



Department  
for Business  
Innovation & Skills

Better  
Regulation  
Delivery Office

## **Consultation Paper**

# **Amending the Regulators' Compliance Code**

**March 2013**

## Foreword



Returning the economy to a steady state of growth is the key focus of the Government. It is well recognised that the regulatory climate is a key contributor to the creation of a positive and supportive business environment. Regulators, be they national regulatory agencies or local authority officers, often comprise the front line of business interaction with Government and their actions can impact directly upon the ability of businesses to grow and succeed.

We have a clear programme to transform the way regulation is delivered at the front line, to remove burdens, to reduce the costs of compliance, to provide greater certainty for businesses and other regulated bodies, to enable confident investment decisions and to hold regulators accountable for their activities.

We want to increase confidence in our regulatory system, making it open and transparent about how regulators deliver their enforcement responsibilities for the purpose of protection and prosperity. We have reviewed the Regulators' Compliance Code, which is five years old. Our findings show that although the principles of the code are sound, we need to do more to ensure that regulatory enforcement is properly focused on supporting business compliance and growth.

This consultation seeks your views on a new, shorter, simpler and clearer Regulators' Code that sets out our expectations on how enforcement will be delivered in a risk-based, proportionate manner, and sets the framework for transparent and accountable relationships between business, regulators and citizens. We are grateful to the regulatory bodies that have contributed views during the development of this consultation paper. We welcome your thoughts on the new code and how it can create a regulatory environment that delivers important protections and allows businesses to thrive.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon  
Minister of State for Business and Enterprise  
Department for Business, Innovation and Skills

<b>Consultation Summary</b>	
<i>Who should read this document?</i>	This consultation is relevant to non-economic regulators and local authorities, and to businesses and other bodies subject to regulation by these regulators. The consultation is also of interest to consumer representative bodies, trade associations and trade unions.
<i>Making your views heard</i>	We are keen to gather all views on the subject of the new Regulators' Code and any supporting evidence. You should not feel constrained by the specific questions nor feel obliged to offer responses to all of them. Concentrate on those in which you have the most interest.
<b>Views are requested by 3 May 2013</b>	
<i>Phone enquiries</i>	0207 215 4987
<i>Web responses</i>	<a href="#">Please click here to go to the web form.</a>
<i>Email enquiries and responses</i>	<a href="mailto:consultation@brdo.bis.gsi.gov.uk">consultation@brdo.bis.gsi.gov.uk</a>
<i>Written responses</i>	Stewart Gibbon Better Regulation Delivery Office Department for Business, Innovation and Skills 5th Floor, Abbey 1 1 Victoria Street London SW1H 0ET
<i>Your details</i>	Representative groups may wish to give a summary of the views of the people and organisations they represent and, where relevant, how they consulted with them. You may wish to include contact details for follow-up.
<i>Confidentiality</i>	The position regarding the confidentiality of any information provided is set out on page 46 this document. Unless you state otherwise (and an automatic disclaimer generated by your IT system does not constitute such a statement), we will assume you are content for us to publish your response.
<i>Additional copies</i>	This consultation is available for download from: <a href="http://www.bis.gov.uk/brdo/publications/current-consultations">www.bis.gov.uk/brdo/publications/current-consultations</a>

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## Executive summary

The Regulators' Compliance Code, the statutory code of practice that governs approaches to enforcement by non-economic regulators, builds on the principles of good regulation. It is one part of the overall package of better regulation measures and its role is to guide regulators in policy and behaviour and to assist those who are regulated so that they know what to expect of their regulators. The Regulators' Compliance Code requires regulators to consider the impact of their activities on economic progress, to take a risk-based approach to enforcement, to provide advice and guidance to assist businesses and other regulated bodies in understanding their responsibilities and to take proportionate enforcement decisions.

In Transforming Regulatory Enforcement, the Government made a number of commitments and said it would deliver them by reviewing the Regulators' Compliance Code. This consultation takes forward that commitment by publishing the findings of a post implementation review carried out in 2012 and by introducing a draft new code, provisionally named the Regulators' Code. The review found that while regulators had taken a positive approach to adopting the Regulators' Compliance Code, more is required to make it visible to businesses and regulated bodies, as well as front line regulators, and to strengthen its focus on supporting business compliance and growth.

We are seeking views on the content of a new Regulators' Code, how it should be applied by regulators and which regulators should be required to have regard to its requirements. In particular:

**The new requirements for regulators:** Will a simpler code, reflecting the principles of good regulation, support the delivery of our ambitions for improved prosperity and protection?

