



Chartered  
Institute of  
Environmental  
Health

# The future of the Local Better Regulation Office and extending the benefits of the Primary Authority scheme

Response by the Chartered Institute of Environmental  
Health to the discussion document published by the  
Department for Business Innovation and Skills

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The Chartered Institute of Environmental Health

As a Chartered **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members across England, Wales and Northern Ireland.

Any enquiries about this response should be directed in the first instance to:

Andrew Griffiths  
Principal Policy Officer  
Chartered Institute of Environmental Health  
Chadwick Court  
15 Hatfields  
London  
SE1 8DJ

Telephone 020 7827 5838  
Email [a.griffiths@cieh.org](mailto:a.griffiths@cieh.org)

## 1. Introduction

- 1.1 The CIEH has over 150 years of working with government in all matters relating to regulation and wider environmental health matters.
- 1.2 The CIEH has worked closely with the LBRO since its inception, in particular:
  - (a) The development of the World Class Coalition;
  - (b) Development of several competence frameworks for regulators;
  - (c) Signatory to the CIEH/LBRO/TSI tripartite statement; and
  - (d) Support for local regulatory activities.
- 1.3 The Institute was also closely involved in the progress of the (then) Regulatory Enforcement and Sanctions Bill. The CIEH is supportive of the principles of the Primary Authority Scheme but believes that the current system is not (yet) an adequate replacement for the former voluntary Home Authority scheme. The proposed changes will enhance the scheme.

## 2. Questions in Consultation Paper

Responses below have been confined to certain questions. Questions which have not been addressed are those with which the CIEH is in agreement or on which we have no comment to make. In the case of Primary Authority, the CIEH also refers the Department to its response to the Discussion Paper "Transforming Regulatory Enforcement" as there are clear links between PA and the Government's wider agenda.

### **Chapter One: The future of the Local Better Regulation Office**

**Question 1: Are the functions identified for the new organisation (Primary Authority and system improvement) consistent with the aspirations identified by the government and does the name of the new organisation, Better Regulation Delivery Organisation, accurately reflect its scope and function?**

The functions identified are consistent with the Government's aspirations but the proposal to remove the role of LBRO in supporting local authority regulation is not supported by the CIEH. We believe this to be a retrograde step which will have an adverse effect on improving standards and the quality of regulatory activity by local authorities.

The Better Regulation Delivery Organisation would be far more effective if it were to retain the current LBRO role (of supporting local authority regulation).

**QUESTION 4: Is the proposed membership of the Representative Steering Group appropriate?**

It is crucial that the Representative Steering Group is truly representative. The local government nominations should include professional Environmental Health Practitioner representation and the business nominations should include an equal mix of small, medium and large businesses. No one business sector should have a larger voice than any other (business sector).

Consumer groups must include representation from trade unions and/or similar worker organisations.

**QUESTION 6: Do you agree that the BRDO should continue to support LBRO's existing stakeholder reference groups (World Class Coalition, Business Reference Panel and the Local Authority Reference Panel) and that these groups should work with the Representative Steering Group?**

Yes, these groups should continue to be supported but the work to support the Local Authority Reference Panel should include work to support local regulatory activity.

## **Chapter Two: Extending the benefits of the Primary Authority Scheme**

The CIEH has an established policy on the issue of earned recognition<sup>1</sup> as follows:

"1. The CIEH believes that compliance with the law by organisations to ensure the safety of their premises, working practices, products and services should be secured by competent professionals.

2. The CIEH also recognises that organisations that can demonstrate an ongoing and effective compliance with legislation are entitled to earn proportionate recognition.

3. The CIEH recognises that consumers and workers are entitled to effective protection through the equitable, proportionate and fair application of legislative standards. When necessary, this should be through the use of effective regulatory sanctions by a properly resourced and competent regulatory workforce using an evidence and risk based approach."

**QUESTION 10: Do you agree that:**

**The current duty to "have regard to" inspection plans should be amended so that local authorities are obliged to follow inspection plans drawn up by a Primary Authority**

**The current duty for local authorities to "give notice" to Primary Authorities when deviating from inspection plans should be amended so that local authorities are obliged to obtain consent in advance from the Primary Authority**

**Local authorities should be obliged to provide feedback on inspections to the Primary Authority so that inspection plans can be updated to accommodate current compliance activity by business and to ensure that local issues can be addressed**

**Local authorities that object to any element of an inspection plan should be able to request that the BRDO (which consents to all plans before they are implemented) review the appropriateness of the plan**

**The current exemptions for inspectors which cover enforcement action should be extended to cover deviations from inspection plans?**

The key issue that is not addressed here is the standard of performance required of Primary Authorities (PAs) in supporting Enforcing (Local) Authorities (EAs). The CIEH is aware of cases in which EAs have been frustrated or constrained in carrying out regulatory action by virtue of dilatory responses from PAs. Prescribed timeframes should be set for PAs to respond to EAs.

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<sup>1</sup> For more details see [http://www.cieh.org/uploadedFiles/Core/Policy/Earned\\_recognition\\_-\\_SEP\\_2010.pdf](http://www.cieh.org/uploadedFiles/Core/Policy/Earned_recognition_-_SEP_2010.pdf)

## Summary

In April 2011 the CIEH issued the following joint statement with LBRO and the Trading Standards Institute:

“In order to provide continuity and peer network support to Trading Standards and Environmental Health practitioners at this time of considerable change, CIEH, LBRO and TSI jointly commit, in collaboration with local government and its existing frameworks, to:

- Develop, endorse and embed a common competency framework, supported by CIEH and TSI knowledge based qualification and training, to ensure that Trading Standards and Environmental Health practitioners continue to deliver to desired outcomes sought by local, devolved and national governments;
- Offer joint governance for the Home Authority scheme via TSI as database hosts, enabling greater coherence with Primary Authority;
- Support and simplify where appropriate and in full consultation with others those existing networks and advisory groups where we are best placed to do so; and
- Ensure that advice and guidance produced by these groups is widely accessible to all regulatory professionals, businesses and governments.”

The CIEH stands ready to continue work with the government to develop the work of the BRDO and the extension of the Primary Authority scheme.