to the next level of granulation. This will help develop a shared language and descriptors, which could be subsequently used to help sharpen the East Midlands Brokerage Service codification and search mechanisms. The study could adopt similar design principles used in this project (desk research, Businesses Survey, SAE panel and world café consultation). It would be important to ensure a fair mix of businesses including EMBs; women owned and led enterprises as well as those that are typically under-represented.</p>
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		<p>with professional advice in this area (outsider of Local Authorities and National regulators) it will need to have a more sophisticated search facility that can enable the business broker to identify providers with specific skills in regulatory compliance to match client needs.</p>		
<p><b>1.11 Project objectives/impacts</b></p>	<p>The objective of this project is to ensure that any future IAG on regulatory guidance implemented in the East Midlands has been designed with input from businesses and their representative bodies.</p> <p>That the East Midlands had a network of experts geared to help businesses respond to changes in the regulatory framework.</p> <p>That the networks of businesses, regulators and intermediaries and professionals proposed be also used as the vehicle to help road test any risk based assessments proposed by regulators (recommendation 8).</p>	<p>The project will ensure that the maximum numbers of businesses are accessible via marketing communications to relevant IAG on compliance with regulations.</p>	<p>The project objectives will be to increase the take up of proactive IAG on compliance issues by businesses across the East Midlands.</p> <p>The proactive nature of the campaign and its call to action approach should encourage more businesses to register for e-bulletins tailored to address their specific regulatory requirements.</p>	<p>This project will help refine emda’s offer of IAG support to businesses via the BL gateway. It will:</p> <ul style="list-style-type: none"> <li>○ Provide greater insight into how different types of business respond to regulatory pressures.</li> <li>○ It will highlight the potential drivers for changing behaviours and attitudes towards regulatory compliance</li> <li>○ It will specifically target EMBs; women owned and managed businesses and other segments to identify any specific needs and requirements for IAG provision design.</li> </ul>

<p><b>I.14 Why needed?</b></p>	<p>Poorly designed and implemented regulations place a burden on business especially start-ups and growing businesses.</p> <p>Businesses needed access to local advice and guidance.</p>	<p>The current East Midlands Brokerage service lacks the search mechanisms necessary to enable brokers to accurately select appropriate professional advisers to meet clients regulatory compliance needs.</p>	<p>Research has shown from the study that fewer than half (47%) of businesses surveyed said it was easy to find out how to implement business legislation that affects them.</p>	
<p><b>I.16 why is emda support required?</b></p>	<p>The current infrastructure for providing IAG on compliance with regulation lacks cohesiveness and integration. Whilst national regulators, Local Authorities and</p>	<p>The RBSIS infrastructure is owned by the Regional Development Agency and has been developed as a shared infrastructure for all public sector organisations operating in the field of business support. The enhancements proposed will ensure greater levels of partner participation and usage with a corresponding increase in service level improvements for businesses.</p>	<p>Emda have the responsibility for the promotion of the BL brand and gateway service across the East Midlands. This proposal seeks to utilise some of this</p>	<p>This research will enable emda to ensure that any future investment in IAG meets the needs of all businesses, improves access and fits within</p>

	<p>investments through the Business Link network) all fund aspects of IAG. There is no single agency responsible for overall co-ordination. The proposed network will help draw together key partners and stakeholders to both respond to national initiatives, from an East Midlands perspective, and help foster improved working referral mechanisms between the players.</p> <p>It is anticipated that much of the partners contributions will be in-kind (staff time) with only minimal resources required to support the virtual network.</p>		<p>sunk investment to promote the BL gateway as an access route to good IAG on</p>	<p>the simplification agenda.</p>
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			compliance issues.	
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<p><b>3.1 Who are the intended beneficiaries of this project</b></p>	<p>The beneficiaries include:</p> <ul style="list-style-type: none"><li>○ National regulators seeking input on proposed changes to regulations.</li><li>○ Local regulators seeking to influence and help co-design the IAG component of any new regulation.</li><li>○ Businesses who will have access to SAE panel members for web based discussion forums, improved tailored content on local websites and the opportunity themselves to input into the design of new regulations.</li></ul> <p>and Faster Futures</p>	<p>Businesses across the East Midlands will be the beneficiaries, as they will have access via their Business Link brokers to a more effective and efficient supplier matching service when seeking support with compliance issues.</p>	<p>Improved design of IAG services specifically for compliance with regulatory issues will benefit all businesses across the East Midlands.</p>
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<p><b>3.2 Who else does this project affect?</b></p>	<p>This project positively affects staff operating in LAs who are responsible for regulatory compliance issues.</p>	<p>Businesses registered on the East Midlands Brokerage Service will see the benefit of improved referrals from brokers.</p>	<p>This project will provide insights and understanding that will positively impact on all staff operating in LAs who are responsible for regulatory compliance issues.</p>
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3.3 What is the current situation regarding under-represented groups

Compliance with regulations knows no barriers and affects all types of businesses irrespective of ethnicity, gender, disability or disadvantage.

