

# **Better Regulation and Simplification Review**

## **Panel Interim Report**

May 2008

## Better Regulation and Simplification Review

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## **Better Regulation and Simplification Review**

### **1. Summary Overview**

#### **1.1 Review Aim**

To improve the way in which the Department of Agriculture and Rural Development (DARD) and the Department of Environment (DoE) operate to meet their regulatory policy objectives and EU obligations, so that compliance by the agri-food sector is facilitated and the cost of compliance is reduced.

#### **1.2 Review Requirement**

To review the regulatory controls applied by DARD and DoE and make recommendations for simplification of processes, consistent with maintaining policy effectiveness and public accountability.

#### **1.3 Review Structures**

The review is being conducted by an independent panel consisting of Mr Michael Dowling (Chair), Mr David Graham and Dr Brian Jack. The Panel is supported by a Department of Agriculture and Rural Development (DARD) Project Team (consisting of three officials) which is taking forward the work programme and providing a secretariat. The Project Team is augmented by nominees from the Department of the Environment / Environment and Heritage Service (DoE/EHS) tasked with co-ordinating and facilitating DoE/EHS input. Additional staff resource has been provided by DARD and DoE for specific aspects of the Review. A Project Management Board, comprising representatives of DARD, DoE and stakeholders, oversees the work of the Project Team.

#### **1.4 Defining ‘Administrative Burden’**

Red tape is the term used colloquially to describe the impact on business of government regulation in general. More precise terminology is required to differentiate the different types of bureaucracy and to consider, where appropriate, how associated costs can be reduced through more effective regulation.

'Administrative costs' are the costs incurred by businesses in meeting legal obligations to provide information to public authorities. These activities may include filling in forms, preparing for an inspection and accompanying an inspector, keeping records or reading and applying guidance materials.

Administrative costs cover the cost of paperwork or other methods of demonstrating compliance with a regulation *rather than the cost of compliance itself* (for example, the cost of researching the requirements of the Nitrates Action Programme regarding slurry management, rather than the cost of building additional slurry capacity).

That part of the administrative costs that is incurred by businesses, and is above and beyond what is required for good business practice, is referred to as the 'administrative burden'. It is this administrative burden that is the subject of this review.

### **1.5 Review Panel Approach**

The approach to project implementation has been to divide the Review into two linked work programmes. The first element relates to a baseline assessment of those existing regulations placing the greatest administrative burden on business. The second aspect deals with how DARD/DoE regulatory practices might be simplified, consistent with maintaining policy effectiveness. As required by the Terms of Reference, simplification covers both process improvements and the internal structures needed for delivery.

### **1.6 Review Panel Activity**

The independent Review Panel has met on some ten occasions between November 2007 and the end to May 2008. Meetings have been held with the DARD Project Team / Secretariat in conjunction with liaison officials from DoE and EHS. These have concentrated on developing and reviewing the work programme, gathering and considering relevant

evidence. Contact has been made with representatives from industry and environmental NGOs and attitudes to regulation at a general level and expectations for the Review ascertained. Visits have been conducted to Enniskillen to find out about DARD Direct and to London to learn from the Defra experience with Better Regulation. The Panel has also met with the Project Management Board. Additionally, the Panel has considered a range of official reports published in relation to better regulation and, in particular, better regulation in the agri-food sector.

### **1.7 Estimating the Administrative Burden**

Initial thinking on the baseline exercise to estimate the administrative burden, anticipated that work carried out in England by the Department for the Environment, Food and Rural Affairs (Defra) would provide most of the information required by DARD and DOE.

However, as work progressed on the Northern Ireland estimates it became clear that the exercise was more complex and required more time to complete than had originally been anticipated. This was due, in the main, to limitations in the way that Defra baseline data on agricultural regulations could be applied to Northern Ireland. Differences in approach on the implementation of regulation in England and Northern Ireland – even those with common objectives – led the Panel to conclude that there were also significant differences in administrative burdens.

Despite delays and difficulties, when complete the Panel considers that the baseline estimates will provide a valuable resource for a detailed assessment of where scope exists for the introduction of simplification measures and initiatives.

The results will also provide the baseline against which progress on the DARD Public Service Agreement (PSA) target will be measured. The target is to achieve a 25% reduction in administrative burden by 2013 (with an interim target of 15% by 2011).

## **1.8 Simplification Plan: Emerging Findings**

Initial discussion with stakeholders and officials, plus consideration of available baseline administrative burden data, suggests that achieving the DARD PSA target will present significant challenges.

No options for simplification of the regulatory framework or associated implementation arrangements, on a scale necessary to make substantive inroads into the administrative burden, have thus far been identified by officials or stakeholders.

