

Baroness Wilcox

Parliamentary Secretary for Business
Innovation and Skills

Lord Young of Norwood Green
House of Lords
London SW1A 0PW

20th January 2012

Dear Tony,

**LOCAL BETTER REGULATION OFFICE (DISSOLUTION AND TRANSFER OF
FUNCTIONS, ETC.) ORDER 2012**

I am writing to you to clarify the issues raised in the House during the debate on Local Better Regulation Office (Dissolution and Transfer of Functions, Etc.) Order 2012.

The queries raised related to the power to direct local authorities and the extent to which this impacts on the operation of the Primary Authority scheme.

You were correct in noting that the Explanatory Memorandum is quite clear that the power to direct local authorities will cease and the power to enforce service improvement will also be stopped. The Explanatory Memorandum, in so far as it relates to the power to give guidance, was correct as per my statement in the House that *"the power to direct local authorities to comply with guidance is repealed; the power to enforce the primary authority remains."*


I believe the difficulty arose in that this Order deals with two powers of direction; one relating to the power to direct in cases of primary authority and the other relating to the power to direct local authorities when issuing and enforcing guidance. Point 8.5 of the Explanatory Memorandum relates to the power to direct local authorities when issuing and enforcing guidance as detailed in Part 1 of the Regulatory Enforcement and Sanctions Act 2008, Section 7. This section is to be repealed and therefore this function will cease. I have asked my officials to amend the Explanatory Memorandum to this effect to ensure clarity of this point. As I stated in the House the powers of enforcement in Part 2 of the Regulatory Enforcement and Sanctions Act 2008 will remain. Section 28(7) and Schedule 4 are relevant in this case and I would like to take this opportunity to reassure you that retaining this power to direct in cases of primary authority will allow for the continuing effective running of this popular scheme upon the dissolution of the Local Better Regulation Office.

Articles 12 and 16 in the Local Better Regulation Office (Dissolution and Transfer of Functions, Etc.) Order 2012 set out the changes made by the Order to Sections 28 and Schedule 4 of the Regulatory Enforcement and Sanctions Act 2008. These do not impact on the nature of the enforcement powers that support the Primary Authority scheme but rather deal with the transfer of these powers to the Secretary of State.

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I do hope the above clarifies the issue and that we can look forward to this Order being an effective statutory instrument enabling the excellent work undertaken to date in this area to continue.

I am writing in similar terms to Lord Razzall, and have placed a copy of this letter in the library of the House.

Yours ever


BARONESS WILCOX