**The use of the code, including reporting and monitoring requirements:** How should the code be applied to regulators' activities to ensure it has real impact at the front line?

**The scope of the code:** Should the requirements of the code be extended to regulators and regulatory functions beyond those current listed in the Regulators' Compliance Code?

We are also consulting separately on the introduction of a statutory growth duty<sup>1</sup> for non-economic regulators and we are interested in your views on how the revised code can support the implementation of this duty.

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<sup>1</sup> [www.bis.gov.uk/brdo/publications/current-consultations](http://www.bis.gov.uk/brdo/publications/current-consultations)

## Introduction

- 1.1. Since the publication of the Regulators' Compliance Code (RCC), there has been an increasing focus on the role of regulatory enforcement. The Coalition Agreement states the Government's intention to 'end the culture of tick box regulation'<sup>2</sup>, and there is a comprehensive programme of measures to deliver this commitment, including the operation and extension of Primary Authority to improve local authority consistency, sector-based reviews through Focus on Enforcement<sup>3</sup>, a proposed new growth duty for regulators and efforts to improve data collection.
- 1.2 The RCC is an important part of the overall framework that governs our approach to enforcement. Applicable to non-economic regulators, the Legislative and Regulatory Reform Act 2006 requires regulators to have regard to the code's requirements when setting policies and procedures about how they will carry out their enforcement responsibilities.
- 1.3 Our earlier consultation on regulatory enforcement<sup>4</sup> told us that despite the requirement for regulators to have regard to the RCC, it has not fulfilled our expectations. In light of this, the Government committed to carrying out a review of the RCC to examine its potential to improve the transparency of regulators and their accountability to businesses, to explore options to improve the visibility and impact of the code and, ultimately, to improve the way in which regulation is delivered at the front line.
- 1.4 This consultation paper publishes the findings of the post implementation review and, reflecting the outcomes of the review, seeks views on a simpler, shorter and more direct Regulators' Code.

## Background to the Regulators' Compliance Code

- 1.5 The Regulators' Compliance Code is a statutory code of practice concerning the exercise of regulatory functions. It was first published in 2008 in accordance with section 23 of the Legislative and Regulatory Reform Act 2006.
- 1.6 The RCC currently applies to regulatory functions (listed at Annex C) which are exercised in England by specified non-economic regulators and local authorities, and following an extension of the legislation in 2009, it also applies to regulatory functions exercised by local authorities in Wales, Scotland and Northern Ireland in relation to reserved UK matters<sup>5</sup>.

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<sup>2</sup> The Coalition: our programme for government:  
[http://www.direct.gov.uk/prod\\_consum\\_dg/groups/dg\\_digitalassets/@dg/@en/documents/digitalasset/dg\\_187876.pdf](http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf)

<sup>3</sup> More information on Focus on Enforcement can be found at:  
<http://discuss.bis.gov.uk/focusonenforcement/>

<sup>4</sup> Government Response to the Consultation on Transforming Regulatory Enforcement:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/31428/11-1408-transforming-regulatory-enforcement-government-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31428/11-1408-transforming-regulatory-enforcement-government-response.pdf)

<sup>5</sup> The question of extension of the Code in Wales is the subject of a separate, accompanying review commissioned by the Welsh Government, also being carried out by BRDO.

- 1.7 Those regulators and local authorities are required to have regard to the provisions of the code in determining general policies or principles, such as their standards, guidance and compliance and enforcement policies. The code does not apply at the operational level of individual cases or decisions made by regulatory officers.
- 1.8 The Legislative and Regulatory Reform Act also provides that regulators must consider the five principles of good regulation<sup>6</sup> when exercising their specified regulatory functions. The principles of the RCC are summarised in Table 1 below.
- 1.9 The Principles of Economic Regulation<sup>7</sup>, first published in April 2011, pose similar requirements to the RCC on economic regulators in that the Principles set out characteristics of a successful framework for regulation.

*Table 1: Principles of the RCC*

	<b>Principles of the RCC</b>
<b>i</b>	<b>Supporting economic progress</b> Performing regulatory duties should not impede business productivity.
<b>ii</b>	<b>Risk assessment</b> Undertaking a risk assessment of all their activities.
<b>iii</b>	<b>Information and advice</b> Providing information and advice in a way that enables businesses to clearly understand what is required by law.
<b>iv</b>	<b>Inspections</b> Only performing inspections following a risk assessment, so resources are focused on those least likely to comply.
<b>v</b>	<b>Data requirements</b> Collaborating with other regulators to share data and minimising data requests on businesses by collecting information once, and using many times.
<b>vi</b>	<b>Compliance and enforcement actions</b> Applying formal enforcement actions, including sanctions and penalties, in a proportionate and transparent manner in line with the Macrory principles.
<b>vii</b>	<b>Accountability</b> Increasing the transparency of regulatory organisations by asking them to report on outcomes, costs and perceptions of their enforcement approach.

