



# Enabling lighter touch regulation

The role of standards

*raising standards worldwide™*

**BSI**  
British Standards

## What are standards?

A standard is a document defining best practice, established by consensus and approved by a recognized body, such as BSI British Standards. Each standard is kept current through a process of maintenance and review whereby it is updated, revised or withdrawn as necessary.

Standards are designed to set out clear and unambiguous provisions and performance objectives in order to help trade and communication but may also meet other needs. For example, they might improve the use of resources, assist with bringing products from development to market, stimulate innovation through the quick and efficient dissemination of critical information, or improve the quality of life through health, safety and environmental requirements.

Standards are developed when there is a defined market need through consultation with stakeholders and a rigorous development process. New areas for standardization are often developed through fast-track mechanisms like the publicly available specification (PAS) via BSI Standards Solutions. Formal standards in more mature areas are developed through a committee structure that operates at the national, European and international levels. These committees include representatives of government, testing laboratories, suppliers, consumers, academic institutions, societal interests, business, manufacturers, regulators and trade unions.

Although standards are voluntary and separate from legal and regulatory systems, they can be used to support or complement legislation.

## Executive summary

The government is committed to reducing the burden of regulation for the private and public sectors and to improving value for money by focusing on those organizations at the highest risk of regulatory breaches or, in the case of public expenditure, the weakest performers.

This demand for a change in approach to regulation comes from all the main political parties and is backed by business lobby groups, led by the Confederation of British Industry and the Federation of Small Businesses.

Both the Hampton Report and the Better Regulation Task Force have strongly recommended the greater use of standards to assist with the implementation of this agenda. This view is reinforced by other key stakeholders who recognize a range of ways in which standards can play a central role in enabling regulators to conduct their work more efficiently and effectively.

Given that standards are produced by consensus and supported by a wide cross-section of society, including representatives of consumers, industry and regulators, they can provide reassurance to all stakeholders of conformity to best practice and play an important role in making markets work more transparently. Conversely, non-compliance with standards can be used by regulators as a warning signal.

But standards are not a soft option – they can be demanding to meet. As such, they provide a valuable stimulus to businesses to do things better, more safely, more reliably and more cost effectively while enabling a lighter touch approach to regulation.

## Regulation without burden

The regulatory wheel has turned. Today's emphasis is on regulation and inspection that is low in cost for both the taxpayer and the inspected body, focusing strongly on organizations and activities recognized as presenting the highest risk.

There is no longer an automatic assumption that everything must be inspected. The government has concluded that regulators should focus on risk instead and, in the case of public expenditure, the weakest performers. "In the old regulatory model – and for more than 100 years – the implicit principle from health and safety to the administration of tax and financial services has been, irrespective of known risks or past results, 100% inspection whether it be premises, procedures or practices," said Gordon Brown in a recent speech to the Confederation of British Industry (CBI). "So regulation came to mean that government routinely and continuously inspected everyone and everything, demanded information from all of us on a blanket basis, required forms to be filled in for all issues subject to regulation and inspection – the only barrier to complete coverage usually being a lack of resources. This approach, followed for more than a century of regulation by governments of all parties, is outdated.

"The better, and in my opinion the correct, modern model of regulation – the risk-based approach – is based on trust in the responsible company, the engaged employee and the educated consumer, leading government to focus its attention where it should: no inspection without justification, no form filling without justification, and no information requirements without justification, not just a light touch but a limited touch."

*The demand for change comes from all the main political parties and is backed by leading business lobby groups. The challenge for regulators is how best to meet these policy objectives.*

Similarly, former Prime Minister Tony Blair publicly said "we make it clear we will reflect first and regulate only after reflection [and] start to roll back the tide of regulation in specific areas". He added that he was committed to changing the culture that meant that "for decades civil servants and politicians have prided themselves in dotting every i and crossing every t when legislating administrative rules".

This demand for a change in approach to regulation comes from all the main political parties and is backed by business lobby groups, led by the CBI and the Federation of Small Businesses (FSB). The challenge for regulators therefore becomes how best to meet these policy objectives.

