

Submission by the Professional Contractors Group to the Hampton Review

The Professional Contractors Group broadly welcomes the interim report Reducing Administrative Burdens: Effective Inspection and Enforcement, and feels that the approaches suggested therein are likely, if implemented, to make the working lives of many of its members more straightforward. In a limited number of areas it was felt that important issues could be further addressed or that certain suggestions might not be usefully implemented, and these are considered below, along with specific answers to some of the forty questions set out in Chapter 5 of the Report.

Many of the PCG's members, being freelance contractors in fields such as, for example, IT, can find themselves working for clients in a broad range of fields, of which the freelancers will not themselves have extensive specialist knowledge beyond the specific issue they are being asked to address. The biggest problem facing them is very often therefore uncertainty not over what a given set of regulations might say, but over exactly which aspects of their work may be subject to regulation in the first place. In other words: "how do I know what I need to know?"

Our members raised two other broad concerns. One was the sheer volume of regulation in some areas, notably Health and Safety. While this is in part a matter of policy and therefore beyond the Report's scope, the costs associated with getting to grips with large volumes of regulation are of course administrative. The other matter of concern was that advice issued alongside regulations may not be accurate, and our members gave at least one example where the advice was contradicted by a careful reading of the regulations, necessitating that further legal advice be taken.

It is the PCG's hope that all three of these concerns can be remedied at least in part by the creation of the "regulatory management system" proposed by the Report. To address Questions 39 and 40, on the possible functions of such a body, we would be pleased to see such a body collating reports of conflicting regulation and implementation, co-ordinating data-gathering and risk-assessment across regulators and facilitating inter-regulator consultation on form design etc. We feel, however, that public hearings to assess regulators' annual reports and such performance measures as the compilation of league tables are unlikely to be of any great benefit to those being regulated. Such a body could also usefully adopt responsibility for establishing the common regulatory platform suggested by the Report, such that terms are defined in a standard way across all regulators.

We would further welcome the use of such a new body to remedy some of the specific concerns already raised by our members. Specifically, a single portal from which all regulations, all advice and possibly all forms can be accessed would be of great use to our members, perhaps via a website with an address such as www.regulation.gov.uk. This would not need much new content, but rather comprehensive links to all regulatory bodies and sets of regulations, similar to the current directory of ongoing government consultations at www.consultations.gov.uk. This portal should be vigorously publicised as a "one-stop shop" for regulations, advice and forms. The new management body

would be the obvious organisation to administer such a site. It would, however, require very careful planning to ensure that the layout of the site ensured that a user would be guaranteed to find all the regulations pertaining to the matter on which they are seeking information. It would also be desirable that, if the portal failed to return a hit against a reasonable set of search criteria, the searcher should be able to assume, until informed directly by the regulator, that no regulation exists and any penalties for non-compliance should not apply during that period.

In other areas, the PCG welcomes the Report's suggestion that a stronger system of penalties should be accompanied by a strengthened set of avenues of redress, and agrees that regulators should be held responsible for enforcement actions that are later reversed (Question 14). The suggestion that a right of appeal to a body external to the regulator should always be available is also welcomed, although it would be preferable for this body not to be the regulator's sponsoring department. As the Tribunals White Paper of July 2004 has observed, a tribunal or appeal held by the department sponsoring the regulators whose decision is being appealed lacks manifest independence when seen from the appellant's perspective.

There are a number of further Questions raised in the report to which the PCG would give an affirmative response: we would like to see a commitment by regulators not to prosecute businesses who have followed the latest straightforward guidance (Question 3); we do believe regulators should evaluate their advice services on the basis of outcomes rather than activity (Question 5); we would like to see inspection holidays for businesses with good inspection records (Question 8); we would welcome the examination of all current forms to identify areas of duplication (Question 36).

The PCG hopes that some of the suggestions outlined here will be adopted in the final report and will be pleased to engage in further discussion and consultation on the subsequent implementation of its recommendations.