It is important to note in this connection, that any proposals must be consistent with maintaining policy effectiveness and ensuring that national or European Union (EU) regulatory obligations continue to be met. These requirements set the parameters within which recommendations to reduce administrative burdens can be made and limit action accordingly.

Overall, progress on reducing administrative burdens in the stock of existing regulation will most likely depend on finding and implementing many small reductions across a range of regulation. This will require ongoing and concerted effort on the part of regulators and stakeholders. The establishment of Better Regulation working groups consisting of officials and stakeholders, structured around specific regulatory themes, is one option the Panel is considering as a means of progressing a collaborative approach to simplification.

Reported experience from The Netherlands and opinion in Defra suggests that on-going stakeholder communication has a vital role to play in successfully reducing administrative burdens, to ensure that simplification efforts are felt and that perceived burdens are tackled.

Often the perceived burden, as opposed to the formally quantified administrative burden, is closely linked to the level of irritation and frustration that businesses experience when dealing with regulators.

Improvements in the standard of customer service have been identified as important in minimising this 'irritation factor'.

So while reducing the administrative burden is a core aspect of Better Regulation, DARD and DoE may need to consider how Better Regulation as a whole might be delivered for the benefit of farmers and agri-business. Consideration may need to be given to embedding Better Regulation in the policy cycle to ensure that policy development and implementation are compliant with Better Regulation principles in the longer-term.

In assessing the resource and structural requirements needed to deliver effectively on the Better Regulation agenda, it may be necessary for DARD and DOE to consider whether current internal arrangements adequately champion the issue or provide sufficient support and guidance to policy and operational business areas.

### **1.9 Final Report**

The Panel expects that work on baseline estimates of the main administrative burdens and identification of simplification measures in key areas of regulation will be completed this autumn. These, together with recommendations on other aspects of Better Regulation, will be included in a Final Report to be submitted to Ministers during November.

## **Better Regulation and Simplification Review**

### **2. Review Structure, Panel Approach and Activity**

#### **2.1 Review Structures**

The Review is being conducted by an independent panel consisting of Mr Michael Dowling (Chair), Mr David Graham and Dr Brian Jack. The Panel is supported by a Department of Agriculture and Rural Development (DARD) Project Team which is taking forward the work programme and providing a secretariat. The Project Team (consisting of three DARD officials) is augmented by nominees from the Department of the Environment/Environment and Heritage Service (DoE/EHS) , tasked with co-ordinating and facilitating DoE/EHS input. Additional staff resource has been provided by DARD and DoE for specific aspects of the Review.

#### **2.2 Review Panel Approach**

The approach to project implementation has been to divide the Review into two linked work programmes. The first element relates to a baseline assessment of those existing regulations placing the greatest administrative burden on business. The second aspect deals with how DARD/DoE regulatory practices might be simplified, consistent with maintaining policy effectiveness. As required by the Terms of Reference, simplification covers both process improvements and the internal structures needed for delivery.

#### **2.3 Review Panel Activity**

The independent Review Panel has met on some ten occasions between November 2007 and the end to May 2008. Meetings have been held with the DARD Project Team / Secretariat in conjunction with liaison officials from DoE and EHS. These have concentrated on developing and reviewing the work programme, gathering and considering relevant evidence. Contact has been made with representatives from industry and environmental NGOs and attitudes to regulation at a general level and expectations for the Review ascertained. Visits have been conducted to Enniskillen to find out about DARD Direct and to London to learn from the

Defra experience with Better Regulation. The Panel has also met with the Project Management Board. Additionally, the Panel has considered a range of official reports published in relation to better regulation and, in particular, better regulation in the agri-food sector.

## **Better Regulation and Simplification Review**

### **3. Administrative Burden: Baseline Estimate**

#### **3.1 Defining Administrative Burden**

Red tape is the term used colloquially to describe the impact on business of government regulation in general. More precise terminology is required to differentiate the different types of bureaucracy and to consider, where appropriate, how associated costs can be reduced through more effective regulation. The following brief description identifies how costs are categorised for the purposes of analysis and where 'administrative burden' - the focus of the baseline estimate - sits within the total of regulatory costs.

Regulatory costs can be divided into two categories: 'compliance costs' and 'administrative costs'. 'Compliance costs' are all the costs that business must incur to meet the policy objectives of government regulations. Agricultural examples of such compliance costs include, building additional slurry capacity in order to meet the requirements of the Nitrates Action Programme or upgrading farm machinery safety measures to comply with Health and Safety legislation.

'Administrative costs', on the other hand, are the costs incurred by businesses in meeting legal obligations to provide information to public authorities. They are the cost of the bureaucratic activities that businesses have to undertake to demonstrate that they are complying with government regulations. These activities may include filling in forms, preparing for an inspection and accompanying an inspector, keeping records or reading and applying guidance materials. Therefore, administrative costs cover the cost of paperwork or other methods of demonstrating compliance with a regulation rather than the cost of compliance itself (for example, the cost of researching the requirements of the Nitrates Action Programme regarding slurry management, rather than the cost of building additional slurry capacity).