<p>3.4 Have you identified any basis of need in terms of minority /underrepresented groups.</p>	<p>It will be important that the SAE panel has representatives within it from the EMB, women owned businesses and other underrepresented groups to ensure that their issues are adequately addressed during consultation processes</p>	<p>It is hoped that these needs will be further explored and understood by conducting further research. See Recommendation 4.</p>	<p>This project is specifically designed to explore the needs to minority and under-represented groups.</p>
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<p>4.1 Give details of how this project fits and contributes to the RES, emda corporate plan</p>	<p>Whilst it is difficult to calculate the cost of compliance to business, BREs latest estimate suggest it could be up to 10-12% of GDP. Research shows that this cost burden is disproportionately weighted towards start-up, small and growing businesses. These are priority groups within the regions RES and emda’s corporate plan.</p> <p>Improvements within IAG on compliance should help reduce the burden on SMEs by:</p> <ul style="list-style-type: none"> <li>○ Making advice more accessible, relevant and tailored to business needs.</li> <li>○ Encourage businesses to explore the positive aspects to compliance e.g. reduced waste, reduced levels of staff absenteeism, reduced transport costs, fewer customers complaints, lower overall cost of compliance.</li> </ul>			
<p>8.1 Consider whether the project has any state aid implications</p>	<p>Any investment proposed to</p>	<p>It is not envisaged that any state aid is provided to businesses to subsidise any</p>	<p>Any investment proposed to market the Business Link gateway will not provide a direct financial benefit to</p>	<p>As this is a research project we</p>

	<p>virtual network will not provide a direct financial benefit to businesses so we are of the view that state aid rules will not apply.</p>	<p>sought on complying with regulations. Therefore we do not believe state aid rules apply.</p>	<p>we are of the view that state aid rules will not apply</p>	<p>do not anticipate any state aid rules applying.</p>
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<p>9.1 How will the project impact on the environment</p>	<p>Improved take up and implementation of IAG on regulatory issues is likely to have a positive impact on the environment. One potential positive effect will be greater take-up of advice and compliance on environmental and waste issues.</p>
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<p>Recommendation Number</p>	<p>5</p>	<p>6</p>	<p>7</p>	<p>9</p>
<p>Recommendation description</p>	<p>Emda to consider investing in</p>	<p>Emda to consider working with LBRO</p>	<p>Emda to consider investment in building the portfolio of professional firms and consultants who provide advice and guidance on regulatory</p>	<p>That emda, LBRO and Local Authorities work together seek to clarify and reach agreement on:                      - A service specification as</p>

	<p>mechanisms between Business Link and the Local Authorities across the East Midlands.</p>	<p>LBRO to help Local Authorities build the capacity of their advice and guidance services and to ensure that they are consistently available across the region.</p> 	<p>matters registered on the supplier directory.</p>	<p>standard across all Local Authorities</p> <ul style="list-style-type: none"> <li>- A clear remit, i.e. which regulations and on what basis, would advice and guidance be delivered through Local Authorities?</li> </ul> 
<p>1.9 Area of Impact</p>	<p>This project has the potential to benefit all businesses located across the East Midlands</p>			

