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## HEALTH AND SAFETY COMMISSION

### Hampton Review - an Update

#### A Paper by Vic Coleman

#### Issue

1. HSC/E's involvement to date with the Hampton Review. This paper provides background information for the Commission's strategic discussion centred on the big issues arising from Hampton in the context of taking forward the HSC Strategy. It also provides background for the presentation and discussion on SR2004 implications and moving towards generating a Strategic Planning Direction Statement in September 2004 (both items on the agenda for 3 August).

#### Timing

2. Routine – to inform strategic discussion at the Commission on 3 August 2004.

#### Recommendation

3. To note the present position.

#### Background

4. The Hampton Review was announced in the Budget Report in March 2004 with the remit:

“...to consider, with business, regulators, and in consultation with the BRTF<sup>1</sup>, the scope for promoting more efficient approaches to regulatory inspection and enforcement while continuing to deliver excellent regulatory outcomes”.

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<sup>1</sup> Better Regulation Task Force

It appears to be the vehicle for taking forward those parts of the Gershon efficiency review which looked at private sector policy, funding and regulation.

5 The key focus of the Review is burdens on businesses in the private sector from 'regulatory inspection and enforcement'. The team are not interested in looking at economic regulators or taxation bodies. Unlike many previous reviews, they are more interested in burdens from the process of regulating rather than the burden of regulation itself. We understand that they have written to a number of businesses and some 81 regulatory bodies as part of a questionnaire survey but their main focus has been on HSC/E, Environment Agency (EA), Food Standards Agency (FSA), DTI and DEFRA. They appear to be interested in particular in:

- The interface and relationships between central and local government and the way regulatory functions are delivered through LAs – including issues of prioritisation and consistency
- Risk-based (proportionality of) approaches and how businesses might earn 'autonomy' generally
- Possible alternatives to inspection at the present level - incentives, fines, punishments and rewards;
- Balancing advice, inspection and enforcement
- Separation of policy from delivery
- Joining up of regulatory policy functions; inspection bodies; activities; data (e.g. on poor performers) or philosophies;
- How does this look for business?

6 Bill Callaghan met Philip Hampton in May '04 and there have been many discussions between his Treasury Team and HSE officials. HSE also organised a full day visit to a major hazard chemical site in the West Midlands for Hampton and his team. These contacts have all been constructive and members of the team, in talking to a DWP official, have spoken highly of their impression of HSE and how helpful we have been.

7 Running in parallel, there has been a discussion at Chief Executive level involving HSE, EA and FSA to explore issues of common interest, compare notes on dealings with the Hampton team and look ahead to how we might, collectively, help take things forward. Some mapping of how each regulator is involved in various sectors, identifying potential overlaps and any scope for better working together is being undertaken. But we firmly believe that we will need to look further at the impact of more radical options which might present both threats and opportunities. The Hampton team have already held a seminar to explore the extent of any consensus on what it is to be a 21<sup>st</sup> century regulator prompted in part by the paper on this topic discussed by the Commission on 6 April.

8 HSC/E's high-level position has been made clear to Hampton and other Regulators. We are focused on delivering the new Strategy and will consider any approach which better delivers the outcomes we are seeking – all of which have been widely endorsed. Indeed many of the possible options are well aligned with the thrust of the HSC Strategy. This appears to be a less defensive position than others might adopt.

## **Consultation**

9 Within HSE, including Press Office. The Minister has been briefed on our approach and its content.

## **Presentation**

10 The Hampton team stimulated press interest on 23 June 2004 (a piece in the FT) to coincide with the sending out of a questionnaire to businesses. The text of the questionnaire at Annex A gives a flavour of the issues. The HSE line, if approached for a comment, will continue to be:

- The Health and Safety Commission and Executive welcome Philip Hampton's review. We share the aim of continuing to deliver excellent regulatory outcomes and are already engaged with the review team. Our recently published Strategy is about doing things differently where that better delivers sensible health and safety standards, sensibly applied. We look forward to sharing our thinking and benefiting from the insights of such a widely drawn review.

## **Financial/Resource Implications for HSE**

11 It is too soon to judge the impact of the outcome of the Hampton review on HSC/E resources; but it must be considered to have the potential to influence budgetary and machinery of government issues at the time of the Pre-Budget report (an interim report with areas for further development - November 2004) and the Budget 2005 (a final report with firm recommendations - March 2005).