That part of the administrative costs that is incurred by businesses, and is above and beyond what is required for good business practice, is referred to as the 'administrative burden'. It is this administrative burden that is the subject of this review.

### **3.2 Purpose of Baseline Exercise**

The Review is tasked with quantifying the administrative burden placed on farming and the wider agri-food sector by DARD and DoE regulation. The approach adopted has been to identify and measure the most burdensome areas of regulation as it applied at 31 December 2007. The baseline information generated will provide an important resource when implementing the Simplification Plan and in measuring progress against the target of reducing the administrative burden by 25 per cent by 2013.

### **3.3 Approach to Estimating the Administrative Burden**

Initial thinking on the baseline exercise anticipated that work carried out as part of the better regulation and simplification review undertaken in England by the Department for the Environment, Food and Rural Affairs (Defra) would provide most of the information required by DARD and DOE to estimate the administrative burden in Northern Ireland. Defra utilised the benchmark Standard Cost Model (SCM) (previously developed by the Dutch government and used by the EU Commission amongst others) to estimate the administrative burden that applied in England in 2005.

The Defra baseline outputs and detailed working papers have been useful to the Project Team in a number of ways. The work demonstrated how regulations could be assessed using the SCM methodology and the Defra results provided a rank order of those regulations imposing the biggest burden. However, as work progressed on the Northern Ireland baseline it became apparent that obtaining robust results would require significant new work on the part of the Project Team. This applies in the main to agricultural regulations and is often due to differences between Northern Ireland and England in the approach to the implementation of regulation

with common objectives . Livestock Identification, Registration and Movement (IRM) is one area where this is particularly noticeable, while aspects of the Single Payment System also differ. A further consideration was the time that has elapsed since the Defra exercise was undertaken and differences that have emerged from revisions made to the regulatory framework in the intervening period. While devoting more time to the baseline exercise than was originally anticipated will delay project completion, the final product will be a more detailed and accurate baseline estimate. The revised procedures apply to DARD regulations, as only limited differences in the relevant Defra / DoE regulatory framework and method of implementation have been identified.

Officials are working to produce baseline estimates in parallel with other aspects of the Review. The SCM methodology is being used, an approach that requires regulations to be deconstructed and considered on a clause by clause basis. A key strength of the model is that it uses a high degree of detail in the measurement of administrative costs, going down to the level of individual activities. Therefore, it enables aspects of regulations that pose particular compliance difficulties for business to be identified. The estimation process has a number of stages and requires input from officials in both policy and operational areas. Output will be reviewed and agreed with stakeholders.

A further refinement on the Defra approach has been to group regulations into themed areas, rather than consider them individually. The same level of detail is available, but it is believed that consideration of burden reduction is better facilitated by addressing all regulations relevant to a particular area in the round, rather than in isolation. Regulations have been grouped under the following themes:

- Single Farm Payment and Cross Compliance
- Livestock Identification, Registration and Movement
- Welfare of Farmed Animals
- Nitrates Action Programme and Phosphorus Regulations

- Veterinary Medicines
- Animal Disease Control
- Animal Trade
- Pesticides
- Agri-environment Schemes
- Pollution Prevention and Control

Work is most advanced on Cattle IRM regulations and the Pollution, Prevention and Control Regulations, where baseline estimates will shortly be released to stakeholders for review and comment.

#### **4. Simplification: Evidence Gathering and Consultation**

##### **4.1 Initial Stakeholder Contact**

A number of meetings have been held with farming representatives, wider agri-business interests and environmental NGOs. Opinions and concerns differ markedly between farming and agri-business interests on the one hand and environmental groups on the other.

##### **4.2 Farm and agri-business views**

Discussion with the business grouping has centred on the nature of, and perceived increase in, the regulatory burden arising from DARD and DOE regulations. Bureaucracy or red tape of all sorts is clearly a major concern, a concern that appears to frustrate those affected at least as much as it impacts on business practice. In addition to the complaint of too much bureaucracy, business representatives expressed concern about:

- Heavy handed regulation  
Minor breeches of regulation and other forms of non-compliance (such as poor record keeping) lead to disproportionate penalties and delays that affect business profitability. Breeches can be difficult and/or expensive to correct. Inspection and monitoring regimes are poorly co-ordinated and fail to recognise or reward good behaviour. Improvement in procedures could result in considerable savings for both the industry and the administration.
- Constantly changing and badly coordinated regulation  
The regulatory framework appears to be in a constant state of flux. New policy within departments and across government appears uncoordinated. Planning for, and responding to, regulation is more difficult for business in these circumstances.
- Poorly communicated and unsupported regulation  
Regulation often restricts freedom of action or imposes additional responsibilities without those affected understanding why regulation is necessary or the benefits it will bring to them or the wider community.