<p><b>I.10 Project Description</b></p>	<p>To Improve the referral mechanisms between Business Link and the Local Authorities across the East Midlands.</p> <p>There are different ways in which these referrals could operate. We believe that given the comprehensiveness of the businesslink.gov.uk website that, this should be positioned as the first port of call to businesses seeking information on regulations. Business Link would then be responsible for onward referral to the appropriate Local Authority or national regulator.</p>	<p>Emda and LBRO together with the regions Local Authorities to work together on the development of a regional structured programme of development and training. This should be designed to ensure that the business processes adopted across the region dovetail with the regional business links IDB offer and knowledge collected is stored within the central RBSIS infrastructure.</p>	<p>Once the East Midland Brokerage Service database has had its codification and search mechanism refined (see recommendations 2 and 4) the next task and the purpose of this project would be to review all the existing businesses registered on the East Midlands</p>	<p>That emda, LBRO and Local Authorities work together to agreement on a service specification as standard across all Local Authorities and to agree a clear remit, i.e. which regulations and on what basis, would advice and guidance be delivered through Local Authorities?</p> <p>We see close linkages between recommendation 6 and this recommendation. Setting out the service specification, standard and remit (recommendation 9) are, in our view, necessary precursor requirements that must be in place before any training and development programme is commissioned (recommendation 6).</p>
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			<p>to ensure that all records were comprehensive containing all the information required to enable more precise searches based on supplier capabilities regarding compliance advice.</p>	
<p>1.11 Project objectives/impacts</p>	<p>The objective of this project is to ensure improved referrals between the Regional Business Link and LAs/National Regulators who provide an IAG service on regulatory issues.</p>		<p>Project objectives include:</p> <ul style="list-style-type: none"> <li>○ Review all existing business records to ensure they are comprehensive.</li> <li>○ To further recruit new businesses and professional bodies to add to the register again recording their regulatory compliance skills</li> <li>○ Linked to recommendation 6, ensure that all Business Link brokers and Local Authority staffing with access to the brokerage platform when advising and referring clients are adequately training to do so.</li> </ul>	<p>Agreement on service specification standard for IAG and clarity on remit of LAs/Regional Business Link and referrals to professional bodies.</p>

		<p>within LAs with IAG responsibilities on compliance issues and business brokers across the region.</p> <p>The projects impacts will include:</p> <ul style="list-style-type: none"> <li>○ Improved IAG support to businesses</li> <li>○ Consistent provision of IAG across the BL and LAs.</li> <li>○ Improved networking between LA practitioners and BL Brokers.</li> </ul>		
<p>I.14 Why needed?</p>	<p>and support providers alike.</p>	<p>Our research found that the systems and processes for the development of skills varied between Local Authorities and whilst there was a strong willingness to collaborate, work together and share best practice, in reality this seems to happen in an ad-hoc way with the most willing Local Authorities leading the way.</p> <p>Clearly a structured approach to supporting collaborative working between Local Authorities to build the skills and collateral necessary to underpin delivery of an advice and guidance service is important. This ambition fits with the aims of LBRO who wish to raise the quality bar on Local Authority regulatory services, encouraging the shift from enforcement to guidance and ensuring greater consistency across the region.</p>	<p>At present it is difficult to determine which of the 6000</p>	<p>At present there is not a shared understanding of a service standard for IAG on regulatory issues across Local Authorities.</p> <p>Clarity on this will ensure consistency of service across the region. It will also help clarify the remit between the Regional Business Link and the LAs.</p>

	<p>support providers alike.</p> <p>Whilst Business Link is well positioned as the gateway and access point, it lacks the expertise to provide more detailed advice and guidance on regulatory issues. Improved referral mechanisms will enable the regional Business Link to better signpost businesses to the most appropriate LA or national regulator. In practice we would envisage businesses returning to the Local Authorities, once used, as the local point of entry on regulation and compliance and then being referred on via the East Midlands Brokerage Service, as necessary. We propose that the Local Authorities be positioned as the definitive provider advice, providing comprehensive solutions and answers, building expertise in this (see recommendation 6).</p>		<p>on the East Midlands Brokerage Service are skilled at providing advice and guidance on regulatory compliance.</p>	
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<p>I.16 why is emda support required?</p>	<p>The current infrastructure for providing IAG on compliance with regulation lack cohesiveness and integration. Whilst national regulators, Local Authorities and emda (via investments through the business link network) all fund aspects of IAG, there is no single agency responsible for overall co-ordination. An improved referral mechanism between the parties will significantly improve the integration of IAG provision.</p>	<p>The current infrastructure for providing</p>	<p>The RBSIS infrastructure is owned by the Regional Development Agency and has been developed as a shared infrastructure for all public sector organisations in the field of business support. The enhancements proposed will ensure greater levels of partner participation and usage with a corresponding increase in service level improvements for businesses.</p>	<p>Whilst this is primarily an issue of LAs and LBRO themselves we see merit in collaborative working with emda to ensure that the remit and service specification fits with the simplification agenda, the referral mechanisms between BL and LA's (recommendation 5) and the shared training and development programme proposed (recommendation 6).</p>
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		<p>regulation lack cohesiveness and integration. Whilst national regulators, Local Authorities and emda (via investments through the business link network) all fund aspects of IAG, there is no single process for the development and training of staff tasked with providing the IAG service</p> <p>Improved training and development will increase the numbers of positive referrals between the parties, simplify access and overall improve the integration of IAG provision.</p>		
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<p><b>3.1 Who are the intended beneficiaries of this project</b></p>	<p>The beneficiaries include:</p> <ul style="list-style-type: none"><li>○ Businesses who will receive a more effective brokerage and referral service.</li><li>○ LA's/National Regulators who will receive qualified referrals.</li></ul>	<p>The beneficiaries include:</p> <ul style="list-style-type: none"><li>○ Businesses who will receive a more effective brokerage and referral service.</li><li>○ Staff operating as IAG advisers and business brokers</li><li>○ LA's/National Regulators who will receive qualified referrals.</li></ul>
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3.2 Who else does this project affect?

