

# **‘Better Regulation’: better for whom?**

**Steve Tombs, UCU/The Open University**

**steve.tombs@open.ac.uk @steve\_tombs**

## **Hazards 2016**

# Better Regulation: the child of New Labour

“The argument is not the old one – more regulation against less regulation. Our focus is on getting regulation right – better regulation ... regulation that will improve, not hinder, business competitiveness”. (Blair, 1998, speech on assuming first presidency of EU)

Hampton Review (2004) and Report (2005):

“not just a light touch but a limited touch.” (Brown, 2005)

Basic assumption is that most businesses comply with most regulations most of the time ...

Better regulation imposed through:

- Ceaseless reviews of regulation and regulation
- Constant legal and regulatory ‘reform’
- An endless torrent of vitriol against regulation as red tape

# Better Regulation, 2003/04 – 2014/15: some quantitative indicators

Food safety and food hygiene (EHOs):

- food hygiene inspections **fell by 15%**
- food standards inspections **fell by 35%**
- food prosecutions **fell by 35%**

Environment Agency pollution control:

- inspections **fell by 52%**
- prosecutions **fell by 54%**

Pollution Control EHOs:

- inspections **fell by 55%** (to 2013/14)
- notices **fell by 30%** (to 2013/14)

# Better Regulation, 2003/04 – 2014/15: some quantitative indicators

Health and Safety Executive (FoD):

- inspections **fell by 69%** (60% to 2013/14)
- prosecutions **fell by 35%**

Health and Safety EHOs:

- total inspections **fell by 69%**
- preventative inspections **fell by 96%**
- prosecutions **fell by 60%**

# The Politics of 'Better Regulation' meets the Economics of Austerity

## A case study of Merseyside: a snapshot of enforcement capacity at 2015

- “at present, we can't meet our statutory duties”
- “to be honest we're now doing statutory stuff only”
- “there's nothing left to cut now”
- “there is no padding left, we're below the statutory minimum ... there are no areas of discretion left”
- “there's nothing else to be cut”
- “where we are now, we're at the point where worker safety is being jeopardized”
- “it's going to come to the point where it going to affect the residents, the local population, in many ways we are at that point now, public health and protection is being eroded”
- “we're at the point where there is no flesh left, this is starting to get dangerous, a danger to public health”

# The Primary Authority Scheme

- Emerges in 2009 on the basis of claims for ‘consistency’ in enforcement
- Better Regulation Delivery Office (BRDO) established in 2012 to oversee its delivery
- April 2014, 1,500 businesses had established PA relationships across 120 LAs; at 28 July 2016, there were 16,642 such “partnerships” across 176 authorities
- “allows businesses to be involved in their own regulation ... The business can decide what level of support it requires, and the resourcing of partnerships is a matter for the parties concerned. (Better Regulation Delivery Office, 2014: 2)
- These “partnerships” are contracts: companies with sites across more than one LA negotiate a contract with one LA to have it - as the Primary Authority - regulate *all* of its sites across *all* LAs
- The PA reviews systems; acts as bulwark against enforcement in other LAs; BRDO acts as last stop against enforcement
- The PA scheme is the flagship Better Regulation initiative at local level

# How much Better can 'Better Regulation' get?

Better Regulation is not just about less enforcement but about *re-casting* the relationship between the state and the private sector:

- Regulators need “to see themselves in a different light in relation to business, to reposition themselves in terms of businesses” (BRDO)
- “We need to be more business friendly and get our customer focus right” (EHO)
- “Increasingly we’re told that our main job is to facilitate business, industry and so on” (EHO)

At local level, it is a *de-democratising* process

Overall, it is *dismantling* a system of regulation - social protection - which was put into place from the 1830s onwards

There is no *logical end point* to Better Regulation ...