Guidance, instructions and requests are often made in ways that are difficult to understand. Additional information and support services can be difficult to access.

Many of the issues raised impact on the total costs of complying with regulation - not just the administrative burden it generates. The views expressed were often based on personal experience or anecdotal knowledge. To date stakeholders have provided limited information on specific regulations or particular courses of action that might reduce administrative burdens. This led the Panel to postpone a series of workshops that aimed to determine the scope for regulatory simplification. The Panel anticipate that more comprehensive consultations with stakeholders will occur once the baseline exercise is further advanced.

#### **4.3 Environmental group views**

Discussion with representatives of environmental groups focused on their view that maintaining regulatory effectiveness and public accountability of industry should be a paramount consideration in any plan to reduce administrative burdens. While in favour of reducing administrative burden, where appropriate, the goal should be better regulation not less regulation. The existing legislative framework was required in order to protect and enhance the environment and therefore the quality of life of people in Northern Ireland. The grouping recognised that maintaining policy effectiveness and reducing administrative burdens were not incompatible objectives. However, they foresaw their primary contribution to the Review as ensuring that simplification did not lead to deregulation under another guise.

#### **4.4 Initial Regulator Responses**

DARD and DoE officials consulted as part of the baseline estimation exercise, and on aspects of the wider Review agenda, were supportive of the concept of better regulation but cautious on the scope for reductions in the administrative burden. Officials were conscious of the need to maintain

policy effectiveness and to meet European Union (EU) obligations and saw these as significant constraints to action.

There was a general view that the administrative burden put on farmers and agri-business by DARD and DoE regulation is lower than the equivalent burden faced by farmers in England when the Defra baseline was established. A number of important measures contained in the Defra Simplification Plan are already in place in Northern Ireland. Consolidation of regulations and pre-population of Single Farm Payment (SFP) application forms were mentioned as examples. While this is to the benefit of Northern Ireland farmers, it makes the task of achieving further reductions more difficult. Officials did not discount the possibility of further progress on reducing administrative burdens, but suggested that there were no obvious and easy options. Gains would most likely be realised by implementing many small reductions across a range of regulations.

Concern was expressed that Better Regulation would become an additional element to an already cluttered policy development process and could potentially impede the current policy cycle without necessarily improving outcomes.

#### **4.5 DARD Better Regulation Initiatives**

The Panel's attention was drawn to the DARD Customer Service Improvement Programme (CSIP) as an initiative that, by improving the customer experience of doing business with DARD, could impact on the administrative burden. Three of the CSIP projects were of particular interest: DARD Direct, Telephony and Written Communication.

The Review Panel and officials visited Inishkeen House in Enniskillen where the DARD Direct and Telephony projects are being piloted and evaluated. A presentation on aims and objectives was followed by a tour of the facility. The aim for DARD Direct is to provide access to all farm business related services from a single point of contact, within a

reasonable travelling distance of the business. Potential benefits that impact on Better Regulation include:

- Less time spent on DARD business
- More choice of service channels – electronic, telephone or visit to DARD office.
- Business done through a single contact point / during first contact
- A range of services available from the same office / service point
- Standard service provided across all offices

The aim of the Telephony project is to provide a telephone registration line for herd-keepers as an alternative to electronic or postal registration of cattle births. The benefits for farmers are expected to include:

- Improved data integrity
- Reduction in administrative work
- Fewer status query problems to resolve at time of movement or slaughter because of fewer registration errors and a related service that uses the phone to resolve birth registration errors.

The Written Communication project aims to improve written communications across DARD, providing a consistent, efficient and effective means of communicating with customers. This entails promoting the use of Plain English in written communication, the introduction of new written communication protocol and guidance for staff, and the introduction of a new form referencing system. The anticipated benefits to farmers are identified as:

- Easier to read and understand letters, forms, guidance and instruction material

As part of the CSIP a new complaints procedure and complaint handling process has been developed and implemented across the Department and its Agencies which will be used to improve services by effectively dealing with customers' concerns.

Customer service standards have been published. These standards are based on the NICS Customer Service Principles and were agreed following feedback from a sample of customers and stakeholders. They will make sure that a consistent level of service is provided to all customers.

#### **4.6 EHS Better Regulation Initiatives**

The Panel has been kept up to date with the emerging EHS Better Regulation Programme, coordinated by the EHS Better Regulation Team. A Position Statement on Better Regulation “Better Regulation for a Better Environment” was published in March 2008, outlining key programme areas and initiatives to be taken forward (Compliance Assistance, Streamlined Permitting, Compliance Assessment and Effective Enforcement). Better Regulation is now installed as a corporate objective and is being driven by the cross-Directorate Better Regulation Group.