This project positively affects staff operating in LAs who are responsible for regulatory compliance issues.

3.3 What is the current situation regarding under-represented groups

Compliance with regulations knows no barriers and affects all types of businesses irrespective of ethnicity, gender, disability or disadvantage.

3.4 Have you identified any basis of need in terms of minority /underrepresented groups.

It is hoped that these needs will be further explored and understood by conducting further research. See Recommendation 4.

<p>4.1 Give details of how this project fits and contributes to the RES, emda corporate plan</p>	<p>Whilst it is difficult to calculate the cost of compliance to business, BREs latest estimate suggest it could be up to 10-12% of GDP. Research shows that this cost burden is disproportionately weighted towards start-up, small and growing businesses. These are priority groups within the regions RES and emda’s corporate plan.</p> <p>Improvements within IAG on compliance should help reduce the burden on SMEs by:</p> <ul style="list-style-type: none"> <li>○ Making advice more accessible, relevant and tailored to business needs.</li> <li>○ Encourage businesses to explore the positive aspects to compliance e.g. reduced waste, reduced levels of staff absenteeism, reduced transport costs, fewer customers complaints, lower overall cost of compliance.</li> </ul>			
<p>8.1 Consider whether the project has any state aid implications</p>	<p>Any investment proposed to</p>	<p>Any investment proposed to train and develop staff with IAG responsibilities</p>	<p>Any investment proposed to further develop RBSIS will not</p>	<p>Any investment proposed to further develop the service</p>

	<p>referral network will not provide a direct financial benefit to businesses so we are of the view that state aid rules will not apply.</p>	<p>will not equate to a direct financial benefit to businesses so we are of the view that state aid rules will not apply.</p>	<p>financial benefit to businesses so we are of the view that state aid rules will not apply</p>	<p>specification standard will not provide a direct financial benefit to businesses so we are of the view that state aid rules will not apply</p>
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<b>9.1 How will the project impact on the environment</b>	Improved take up and implementation of IAG on regulatory issues is likely to have a positive impact on the environment. One potential positive effect will be greater take-up of advice and compliance on environmental and waste issues
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Recommendation Number	10	11	12
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<b>Recommendation description</b>	of establishing branded regulation advice centres in each Local Authority.	basis.	That emda consider the development of a programme designed to up skill managers of smaller firms by provided a systematic approach to address compliance issues within the business.
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1.9 Area of Impact	This project has the potential to benefit all businesses located across the East Midlands		
1.10 Project Description	That emda, LBRO and Local Authorities consider the merit of establishing	That emda, LBRO and Local Authorities plan to capacity build each centre, on a standard basis.	The development programme for SMEs will incorporate the following processes:

	<p>branded regulation advice centres in each Local Authority. These could operate within a council or be a shared service across a number of councils depending on local arrangements.</p>	<p>This should include the development of a clearer regulation implementation planning process, including briefing of staff in centres on imminent legislation as well as agreed standard awareness-raising campaigns to run alongside their introduction.</p>	<ul style="list-style-type: none"> <li>• Regular <u>scanning</u> and identification of current, new or changing aspects of legislation and regulatory compliance – ‘what applies to us?’;</li> <li>• <u>Appraisal</u> of the implications, exposure to risk involved in regulatory compliance tailored to take into account the business life cycle – ‘what does this mean for us?’</li> <li>• <u>Investigation</u> of the detailed requirements, obtaining choice and guidance where required, to decide action required;</li> <li>• <u>Implementation</u> of systems to ensure compliance and to gather evidence (where required) of compliance;</li> <li>• Regular <u>review</u> of compliance with regulation</li> </ul>
<p>1.11 Project objectives/impacts</p>	<p>The objective of this project is to consider whether the development of branded regulation advice centres located in LA’s would improve the</p>	<p>To develop a standard regulation implementation process to be adopted across all LA’ in the East Midlands.</p> <p>To ensure standard awareness campaigns are adopted to support the introduction of new regulations (see recommendation 3)</p>	<p>The project will help owner managers of businesses with the know-how, processes and tools to enable them to address compliance issues in a proactive way. This in</p>

