

Institute of Directors' response to the Better Regulation Delivery Office paper *Extending and Simplifying Primary Authority: Keeping the UK Competitive*

About the IoD

The IoD was founded in 1903 and obtained a Royal Charter in 1906. It is an independent, non-party political organisation of approximately 35,000 individual members. Its aim is to serve, support, represent and set standards for directors to enable them to fulfil their leadership responsibilities in creating wealth for the benefit of business and society as a whole. The membership is drawn from right across the business spectrum. 71% of FTSE 100 companies and 51% of FTSE 350 companies have IoD members on their boards, but the majority of members, some 70%, comprise directors of small and medium-sized enterprises (SMEs), ranging from long-established businesses to start-up companies. IoD members' organisations are entrepreneurial and growth-orientated, and more than half (57%) export goods and services internationally.

Introduction

The Institute of Directors would like to thank the Better Regulation Delivery Office for the opportunity to respond to its discussion paper *Extending and Simplifying Primary Authority*.

The IoD's response to many of the proposals raised can be found below, in addition to general points.

Extend access to Primary Authority to any business that wishes to form a partnership, enabling more small businesses to benefit

The IoD are highly supportive of the Primary Authority Scheme. There is no doubt that it has made life easier for the majority, if not all, of the businesses engaged in the scheme, allowing them to focus on delivering goods and services to customers rather than liaising with regulators.

Therefore, the IoD welcomes moves to bring more businesses within the scope of Primary Authority. There is little question that small- and medium-sized businesses are particularly hindered by over-zealous enforcement of regulation and, crucially, confusion over regulatory compliance. While larger firms can have well-staffed departments dealing with regulatory compliance, that is rarely the case with small firms and almost never the case with start-up firms. We are pleased that the discussion document notes that in start-ups and small businesses, "management resources (are) spread thinly."¹ IoD members consistently cite regulation as one of the top-three barriers to growth they experience in surveys, but anecdotally we have found that often it is confusion about which regulations need be complied with and the fear of accidental non-compliance which causes this concern. The vast majority of businesses are keen to meet their regulatory obligations and endeavour to do so, but are often overwhelmed by the sheer number of different bodies they need to interact with and therefore fall behind with their reporting, leading to inefficient regulatory activity and creating barriers to growth.

¹ BRDO, *Extending and Simplifying Primary Authority: Keeping the UK Competitive*, September 2015, p.6

However, that is not always easy to do. Primary Authority makes a welcome difference and we welcome moves by a number of Local Authorities, many of whom are cited in the discussion document, to simplify the regulatory process and move from – in simple terms – a can't-do attitude to a can-do one.

Moves to open up Primary Authority advice to firms in the pre-start-up phase are welcome. We anticipate that widespread use of Primary Authority by start-ups would be an efficient way to ensure that firms get into the habit of regulatory compliance, reducing the need for enforcement from regulators later in a firm's life-cycle, and more importantly would provide the certainty and stability that small businesses crave, allowing them to focus on growth rather than administration.

Furthermore, we welcome the proposals to allow firms to seek specialist Primary Authority advice from outside their Local Authority. We anticipate this will create greater incentive for Local Authorities to be pragmatic and pro-business when it comes to the enforcement of often complicated regulation. Ensuring that businesses have the best access to regulatory advice, particularly in specialist sectors, is welcome.

Simplify co-ordinated partnerships to make it as easy as possible for businesses to register partnerships through trade associations, franchisors and company groups

The current 2-step process of aligning businesses with local authorities via a trade association is unnecessarily complicated, defeating the overarching aim of the Primary Authority scheme: to simplify the regulatory compliance and enforcement burden on firms. While the power would not be appropriate for a body like the Institute of Directors, whose members are both individuals and drawn from across the business spectrum, it is clear that trade associations where appropriately resourced can play an important role in providing regulatory advice and mediating between regulators and businesses.

While welcoming moves to simplify the registration of partnerships, it is important to note that the IoD also supports rigorous standards to ensure that there is a formal relationship between co-ordinator and business and therefore is pleased to see that this is promised within the document.

Enable national regulators to be formally recognised as playing a role to support primary authorities in the development of Primary Authority Advice, guidance and inspection plans

As previously noted, the vast majority of businesses are content with the concept of regulation, as long as it isn't unnecessarily overbearing. They do, however, complain when regulation overlaps, is duplicated, or when advice is directly or indirectly contradictory. Clearly this is often the case when national regulators and Local Authority regulators come into contact with each other. Our members firmly agree with the statement in the document that "the boundary between what is regulated by national regulators and what is regulated by local authorities is not always clear to businesses."²

It seems to us appropriate, therefore, that there is a more formal relationship between Primary Authority advice and national regulators. It seems wise to specify regulatory bodies such as the Health and Safety Executive, as mentioned in the document, should be provided with the ability to play a statutory role. It is important their engagement with the Primary Authority scheme is closely monitored if, as the document suggests, their participation is to remain voluntary.

² *Extending and Simplifying Primary Authority*, p.10

Specify regulators other than local authorities who can become primary authorities

As we have said in informal discussion regarding the Enterprise Bill, we welcome this “clean up” to ensure that Primary Authority is extended as widely as possible. It is clear that devolution is going to be a significant part of the business landscape over the coming years, and within that framework it is important that government do everything it can to assure as much consistency as possible across the piece to ensure that regulators are doing what they should do: protecting consumers, and providing as friendly a business environment as possible with a level playing field for all firms.

General points

As discussed, the IoD remains a strong supporter of the Primary Authority scheme and welcomes its extension and simplification. We are particularly pleased that, thanks to the changes, more small businesses and start-up firms will have the chance to enjoy the benefits of the scheme.

We would only issue one note of caution: a scheme is only useful if enough businesses use it. Awareness of Primary Authority remains low. We would strongly urge government to do more to publicise the scheme, and also to encourage trade associations and similar bodies to introduce the benefits of the scheme to members.

We look forward to further deregulatory moves in the coming years, and for continued simplification.

Andy Silvester

Head of Campaigns

Institute of Directors, 116 Pall Mall, London SW1Y 5ED

020 7451 3263

07891 059567

[@silvesterldn](https://www.instagram.com/silvesterldn)