EHS provide clear, sector specific guidance on environmental regulations through its NetRegs website ([www.netregs.gov.uk](http://www.netregs.gov.uk)) and will back this up with greater industry engagement to address barriers to compliance. It is recognised that regulation which is easy to understand will be more widely accepted and adhered to and clear guidance and support will play a key role in delivering more effective regulation.

A comprehensive review of EHS forms has been carried out which has highlighted opportunities for streamlining and simplifying the permitting process. Businesses should increasingly be able to apply and pay online for simpler permits and authorisations.

In response to industry concerns, EHS have significantly reduced the administrative burden associated with registering for a waste management exemption for agricultural waste. Farmers can now notify EHS of simple exemptions required by ticking the appropriate box on the DARD IACS Single Farm Payment form. Complex agricultural exemptions will require additional information.

To support the move towards more risk-based regulation, EHS will develop a risk assessment model in 2008/09 to inform inspection and enforcement activities. Sites will be assessed according to the likely risk they pose to the environment, based on such factors as nature of the activity, location in relation to body of water or fragile habitat, performance record and management systems in place.

EHS work closely with the other UK regulators, Environment Agency and SEPA (Scottish Environment Protection Agency) on sharing best regulatory practice and collaborative projects on Better Regulation.

#### **4.7 Defra Better Regulation Experience**

To inform Review Panel members and officials about experience of Better Regulation in operation, a fact finding visit was made to Defra in early May. The visit was hosted by Defra's Regulation Division, which arranged a series of presentations and discussions with staff from their Regulation Division, other business areas in Defra, the Environment Agency, the Rural Payments Agency and the Better Regulation Executive.

Discussion with Regulation Division officials covered a wide range of Better Regulation topics including overviews on:

- The nature and scope of the Better Regulation agenda in Defra
- Internal structures for the delivery of Better Regulation and links to the Better Regulation Executive and cross-cutting departmental arrangements
- Influencing the EU Commission on Better Regulation issues
- Departmental progress against the Simplification Plan published in 2006
- The Defra Forms Review
- Internal assessment of performance on the Better Regulation agenda
- Embedding Better Regulation in the policy development cycle

Defra made use of Working groups to consider how regulation is interpreted and implemented, with a view to:

- eliminating any unnecessary administrative burden
- improving systems and processes that communicate, verify or record administrative data
- reducing the likelihood of error arising in application, recording and reporting systems
- making error correction, when it arises, as easy as possible
- promoting risk based, targeted inspection regimes

Defra have ensured that Better Regulation has become an integral part of it's policy making process through the use of an integrated policy toolkit known as Impact Assessment. This approach:

- places Better Regulation at the centre of a dynamic toolkit aimed at improving the quality of the overall process rather than as a screening adjunct to the policy cycle
- links Better Regulation with economic appraisal, equality screening and rural proofing through a single Impact Assessment document.
- is supported by specialist Regulatory Improvement Unit teams that give training and assistance to policy colleagues on all processes undertaken as part of the Impact Assessment

Stakeholder engagement in Better Regulation was viewed as essential to improvement. Regular monitoring and evaluation of progress was also necessary to maintain momentum and impetus. Effective communication of successful change and outcomes are required to demonstrate and reinforce the benefits of better regulation to stakeholders.

#### **4.8 Better Regulation Executive**

A representative of the Better Regulation Executive (BRE) in the Department of Business Enterprise and Regulatory Reform (BERR) explained how BRE leads on regulatory reform across government. BRE is charged with:

- Simplifying and modernising existing regulations
- Improving the design of new regulation through the policy cycle
- Improving the way in which regulations are communicated
- Encouraging a risk-based approach to regulatory enforcement

In addition, BRE undertakes regular internal assessments across government of progress on the Better Regulation agenda. Political interest in, and support for, Better Regulation was considered high and a key driver of the issue.

#### **4.9 The Environment Agency**

The Modern Regulation Policy Manager from the Environment Agency (EA) summarised the Better Regulation ethos in the organisation as risk based and outcome focused.

The EA operate a risk-based compliance assessment system that linked the risk of non-compliance or infringement for a particular business (and therefore the need for regulatory attention) to factors such as complexity of the operations undertaken by a firm, proximity to sensitive environmental sites or centres of population, and the past performance of the business.

The Agency web based source of free information on all aspects of environmental regulation – NetRegs – has been commended by the Better Regulation Executive and the EU Commission as being particularly effective in disseminating information, and at reducing transactions costs associated with business research activities and consultant fees. NetRegs is a UK website with Northern Ireland tailored information provided by the Environment and Heritage Service (EHS).