<sup>6</sup> The five principles of good regulation are consistency, transparency, proportionality, accountability and targeted. The principles were originally developed by the Better Regulation Taskforce and given statutory force under section 21 of the Legislative and Regulatory Reform Act 2006

<sup>7</sup> [www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation)

## Post implementation review of the Regulators' Compliance Code

2.1 The post implementation review of the RCC was led by the Better Regulation Delivery Office in 2012, following a similar methodology to the previous Hampton Implementation Reviews<sup>8</sup>. The review focused on gathering evidence around the principles of the code. As part of the commitment not to impose unnecessary burdens on front-line staff and businesses, the review used publicly available data and previously gathered stakeholder views as far as possible. Further details on the methodology, along with the summary findings, can be found at Annex B.

### Overarching findings

- **Regulators have broadly adopted the principles of the code and have reflected the code in their policies**
- 2.2 Feedback from national regulatory agencies and local government demonstrated that the code has been useful in formalising expectations, setting out the standard of good regulatory enforcement<sup>9</sup>. At a national level, regulators described using the code to review their activities and prioritise areas for improvement. However this tended to be a one-off exercise and there is less evidence of use of the code as a reference for continuous challenge and improvement. Many local authority regulatory services stated that they still use the earlier voluntary Enforcement Concordat as the guiding principles for their activity rather than their obligations under the code<sup>10</sup>.
- 2.3 Businesses contacted during the review felt the principles on which the code was based were generally current and relevant but there was a perception that more could be done to ensure it is fully understood and embedded at the front line<sup>11</sup>.
- **There is very low visibility and understanding of the code amongst businesses and some front line regulatory officers**
- 2.4 Business awareness of the code was shown to be low and a number of trade associations stated they referred to the Enforcement Concordat rather than the code when they sought to challenge the action proposed by a local authority. Regulators stated that, although the code was used to set organisational policies, there were varying levels of awareness amongst enforcement staff of the code itself, although they were sure that officers are operating in accordance with the principles.

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<sup>8</sup> More information on Hampton Implementation Reviews can be found at: <http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/reviewing-regulators/hampton-implementation-review-reports>

<sup>9</sup> Feedback received from BRDO Regulatory Excellence Forum

<sup>10</sup> Feedback received from BRDO Local Authority Reference Panel and telephone surveys with local authorities conducted during the post implementation review

<sup>11</sup> Local Better Regulation Office, From the Business End of the Telescope: Perspectives on Local Regulation and Enforcement, 2010, available at: [www.bis.gov.uk/brdo/business/business-publications](http://www.bis.gov.uk/brdo/business/business-publications)



- **There is evidence of variation in the accessibility and transparency of enforcement policies**

2.5 Businesses interviewed during the review were concerned about how local compliance with the code was enforced and monitored, and stressed the importance of having transparent enforcement policies. The review found considerable variation in how compliance with the code's requirements is demonstrated and in the levels, accessibility and format of information provided<sup>12</sup> to businesses and other regulated bodies.

- **The code could be clearer in its requirements and expectations of regulators**

2.6 Professional bodies representing local regulatory officers argued that many of the code's requirements are difficult to apply locally and create burdens and, as a result, wished to consider how requirements applicable to local regulators could potentially be discharged at a national or sub-national level<sup>13</sup>. Regulators have also highlighted that, as currently drafted, the code is a mixture of statements and requirements or duties and that the code could be clearer in setting out expectations.

2.7 The review also considered how far regulators had adopted the seven principles of the code; a summary of the review's findings can be found at Annex B.

- **The code has unfulfilled potential in holding regulators to account for their activities**

2.8 Businesses who have tried to use the code to hold regulators to account for their actions say that regulators' appeal mechanisms need to be strengthened to provide a clear route to raise concerns where regulation is not being delivered in accordance with the code. Businesses consider the code should be used more prominently as the standard to which businesses can hold regulators to account.