## **Environmental Implications**

12 None directly but Hampton is also looking at the Environment Agency as part of his study.

## The Hampton review of regulatory inspection and enforcement Call for submissions from business

The Government has asked Philip Hampton to carry out a review of regulatory inspection and enforcement. As part of its work the Review Team is seeking the views and experiences of businesses of all sizes that have dealings with relevant regulatory bodies. **The Review Team is particularly keen to hear from businesses that have significant concerns about the ways in which inspection and enforcement regimes currently operate, and also any ideas for beneficial changes that could be introduced.**

### Background to the Review

The Hampton review was announced in Budget 2004 with the following scope:

“The enforcement activity of regulatory bodies is a significant driver of business compliance costs. As the Better Regulation Task Force recognised in their 2003 report *Independent Regulators*, well targeted inspection programmes are vital, not only to deliver the outcomes society demands, but also to minimise the costs borne by compliant firms. Regulators understand these challenges and some are making progress. Enforcement strategy is a theme of a document recently published by the Health and Safety Executive, and the Environment Agency’s consultation *Delivering for the Environment*. Building on this work, the Government has asked Philip Hampton, former finance director of LloydsTSB, BT and British Gas, to consider, with business, regulators, and in consultation with the BRTF, the scope for promoting more efficient approaches to regulatory inspection and enforcement while continuing to deliver excellent regulatory outcomes.”<sup>2</sup>

### About your business/ organisation

It would be useful context for the Review if you could provide some background information about your company

- How many employees does your company have within the UK?
- What is your company’s annual turnover?
- Where are your key operations located?
- What are your main products or services?

### Interactions with regulators

- Which regulators do you have dealings with (for example HSE, Environment Agency, Food Standards Agency, Local Authorities)?
- In each case what form do these contacts take (information provision via form-filling, licence applications, telephone advice and guidance, on-site inspections)?
- In each case how often do these contacts take place?
- What overlaps (if any) are there in the information you are required to provide to different regulators?
- For which regulators (if any) have you been able to complete forms and respond to information requests online? Have you found this efficient? Can you think of other areas of interaction where you would like regulators to offer you such options?
- Do you employ anyone specifically to handle your dealings with regulators?
- Do you participate in any self-regulatory schemes?
- Have you estimated the administrative costs of compliance with regulatory demands?

### Inspection

- How often are your premises inspected? And by whom?
- In your perception do the regulators you deal with co-ordinate their inspection programmes?

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<sup>2</sup> Paragraph 3.57, Budget 2004

- Have you received useful advice on improving aspects of your operations during and following a visit from an inspector?
- How would you rate the quality of the inspectors you deal with?
- Would you prefer to receive visits from a general inspector who could subsequently draw in expertise as required, or specialised inspectors who could provide expert advice on the spot?
- Do you pay a charge for inspections and related regulatory interventions? If so how much?

#### Enforcement

- Have you been subject to a formal warning or enforcement notice from a regulatory body? If so can you describe the circumstances?
- Have you been fined or prosecuted as a result of non-compliance with regulatory standards? If so was that appropriate?
- Have you featured in a regulatory 'league table' or suffered adverse media coverage as a result of non-compliance? Did you find that fair if so?
- Do appropriate mechanisms exist through which you can appeal regulatory advice and judgements?
- Are regulators sufficiently tough at clamping down on poor performers? Is there any case for tougher fines and penalties?
- Do regulators sufficiently recognise good business performance through awards, kitemarks, best practice case studies etc?

#### Assessing risk

- Do you feel that regulators take appropriate account of the riskiness of your operations in deciding where to focus their resources? If not, what should they do?
- Do you feel that regulators take adequate account of your past record of performance in their dealings with you?
- Are your management systems subject to third party accreditation (e.g. ISO 9001, 14001, 18001 etc.)? If so does this have any impact upon levels of inspection?

#### Consistency

- Do you ever get conflicting advice from different regulators? If so when?
- Do you feel that regulators treat you fairly compared to your competitors?
- Have you ever experienced different regulatory standards being applied to your operations in different parts of the country? If so when?

#### Accessing advice

- Do you find that regulators provide a useful source of advice and guidance for compliance with relevant legislation?
- What mechanisms do you find most useful for receiving advice and guidance from regulators – through leaflets and other printed material, online via websites, over the telephone, or through face-to-face meetings?
- Do you receive advice on regulatory compliance from any other sources (e.g. Business Links, Small Business Service, CAB etc.)? If so how useful have you found them?
- Would you feel able to ask regulators for advice in a situation where you feared that you were currently non-compliant?

#### Recommendations for change

- Have you any experience of inspection and enforcement regimes in other countries? Is there anything they do that the UK could learn from?
- Are there any other changes or improvements to regulatory inspection and enforcement regimes that you would like to see?

#### How to submit your views

The Review welcomes responses to the issues and questions raised in this paper by 15<sup>th</sup> September 2004. We would prefer electronic submissions where possible.

All responses received may be made public unless specifically requested otherwise. In the case of electronic responses, general confidentiality disclaimers that often appear at the end of e-mails will be disregarded for the purposes of publishing responses unless an explicit request is made in the body of the response.