## Automotive repair services

### Using standards in place of regulation

Motor repairs is an important market sector, worth £4bn annually, but one where traditionally there has been little consumer confidence. A publicly available specification (PAS) was developed alongside a Kitemark® in response to a threat from the National Consumer Council (NCC) to submit a 'super complaint' to the Office of Fair Trading (OFT) regarding the quality of customer care in motor repair garages. As a result of the development of PAS 80 and its adoption by the motor repair trade, the NCC dropped its threat.

The process has been endorsed by the Department for Business, Enterprise and Regulatory Reform as an example of how standards can be used in place of statutory regulation. The consumer affairs minister said that this was a practical way of addressing consumers' concerns, without the adoption of statutory regulation: "Garages who want to reassure their customers that they will get a fair deal will be able to display the Kitemark® to set themselves apart by showing a guaranteed high level of service."

PAS 80 defines technical and customer service requirements for garages, including fast-fit outlets, offering to service and repair automotive vehicles. The specification includes a framework of performance measures that focuses on service quality aspects identified as important to the customer. The Kitemark® scheme is a voluntary third-party scheme based on conformity to PAS 80.

The scheme aims to provide the revolution in customer care and confidence that the industry aspires to. Without the use of standards, it would have been difficult to bring about this step-change in customer care – less than half of garages in the UK belong to a trade association and although there have been 11 unsuccessful attempts to raise standards over the last 30 years, none of these initiatives have succeeded in pushing the industry as a whole into action.

Research from BSI Product Services tells us that: "More than 80% of UK adults recognize the Kitemark®. Using it will provide significant commercial advantages to those who opt for the scheme and experience in other industry sectors has shown that organizations that gain the Kitemark® see a marked increase in business and customer loyalty. The Kitemark® acts as an asset enabling the more professional operators to differentiate themselves from less reputable traders whose behaviour has blighted the reputation of the industry."

## The inspector will call less often

Government-commissioned reports have led the way in proposing practical measures to reduce state regulation. The Hampton Report, *Reducing administrative burdens: effective inspection and enforcement*, found much good practice in UK regulation but also noted that the system was too complicated and without uniform good practice. Overlaps in regulators' activities meant duplicated information requests, multiple inspections and too many forms to be filled in.

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In place of the intrusive regulator, Hampton proposes widespread use of risk assessments, so that the burden of enforcement falls most on the highest-risk businesses and least on those with the best records of compliance. "No inspection should take place without a reason," states The Hampton Report. It recommends the old system of generalized inspection should be replaced by a small amount of routine, unannounced visits concentrating on those companies and individuals most likely to be in contravention. This targeted inspection should be backed by realistic fines, often much higher than those that had been imposed previously.

Significantly, Hampton recommends that regulators should rely much more on standards, especially the formal British, European and international standards published by BSI. Companies that conform with such standards pose less risk, while those that either fail to adopt standards or are in breach of standards are providing indicators of high risk that might spark intervention by regulators, argued Hampton.

Coinciding with the Hampton Report, Sir David Arculus, then chairman of the Better Regulation Task Force (BRTF), published a complementary review of regulation, *Regulation – Less is More*. The Arculus Report proposed measuring the burden of regulation and its cost, setting a target to reduce both. Any new regulation should replace an existing regulation. The cost of regulation was measured by Sir David at about £100bn a year, or 10% of GDP, with the administrative burden estimated at £20–40bn a year. "This can hamper business," argued the report, "channelling resources away from more efficient uses and acting as a constraint on innovation, productivity and growth."

## A safety net

While there is near universal support for the principle of lighter touch regulation, the initiative does not come without risks. Governments, of any party, still want businesses and individuals to comply with the law and they want their policies and priorities implemented. Governments seldom like giving up control and are likely to demand an effective safety net as they move towards less intrusive regulation. So how is this to be achieved?

Standards can form a central policy element of risk-based regulation. Those organizations that comply with properly accredited standards – such as BSI’s – are more likely to be well-managed and compliant in a broader sense. Organizations that fail to comply with agreed standards provide a possible indicator of weak management controls.

Many key players who have considered in detail the future of regulation have come down in favour of the use of agreed standards in place of statutory regulation.

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The Hampton Report sees standards compliance as a good basis for regulators to make risk assessments, with non-compliance a trigger for regulatory intervention. Risk assessments should be made public, says Hampton. In this way, “businesses would see clear incentives to gain accreditations or standards that were taken into account in the assessment, and would see the rationale for the regulator’s position laid out in similar terms”. Hampton adds: “Regulators should use all available good quality data in their risk assessments. This means looking beyond the data available from previous inspection activity, and considering accreditations such as those from the BSI, performance in different regulatory regimes, and the existence of management systems.”