## **Outcome of the review**

2.9 In light of these findings, and evidence gathered through reviews under the Focus on Enforcement initiative, the Autumn Statement<sup>14</sup> announced the Government's intention to amend the Regulators' Compliance Code '*to ensure regulators are internally and geographically consistent, give consideration to earned recognition, and establish and offer minimum service standards*'. We propose to:

- simplify the content of the code;
- make the code more accessible to businesses and regulated bodies;
- require regulators to publish clear and detailed service standards, including a compliance and enforcement policy; and
- enable businesses, regulated bodies and citizens to hold regulators to account.

These proposals are set out in the remainder of this consultation paper.

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<sup>12</sup> Information gathered during review of local authority enforcement policies carried out by BRDO in September 2012 as part of the post implementation review

<sup>13</sup> Response to Transforming Regulatory Enforcement strategy consultation received from Association of Chief Trading Standards Officers (ACTSO)

<sup>14</sup> HM Treasury, Autumn Statement 2012, [http://www.hm-treasury.gov.uk/as2012\\_index.htm](http://www.hm-treasury.gov.uk/as2012_index.htm)

## **Draft Regulators' Code**

### **Replacing the Regulators' Compliance Code**

- 3.1 Following the conclusion of the post implementation review, it is the Government's intention to replace the RCC and the voluntary Enforcement Concordat with a new statutory code that provides a sharper focus on the Government's expectations of how regulators should deliver their enforcement responsibilities.
- 3.2 The new code will have statutory force under the Legislative and Regulatory Reform Act 2006. In replacing the RCC and the Enforcement Concordat, we will be removing duplication, simplifying guidance to regulators and providing clarity to businesses and citizens about how regulators will carry out their enforcement responsibilities.
- 3.3 The current RCC has a defined scope and applies to named regulators in the exercise of specified regulatory functions only, whereas the Enforcement Concordat has a voluntary status and has been adopted by a range of regulators, including in relation to regulatory functions not currently within the scope of the Legislative and Regulatory Reform Act 2006. We are seeking views on how to address issues of scope and applicability of the code below (see paragraphs 3.12-3.15).
- 3.4 It is proposed to name the new code the Regulators' Code. The code has been drafted to be simple and straightforward and the name of the code should reflect this. The new code and its requirements are designed for regulators, but we want to ensure that the code is accessible to a broader audience, including those subject to regulation.

**Question 1:** Do you agree that the Regulators' Compliance Code and the voluntary Enforcement Concordat should be replaced with a new simplified code?

**Question 2:** Do you agree with the name of Regulators' Code? If not, please suggest alternative titles for the code.

### **Requirements of the Regulators' Code**

- 3.5 We intend to introduce clearer requirements for regulators through the new code, replacing the combination of principles, duties and statements contained in the current RCC. We believe that a simpler set of requirements will assist regulators, making clear the Government's expectations of how enforcement will be delivered, and assist in enabling greater transparency to businesses, regulated bodies and citizens about the role of regulators in delivering prosperity and protection.
- 3.6 The requirements for regulators reflect the principles of good regulation (section 21 of the Legislative and Regulatory Reform Act 2006), the findings of the review of the RCC, systemic issues identified through recent Focus on Enforcement reviews and feedback from businesses, local authorities and national regulators. These requirements set a framework of how regulation should be delivered in a risk-based, proportionate manner that works positively with business and regulated bodies to support compliance and economic growth.

- 3.7 The requirements are structured around the following five principles, with the detail of the draft code contained at Annex A:
1. Regulators should carry out their activities in a way that helps businesses and regulated bodies to comply and grow.
  2. Regulators should provide simple and straightforward ways to communicate with those they regulate, and resolve disputes.
  3. Regulators should base their regulatory activities, including use of alternatives to enforcement, on risk.
  4. Regulators should share information about compliance and risk.
  5. Regulators should provide advice and guidance to help businesses and other regulated bodies meet their responsibilities to comply with the law.