	<p>profile, take up and usage of IAG services by businesses across the East Midlands.</p>		<p>help improve the overall efficiency and effectiveness of the business.</p>
<p>1.14 Why needed?</p>		<p>At present each LA's approaches the adoption of IAG in support of new regulations in a relative ad hoc manner. This approach will ensure a more systematic approach is adopted.</p>	<p>A significant factor is the ability of small firm management in relation to regulatory compliance is management skills. Whilst it is clear that information on compliance is readily available, small firm management generally regard compliance issues as an undesirable overhead over which they have neither little</p>

	<p>food safety, health and safety- shared with HSE, and the environment. The levels of resources available and how they are deployed varies and is dependant on the type of Authority - county, unitary or district. Local Area Agreements, present an opportunity to share and integrate some of these services to deliver critical mass, improved efficiencies and raised profile.</p>		<p>a proactive way. This tends to lead to reactive orientation towards 'keeping up with' regulation.</p> <p>If small firms are helped to develop the management focus, skills and systems necessary to ensure regulatory compliance, then this 'burden' could actually be reduced. The adoption of a managed and systematic process, similar to, but very much a scaled-down version of, the corporate governance/social responsibility function of larger organisations could have significant benefits to many SMEs.</p>
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I.16 why is emda support required?

We see this project as being primarily funded within the resources deployed by LA's and LBRO. However we also see scope for external support from emda to help resource any consultation required as part of the overall simplification agenda,

Emda have a responsibility to help businesses address compliance issues by providing IAG support. This programme will be designed to help businesses development their in-house capabilities to better respond to changes in the regulatory frameworks,. It will also help them to consider the commercial opportunities and benefits that might arise from proactive compliance.

<p><b>3.1 Who are the intended beneficiaries of this project</b></p>	<p>The principle beneficiaries of local Advice Centres would be businesses seeking help and guidance on compliance issues</p> 	<p>Businesses across the East Midlands that wish to develop their own capability to respond to compliance issues.</p>
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3.2 Who else does this project affect?

This project positively affect, staff operating in LAs who are responsible for regulatory compliance issues.

3.3 What is the current situation regarding under-represented groups

Compliance with regulations knows no barriers and affects all types of businesses irrespective of ethnicity, gender, disability or disadvantage.

3.4 Have you identified any basis of need in terms of minority /underrepresented groups.

It is hoped that these needs will be further explored and understood by conducting further research. See Recommendation 4.

4.1 Give details of how this project fits and contributes to the RES, emda corporate plan

Whilst it is difficult to calculate the cost of compliance to business, BREs latest estimate suggest it could be up to 10-12% of GDP. Research shows that this cost burden is disproportionately weighted towards start-up, small and growing businesses. These are priority groups within the regions RES and emda’s corporate plan.

Improvements within IAG on compliance should help reduce the burden on SMEs by:

- Making advice more accessible, relevant and tailored to business needs.
- Encourage businesses to explore the positive aspects to compliance e.g. reduced waste, reduced levels of staff absenteeism, reduced transport costs, fewer customers complaints, lower overall cost of compliance.

8.1 Consider whether the project has any state aid implications

Any investment proposed to support local advice centres will not provide a direct financial benefit to businesses so we are of the view that state aid rules will not apply.

The development of the training material and the training of the provider network will not in itself provide a direct subsidy to businesses so we are of the view that state aid rules will not apply. However if emda decide to offer the training programme to businesses at subsidised rates then depending on the level of previous support the business has received then state aid rules might apply.

<p>9.1 How will the project impact on the environment</p>	<p>Improved take up and implementation of IAG on regulatory issues is likely to have a positive impact on the environment. One potential positive effect will be greater take-up of advice and compliance on environmental and waste issues</p>
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