## Exploring the alternatives

The BRTF has strongly endorsed the use of standards as an alternative to statutory regulation. In *Avoiding Regulatory Creep*, it recommends that “when considering options for achieving the policy objective, policy makers should consider what scope there is for a set of measurable minimum standards for compliance that can operate alongside a goal-based approach”.

The BRTF indicated that clear and agreed standards should not apply only to regulated bodies. They should also apply to the regulators themselves and to government departments, so that organizations and individuals subject to regulation know what will be inspected, understand how they will be treated and how to be compliant, and ensure they are satisfied with the process, with a means of redress. “Regulators and enforcers should establish clear standards and criteria against which they can be judged.” But as the BRTF report added: “Government rules and standards must be joined-up and implemented fairly.”

Lord Lindsay, chairman of the United Kingdom Accreditation Service (UKAS) and member of the Risk and Regulation Advisory Council, says: “I strongly believe that the wider use of ‘standards markets’ will better underpin the government achieving its Better Regulation objectives than onerous regulation or unenforceable principles. Numerous areas of commercial life ‘regulate’ without legislation and succeed through the use of standards markets.”

**smile**

## Assured internet security

Prior to the launch of its smile internet banking division, The Co-operative Bank realized that it must be recognized as offering very high levels of assured security in order to be a respected online financial services supplier.

Dave Smith, a spokesman for The Co-operative Bank, says: "We approached BSI before smile was launched in October 1999 and applied for BS 7799 for information security." BS 7799 sets the standard for an information security management system. It helps identify, manage and minimize the range of threats to information. Half the standard specifically relates to IT and the rest to a firm's broader operating environment. It provides assurance for inter-company trading agreements, business partnerships and consumers undertaking online transactions.

"In 2000 we were the first online bank in the world to be granted the certification," continues Mr Smith. "We could not get certified at the outset because the site had to be up and running for several months in order to prove our systems worked. Six years later we are still the only UK online bank with BS 7799. The BSI seal of approval is important because it gives customers and potential customers confidence that our information security systems have met the highest levels of scrutiny and that they can in turn trust smile's security."

The standard has been widely used in Asia, where its assurance role is recognized and valued. But only 15% of UK companies surveyed by the Department for Innovation, Universities and Skills (DIUS) are aware of the standard – though 38% of these have implemented its recommendations. DIUS is pushing for the wider adoption of the standard by UK business and has issued a directive stating that by 2008 all e-commerce must be compliant with BS 7799.

The National Audit Office has the job, on behalf of Parliament, of reviewing the effectiveness of state regulation of key business sectors, including energy, water, telecoms and financial services. Ed Humpherson, its director of regulation, is persuaded that standards can play an increasing role in supplementing the work of regulators, although not replacing regulation.

"It is quite clear that if the outcome desired is a reduction in the administrative burden of state regulation then the use of standards is a superb way of achieving that," says Mr Humpherson. "However, when we think of costs we don't only think of the administrative costs, but also the policy costs. Lowering the overall cost of the compliance function is not necessarily a result."

Standards cannot replace the role of a regulator in overseeing a competitive market such as energy. But they could play an important role in helping the regulator to act more effectively, for example in tackling problems that the regulator has not succeeded in resolving – such as the way companies bill their customers – suggests Mr Humpherson. Adopting industry standards on how bills are produced and in the way charges are calculated could make regulated markets work more effectively and fairly, and enable customers to compare products and services more easily, through the assurance that information could be properly compared.

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In addition, standards can assist in ensuring that a market operates effectively. “On the supply side, they make markets work more competitively, because they reduce barriers to entry, because companies can see more clearly what is required of them,” says Mr Humpherson. “For consumers, they help provide greater consistency of information. Standards are very, very good in competitive markets.”

## A replacement for regulation?

Andrew Miller MP, chairman of the House of Commons Regulatory Reform Committee, is another who believes that standards can play a significant role in reducing traditional regulation. “I agree with the principle [of using standards in place of regulation],” he says. “In modern communications and IT, for example, it makes immense sense for standards – principally those driven by the industry itself – to become the de facto mechanism for regulating some of the technologies. Otherwise you have people driving on roads towards the border and on the other side of the border people have built the road somewhere else. In my view, in areas of technology application, in particular, regulation is very much better done through the industry working together. I think most of the industry will agree on the best way of going about things.”