The Environmental Permitting Framework was held up as a particularly effective initiative. It involved a number of complementary and coordinated activities which together had made a considerable impact. These included the simplification of regulation, linked to revised guidance

notes and a streamlined permitting process - all supported by an efficient IT platform.

#### **4.10 Rural Payments Agency (RPA) and Defra Whole Farm Approach**

The Whole Farm Approach is an internet based service to help farmers deal more efficiently with Defra and related agencies. It is a portal that aims to provide best practice advice and guidance and which in time may develop so that data held in the system could be utilised across Defra and its' agencies..

The RPA view Better Regulation as a way of improving their business performance and their credibility with farmers. The Agency is working to achieve reductions in the administrative burden and in the regulatory burden more generally by improving both policy development and operational functions. Customer facing services and internal systems and processes are being improved while they also seek to influence the policy agenda at EU level through Defra.

To improve relationships with farmer customers a number of initiatives have been put in place. These include:

- The creation of a Customer Champion network with designated staff members at each RPA site encouraging a better understanding of the customer perspective
- Regular customer surveys and stakeholder meetings
- A move to Whole Case Working where staff will be responsible for processing each claim to resolution and providing a dedicated point of contact for farmers on all aspects of their claim.

The RPA are in the process of rationalising their inspection services – with the aim of reducing the number of separate inspectorates and multi-skilling staff on a range of cross-compliance tasks. The RPA inspectorate has launched an advice and guidance initiative to enhance customer understanding of regulations. This seeks to ensure that inspectors can

address farmer queries during inspections or point farmers to the appropriate information source. Finally, the selection of farms for inspection for various aspects of the cross-compliance is undertaken at the same time and lists compared to encourage better co-ordination.

## **Better Regulation and Simplification Review**

### **5. Emerging Findings**

#### **5.1 Estimating the Administrative Burden**

As work progressed on the Northern Ireland baseline estimates it became clear that the exercise was more complex and required more time to complete than had originally been anticipated. This was due, in the main, to limitations in the way that Defra baseline data on agricultural regulations could be applied to Northern Ireland. Differences in approach on the implementation of regulation in England and Northern Ireland – even those with common objectives – led the Panel to conclude that there were also significant differences in administrative burdens.

However, when complete the Panel considers that the baseline estimates will provide a valuable resource for a detailed assessment of where scope exists for the introduction of simplification measures and initiatives.

The results will also provide the baseline benchmark against which progress on the DARD Public Service Agreement (PSA) target will be measured. The target is to achieve a 25% reduction in administrative burden by 2013 (with an interim target of 15% by 2011).

#### **5.2 Simplification Plan**

Initial discussion with stakeholders and officials, plus consideration of available baseline administrative burden data suggests that achieving the DARD PSA target will present significant challenges.

No options for simplification of the regulatory framework or associated implementation arrangements, on a scale necessary to make substantive inroads into the administrative burden, have thus far been identified by officials or stakeholders.

In part this is because important simplification measures contained in the Defra plan are already in place in Northern Ireland and therefore the

reductions achieved have been fully discounted from the baseline estimates. Likewise, windfall benefits captured by Defra following the introduction of the Single Payment Scheme are no longer relevant.

It is important to note that any proposals must be consistent with maintaining policy effectiveness and ensuring that national or European Union (EU) regulatory obligations continue to be met. These requirements set the parameters within which recommendations to reduce administrative burdens can be made and limit action accordingly.

Notwithstanding these differences and constraints, the Panel will consider whether any of the measures adopted by other regulators, such as Defra or the Environment Agency, might prove beneficial in Northern Ireland. This will include consideration of any benefits that might derive from the Whole Farm Approach, the use of data sharing across separate applications and revision of the structures in place for farm inspections.

Overall, progress on reducing administrative burdens in the stock of existing regulation will most likely depend on finding and implementing many small reductions across a range of regulation. This will require ongoing and concerted effort on the part of regulators and stakeholders. The establishment of Better Regulation working groups consisting of officials and stakeholders, structured around specific regulatory themes, is one option the Panel is considering as a means of progressing a collaborative approach to simplification.

Reported experience from The Netherlands and opinion in Defra suggests that on-going stakeholder communication has a vital role to play in successfully reducing administrative burdens, and ensure that simplification efforts are felt and that perceived burdens are tackled.

Often the perceived burden, as opposed to the formally quantified administrative burden, is closely linked to the level of irritation and frustration that businesses experience when dealing with regulators.

Improvements in the standard of customer service have been identified as important in minimising this 'irritation factor'. Initiatives such as the DARD Customer Service Improvement Plan, and in particular the DARD Direct, Telephony and Plain English projects, and the EHS NetRegs website are therefore relevant to the wider Better Regulation agenda. Further consideration will be given to whether more needs to be done to improve communication. Defra officials indicated that as a rule, the more holistic the approach to Better Regulation within government, the more successful it appears to be.