While Mr Miller believes that the use of standards in place of regulation is easiest to apply in technological fields, standards are also an appropriate solution in many instances for service regulation. This is especially the case, he suggests, where there is market choice in the delivery of services, but the individual is reliant on fair treatment from the supplier, requiring a transparent supply of information.

Mr Miller argues that standards, backed by the Kitemark®, could play a more central role. Using the example of the mis-selling of endowment mortgages by financial services firms, he argues that the adoption of “a British, or industry, or self-regulatory standard would have had the effect of reining back some of the outlandish claims made at the time”. He adds: “Companies would have avoided paying out hundreds of thousands of pounds in compensation and many customers would have avoided their problems.”

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Events endorse Mr Miller's perspective. The Financial Services Authority's (FSA) 'DISP' rules – the rules determining how a financial services firm's dispute with a customer should be handled – are based on BS ISO 10002. BS ISO 10001 and BS ISO 10003 also relate to the financial services industries complaints handling procedures and the Financial Ombudsman Service (FOS) regards these as the basis for how firms should deal with customer complaints. FOS spokesman David Creswell says: "We believe that these three standards should really be used by all ombudsman schemes – which most probably do already."

Similarly, and also within the financial services sector, BS ISO 22222 provides the minimum standards to be achieved by a good financial planner. As Mike Low, director of BSI British Standards, explains: "It is not a legal requirement, nor a laid-down necessity by the regulator but, as a benchmark of best practice that goes beyond the minimum legal requirements, compliance with BS ISO 22222 is a strong indicator to both the public and the FSA that an adviser is at the top of their game. Where reassurance is required standards can be an effective tool for either replacing the need to regulate or raising the bar of performance."

## Providing assurance

Standards play an important role in making markets work more transparently, giving assurance to consumers and business customers. Standards are not a soft option – they can be demanding to meet. As such, they provide a stimulus to businesses to do things better.

The CBI has worked with BSI and the Department for Innovation, Universities and Skills (DIUS) to consider the role of standards in lighter touch regulation. Matthew Fell, head of group corporate affairs at the CBI, says: "Standards can be both sinner and saint in the eyes of business. Too rigid, poorly thought-out standards can impose just as much a burden on business as heavy-handed regulation. But get it right and flexible, outcome-oriented standards can help business with their efficiency, effectiveness and innovation – and offer a real alternative to time-consuming, bureaucratic legislation."

Former CBI director-general Digby Lord Jones of Birmingham has gone further than this. In an interview with *Business Standards* magazine, he said: "Standards can have a role as alternatives to regulation – and I know that DIUS is keen to explore this as part of government's Better Regulation activities."

The FSB, too, believes that standards could play an important role in reducing the regulatory burden, providing that they are produced by consensus as is the case with BSI's standards. Francesca Woodhouse, the FSB's former trade and industry policy development officer, says: "It is

## HM Revenue & Customs

### Assuring the integrity of software

The integrity of accounting software is essential to business. One small error can have serious consequences for corporate finances, from compliance to tax issues. For HM Revenue & Customs (HMRC) this is a significant problem, as it cannot test every business transaction. Instead it relies on BSI standards to assure the integrity of corporate accounting software used for producing tax returns.

BSI was asked by HMRC to help develop a specification for accounting software that could be assessed and Kitemark® certified to harmonize Value Added Tax (VAT) reporting in the UK. BSI worked with HMRC to create a publicly available specification (PAS) accounting software. PAS 76 provides the basis for the production and retention of VAT accounting records and declarations; provides warnings of potential VAT errors; offers the ability to self-audit VAT records; enables accounting data to be made available to HMRC; and provides assurance on the accuracy and completeness of VAT declarations.

clear that for certain industry sectors, standardization is a necessity.” The FSB believes that standards provide many benefits – including quality assurance, information provision, cost and waste reduction, time and money saving in sourcing supplies, assistance in winning overseas businesses and assisting businesses to meet EU regulations. FSB support for the use of standards is, however, conditional on them not being mandatory and on an awareness that, in its view, standards compliance can present particular difficulties for small firms.

Support for standards is by no means restricted to those lobbying for business interests. Ed Mayo, chief executive of the National Consumer Council (NCC), endorses the use of standards as part of the structure of consumer protection-related regulation. “Absolutely, there is a role,” he says. “Products and services are more complex than ever before. Consumers are faced by that complexity in the choices they make. Standards take a role in simplifying what a consumer can get. This can take place in both a visible and an invisible way, by improving the quality of goods and services.

“Many people cannot deal with the many different issues, so product and service standards play a role in getting people what they want. Many improvements have come through the development of standards that set and codify and encourage better products.” The proviso offered by Mr Mayo, is that standards must be assured by a reputable body, with the involvement in standards-setting of consumer representatives. He refers to the NCC’s own report *Bamboozled, Baffled and Bombarded* “which looked at the array of ‘consumer assurance standards’ ... and said there were too many, and probably none of which was doing their job.”

Mr Mayo is, though, a strong supporter of the principle of reducing the burden of regulation. “It’s a complete myth that the costs of regulation fall on business,” he argues. “They fall on the consumers. So from the consumer side, there is no benefit in over-regulation. But effective regulation can provide a lifeline in consumer protection – for example, the Corgi assurance in the gas industry. It can also make markets more open by improving consumer confidence.”

*Standards can reduce regulation in the public sector, for example, by defining minimum entitlements the public should receive and compliance with health and safety requirements.*

Recent moves by the European Commission towards even greater use of principles-based regulation are a step in the right direction, suggests Mr Mayo. This opens up new opportunities, he argues, for standards – agreed by business, consumers and other stakeholders – to set the details of how those principles are applied in particular sectors.

“Lighter-touch regulation has to mean a move to more principles-based regulation,” agrees BSI director Mr Low. “The only effective way to reduce the burden of regulation has to be to reduce all the detail and to focus on the outcomes that are to be achieved, while allowing flexibility and innovation in how to achieve the goal.

“That’s precisely where standards come in. They offer a realistic solution for regulators seeking to find ways to reduce their negative impact, while achieving the desired results. Standards are not regulations – by their very nature they are voluntary. Therefore those who choose to use standards are committed to them, so you avoid the problem of regulated organizations seeking to find ways of complying with the words but not complying with the spirit. With standards it is the outcome – and, therefore, the spirit and peace of mind – that is important.”

## Complementing public service regulation

The application of standards in place of regulations is not limited to the private sector and there are significant opportunities for the greater use of standards to support the regulation of public services and public goods. Standards are already widely used by regulators for some public services, in particular by the Healthcare Commission and the Commission for Social Care Inspection (CSCI).

“I think there is an opportunity for using standards to reduce regulation in the public sector,” says Peter Wilkinson, the Audit Commission’s managing director for policy, research and studies. He suggests standards might play their biggest role in public sector regulation by defining minimum entitlements the public should receive and in compliance with necessary health and safety requirements. Mr Wilkinson believes that in the public sector, standards are most appropriate for what has been defined as ‘economic regulation’.

## Ministry of Defence

### Training services harmonization

BSI Group has worked with the Ministry of Defence (MoD) to improve its quality assurance in defence training. Using the principles of the ISO 9001:2000 quality management system, the private standard for Defense Systems Approach to Training (DSAT) has been established to improve the procurement and provision of training services and bring more clarity as to what is needed and how it should be provided.

The standard sets the principles for the provision of training, to be applied to internal and external suppliers. The use of the standard during tendering ensures increased value for money and maintains a recognizable high standard that all suppliers must meet. BSI's involvement saw the Standards Solutions team working with the MoD over a six-month period in order to add further credibility to the standard.

The MoD's director general training and education, Rear Admiral Simon Goodall CBE, explained: "The BSI approach and its reputation for thoroughness and integrity adds further credibility and confidence to the MoD's desire to ensure the highest standard of education and training in all parts of the armed forces and MOD civil service."

An economic regulator has the role of protecting the public where a market is functioning effectively or partially, Mr Wilkinson explains. Examples include the utilities, financial services and some health and social care services. The need for an economic regulator where there is a partially functioning market can be seen with residential care homes, where decisions on which home to choose might be taken by a daughter or son on behalf of a parent. But the person making the buying decision may find it difficult to be fully aware of appropriate care practices for older people. Knowing that a chosen home at least meets minimum recognized standards and will continue to do so can provide that reassurance.