So while reducing the administrative burden is a core feature of Better Regulation, DARD and DoE may need to consider how Better Regulation as a whole might be delivered for the benefit of farmers and agri-business. This means considering issues from the perspective of business and seeking to achieve a regulatory framework and operational processes that are:

- transparent
- accountable
- proportionate
- consistent
- targeted

Evidence from BRE, Defra and its agencies, suggests that this takes time and effort to achieve and to be effective requires:

- political will and support
- a culture change that is mindful of the business perspective on regulation
- Better Regulation systems and processes to be embedded in the policy development cycle
- structural change to ensure effective and sustained implementation
- resources appropriate to the task

Further consideration needs to be given to whether working groups might usefully address Better Regulation issues associated with the existing regulatory framework and related operational arrangements. Consideration will also be given to the merits of embedding Better Regulation in the policy cycle, to ensure that policy development and implementation are compliant with Better Regulation principles in the longer-term.

In assessing the resource and structural requirements needed to deliver effectively on the Better Regulation agenda, it may be necessary for DARD and DoE to consider whether their current internal arrangements adequately champion the issue or provide sufficient support and guidance to policy and operational business areas.

## **Better Regulation and Simplification Review**

### **6. Remaining Work and Reporting Schedule**

A series of administrative burden baseline releases, by regulatory theme, is planned for the summer months. As initial estimates are completed these will be made available to stakeholders for comment and agreement.

In tandem with assessing the accuracy of the baseline estimates, stakeholders will be invited to suggest where, in their view, reductions in the administrative burden can be made within each set of regulations.

In order to assist stakeholders to quality assure the baseline estimates and assess the scope for reducing the administrative burden, an explanatory workshop, conducted by the Project Team, with additional support if necessary, will be held in June.

It is anticipated that work on baseline administrative burden estimates will be completed and agreed with stakeholders by the end of September.

Stakeholder feedback on potential simplification measures will be collated by the Project Team. These, together with any measures identified by officials, will be used to inform a workshop at which officials and stakeholders will discuss the feasibility of implementing any simplification proposals made.

The Review Panel and Project Team will explore issues arising from the recent meetings with Defra Regulation Division, the Rural Payments Agency (RPA) and the Environment Agency (EA). The Whole Farm Approach to gathering and sharing data is of interest, as are RPA customer service arrangements. More time will be given over to investigating farm inspectorate structures and operational arrangements in other parts of the UK and in the Republic of Ireland. Agri-food processing interests have made some tentative suggestions as to how plant inspections could be more effectively organised. The Panel would be

prepared to follow these up, if more concrete proposals emerge from future stakeholder contacts.

Effective communication has been identified as important to the success of the Better Regulation agenda and the relevance of initiatives such as the Crystal mark designation for Plain English in written communications will be explored.

Although the primary indicator for measuring progress on Better Regulation has been set as the reduction in the administrative burden placed on business by 2011 and 2013, consideration will be given to whether additional mechanisms for assessing successful outcomes can be usefully deployed by DARD and DoE.

The Panel expects that work on baseline estimates of the main administrative burdens and identification of simplification measures in key areas of regulation will be completed this autumn. These, together with recommendations on other aspects of Better Regulation, will be included in a Final Report to be submitted to Ministers during November.

**BETTER REGULATION AND SIMPLIFICATION REVIEW  
FINAL TERMS OF REFERENCE**

**Review Aim**

“To improve the way in which the Department of Agriculture and Rural Development (DARD) and the Department of Environment (DoE) operate to meet their regulatory policy objectives and EU obligations, so that compliance by the agri-food sector is facilitated and the cost of compliance is reduced.”

**Review Requirement**

“To review the regulatory controls applied by DARD and DoE and make recommendations for simplification of processes, consistent with maintaining policy effectiveness and public accountability”.

The review will be undertaken by an independent Review Panel which should, within 6 months of its establishment:

- identify the full extent of the regulatory controls applied by DARD and DoE which impact on the Northern Ireland agri-food sector, and quantify the administrative burden which they place on the sector;
- compile a Simplification Plan for DARD and DoE, taking account of the NI Better Regulation Strategy, the Report of the Better Regulation Taskforce, and action at UK and EU levels on regulation and simplification, and benchmarking against comparable arrangements in other EU Member States, including particularly the Republic of Ireland;
- advise on internal structures and arrangements within each of the two Departments which will ensure the successful implementation of the Simplification Plan, maintain a partnership with stakeholders, monitor

ongoing costs and benefits, and embed the ability to maintain better regulation into the future;

- consult with stakeholders about the above matters and, in particular, about how they can contribute to simpler and more cost-effective regulation; and
- report to Ministers, setting out conclusions and recommendations.

### **Focus of the review**

The Review will cover all regulatory controls applied to the agri-food sector (excluding fisheries) by DARD and DoE (implemented by the Environment and Heritage Service (EHS)). It will embrace administrative processes, inspections and sanctions, and all associated documentation and interaction with agri-food businesses. It will include controls operated by DARD on behalf of other parties such as the Rural Payments Agency and the Food Standards Agency.

In preparing the Simplification Plan, the Review Panel should concentrate on those areas of regulation which impose the greatest burden and offer the greatest scope for simplification of processes within a risk-based approach in line with policy objectives. The presumption should be that the Plan should aim to achieve an overall reduction in the cost of regulation of at least 25%, in line with the approach adopted in Great Britain.

The focus should be on simplified implementation, as the general presumption should be that existing policy objectives are maintained and policy effectiveness is not prejudiced. If policy issues arise as a by-product of the consideration of implementation procedures, these should be referred for separate consideration by the two Departments in conjunction with stakeholders, but should not be further explored within the Review. However, where EU requirements have been transposed into NI/UK legislation, and the

resulting elements of a policy are considered to exceed EU requirements (ie, there is evidence of “gold-plating”), the scope for realignment should be considered.

Where relevant, consideration should be given to the potential to increase effectiveness and efficiency through measures such as improved guidance and advice or the adoption of new technology.

The review should not seek to address structural issues, which have been the subject of separate consideration under the Review of Environmental Governance Arrangements in Northern Ireland, but any relevant recommendations arising from that Review should be taken into account.

Where the scope for streamlining implementation is being assessed, probity, equity and accountability must be maintained and EU regulatory requirements must continue to be met.

The Simplification Plan should identify specific priorities for action, with associated timescales and targets for the benefits to be achieved.

### **Review arrangements**

Annex B sets out the Review structure.

The Review Panel will set the programme of work to be undertaken to enable it to meet the requirements of the terms of reference. It will assess the outputs of this work and decide on the conclusions to be drawn.

It will be supported by a Project Team, which will act as its secretariat and take forward the work programme. The core membership of the Project Team will comprise DARD officials. DoE nominees will co-ordinate and facilitate the DoE input to the Review. Additional members from DARD and DoE will be assembled into function-specific teams to undertake projects in relation to particular areas of regulation. In addition, a secondee from the Ulster

Farmers' Union will work with the core and functional teams to inject the industry perspective. The Project Team will secure external expertise as necessary to facilitate its work.

A Project Management Board, comprising representatives of DARD, DoE and stakeholders, will manage the work of the Project Team in accordance with project management principles, ensuring that the Team is adequately resourced, is accorded cooperation as required, and delivers the outputs sought by the Review Panel within the agreed timetable. The Project Management Board will report as necessary to the Review Panel on these matters. Its role is limited to facilitating the review process. While it should quality-assure the work undertaken for the Review Panel, it has no role in forming judgments about the outputs of the review work or the conclusions which should be drawn. The Project Management Board may co-opt additional members if necessary.

To assist it in obtaining the views of stakeholders, the Review Panel and the Project Team will have access to a Stakeholder Consultative Forum, comprising representatives of the agri-food sector and environmental interests. It will be for the Review Panel and the Project Team to decide, in accordance with the terms of reference, how and when the Stakeholder Consultative Forum should be used to obtain comments on the matters under review. However, the Review Panel is not required to consult on its final report before submission to Ministers. The Panel's report will be published after consideration by Ministers.

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**DARD & DoE**

**May 2007**

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## BETTER REGULATION AND SIMPLIFICATION REVIEW STRUCTURE

### Independent Review Panel

Mr Michael Dowling (Chair)

Dr Brian Jack

Mr David Graham

### Project Management Board

*Role: to manage the work of the Project Team*

Chair: Ronnie Jordan (DARD)  
 Members: Bert Houston (DARD)  
 Roy McClenaghan (DARD)  
 Helen Anderson (DoE)  
 Sarah McGuckin (EHS)  
 Stakeholders  
 UFU, 1 agri-food reps.  
 2 environmental reps.

### Project Team<sup>1</sup>

*Role: to undertake the work required by the Review Panel*

Project Manager: Paul Caskie (DARD)  
 Project Team: Siobhan Bowers (DARD)  
 Lyanda McFarlane (DARD)  
 DoE liaison: David Watson (DoE)  
 Noel Bell (EHS)  
 Function-specific teams: as required from DARD and DoE

### Stakeholder Consultative Forum

*Role: To advise the Review Panel and Project Team*

Chair: DARD  
 Members: drawn from full spread of agri-food and environmental interests

1. Jim Ditchfield (original Project Manager) retired at 31 March 2008. William Webb (Project Team member) resigned from the NICS in March 2008.