However, Mr Wilkinson warns that standards must be used with care. In some service areas, such as libraries, it has to be recognized that the quality of service is a matter of political choice to be exercised by councillors on behalf of electors.

Andrew Miller MP – the chair of the Regulatory Reform committee – is another who believes that public services could benefit from the selective use of standards in regulation. "The public sector is going through a significant transformation," he points out. "The concept of the citizen being a customer is being established firmly, particularly by local authorities." He asks: "Having gone down that road, can you refine it even further by applying standards? I think you could use standards – especially where services [such as housing benefits] are not local in characteristic, but are local in delivery."

Sir Michael Lyons, joint author with Sir Ian Byatt of *Role of External Review in Improving Performance*, believes that standards might have a particular place in improving benchmarking practice in the public sector, through a more scientific and evidence-based approach to understanding what types of performance measurement lead to what type of outcomes. “British Standards could draw on their wide experience to draw lessons of what appears to work and offer some benchmarks against which organizations can measure themselves,” he says. The same view, promoting the role of BSI for the benchmarking of performance information for use by consumers and regulators, is separately put forward by Sir Ian Byatt, the Scottish water regulator and former head of Ofwat.

## Adding value – cutting costs

Mark O’Conor, a partner at law firm DLA Piper Rudnick, was engaged to assist the Cabinet Office in reviewing the burden on businesses of existing legislation and other regulations. He found around 2,500 regulations that had some impact on businesses in how they operate. He believes that BSI should play an important role in reducing the negative impact of regulation. “If there are interested parties who get together – for example through the British Standards Institution – on how best to regulate industries, they are the experts,” argues Mr O’Conor. “Why then regulate on top? Especially as that often is ham-fisted regulation which doesn’t do the job. Why not stick with British standards, for example? Particularly in the IT industries, where practitioners are very keen on British standards in terms of interoperability and data security, and apply British standards pretty rigidly.”

Shirley Bailey-Wood the director of operations at BSI, says standards offer a genuine win-win solution to the challenge of providing a regulatory environment for the 21<sup>st</sup> century. Standards can cut the costs and burden of regulation, while providing incentives to improve the quality of services. “We don’t believe that standards will necessarily replace regulation but we do strongly believe that good standards can complement the work of good regulators,” she says. “In some areas by using standards you can avoid the need for regulation altogether – as illustrated in the example of automotive repair services. In many others by adopting principles-based regulation fleshed out with standards, you get a much more flexible and cost-effective arrangement as can be seen with the EC ‘New Approach’ Directives which have been going for 20 years.

*Standards can cut the costs and burden of regulation, while providing incentives to improve the quality of services.*

“If you look at BSI’s work in the financial services sector, you can see a template for how regulation could look in the future. Let’s focus on outcomes, not processes. Let’s provide assurance and transparency, not secrecy and complex rules. Standards provide the solutions to many of today’s regulatory challenges and have the benefit of being consensus-based codes that government, business and consumers all help to create and therefore trust.”

## How BSI can help

Standards matter. They contribute at least £2.5bn each year to the UK economy and play a key role in enabling innovation, improving competitiveness, increasing reliability, ensuring safety, improving accessibility, controlling quality, managing risk and improving business performance.

As the world's first national standards body, BSI British Standards has a globally recognized reputation for independence, integrity and innovation. It is also a leading provider of standardization and consortia services through its Standards Solutions team. Part of the BSI Group operating in 86 markets worldwide, BSI British Standards serves the interests of a wide range of industry sectors, as well as government, consumers, employees and society overall, to make sure not just British but European and international standards are useful, relevant and authoritative.

BSI champions UK interests at home and abroad and is an incubator of many of the world's leading standards. It is the national gateway to all the European and worldwide standards bodies promoting fair trade, technology transfer, economic prosperity and security.

Several publications describe the benefits of using standardization to achieve broader organizational and national strategic objectives. Information about these is available from BSI British Standards.

To find out more about how BSI can help you, visit the website at [www.bsigroup.com](http://www.bsigroup.com) or email [britishstandards@bsigroup.com](mailto:britishstandards@bsigroup.com).

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