**Question 3: Are the draft requirements of the Regulators' Code appropriate? Please provide any supporting evidence in your response.**

**Question 4: Are there additional requirements you consider important that are not captured by the draft code? Please state these and your reasons.**

### **Use of the Regulators' Code**

- 3.8 The new code has been drafted to be more direct and easier to understand by regulators and those subject to regulation. In addition to simplifying and clarifying requirements placed on regulators, we want to increase awareness of the code and ensure that its requirements are delivered by regulators in their day to day activities.
- 3.9 The code sets out the basic requirements for how regulators should deliver their enforcement responsibilities. Given the range of regulators covered by the code and the diversity of businesses and regulated entities, these requirements are principles-based, enabling regulators to be flexible and responsive in how they meet the requirements.
- 3.10 To provide assurance to business and citizens, the draft code requires each regulator to publish a set of service standards, including a compliance and enforcement policy, on an annual basis. These standards should set clear statements to regulated bodies about what they can expect in regard to regulatory enforcement. Their purpose is to help businesses and other regulated bodies easily understand what they can expect of a regulator in areas such as advice and other support for compliance, responding to stakeholder views, the professional competency of officers and setting fees and charges for services. We are interested in your views about what should be included in published service standards to meet the requirements of the draft code.
- 3.11 The Government is committed to making sure the new code is effective. To ensure that it is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published service standards. We propose a comprehensive approach to monitoring how regulators have regard to the requirements of the code as follows:

- Regulators should publish their service standards and a statement of how the requirements of the Regulators' Code are met on an annual basis.
- The requirements of the code may be used as part of ongoing reviews of regulatory bodies to assess the effectiveness of the regulator in delivering their enforcement responsibilities.
- Regulators, when challenged, should have mechanisms in place to discuss the issue and reach agreement. The Government will monitor the published service standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that service standards are lacking or inadequate.

**Question 5:** Do you agree with the principles-based approach of the code, together with the requirement for each regulator to publish detailed, specific service standards?

**Question 6:** What should be included in regulators' service standards to meet the requirements of the code and ensure that these standards enable businesses and other regulated bodies to hold regulators to account?

**Question 7:** How should regulators' compliance with the requirements of the code and their published service standards be monitored?

**Question 8:** How can the code be made more accessible to business and regulated bodies and how can they be encouraged to engage with regulators in developing policy and challenging poor practice?

### **Scope of the Regulators' Code**

- 3.12 The code currently applies to regulatory functions which are exercised by specified non-economic regulators and local authorities (listed at Annex C).
- 3.13 Section 24(3) of the Legislative and Regulatory Reform Act 2006 provides that the UK Government cannot apply the code to regulatory functions exercisable in Scotland and Northern Ireland if those functions concern a devolved matter. Section 24(4) provides that the Welsh Ministers may apply the code to regulatory functions exercisable only in or as regards Wales.
- 3.14 In 2009, the Government extended the scope of the code to specified reserved regulatory functions of local authorities in Scotland, Northern Ireland and Wales and specific *business-facing* functions of public sector regulators in England.
- 3.15 The Government believes that the draft Regulators' Code sets a clear framework for good enforcement, with clear requirements that regulators should have regard to when delivering their enforcement responsibilities. As such, it is appropriate to consider how these requirements could apply to a broader range of regulators and regulatory functions, including those delivered by local authorities, in order to increase regulatory consistency and create a level playing field for regulators and regulated organisations. This may include consideration of the range of regulators that have adopted the principles of the voluntary Enforcement Concordat, for example, business facing regulatory activity by local authorities. The UK Government will continue to work closely with the respective Governments of Wales, Scotland and Northern Ireland to ensure the Regulators' Code is applied to the broadest range of regulators and regulatory functions.

**Question 9: How should the scope of the Regulators' Code be defined?**

**Question 10: Should the scope of the Regulators' Code be amended? Please provide reasons and any supporting evidence for your answer.**

### **Guidance on the Regulators' Code**

3.16 We have set out the reasons for introducing a more direct but principles-based code, including the need to reflect the great range of regulators and regulatory functions within the current scope of the code and the Government's commitment to reducing unnecessary direction from the centre. Regulators would be required to have regard to the requirements of the code, but would have flexibility and freedom in how they meet them. This flexibility is important to ensure that regulators are responsive to the varied needs of the businesses and other bodies they regulate.

3.17 To assist regulators in applying the code, we propose that it should be supported by practical tools and examples of good practice from regulators about how the requirements of the code are being delivered. This will include guidance on the proposed new growth duty for national regulators and how it can be applied in practice. It will also include a glossary of key terms used in the code to promote common understanding. This repository will build on existing examples of good practice informally shared amongst regulators.

3.18 We have also stated the ambition to increase awareness of the code amongst businesses and regulated bodies, and propose to produce a short introductory guide to the code specifically for this audience. This will not replace the requirement for regulators to publish their own information for businesses and regulated entities, but provide an accessible guide to the purpose and content of the Regulators' Code.

**Question 11: Do you agree with this approach to providing guidance on the code?**

## Consultation questions

- Question 1:** Do you agree that the Regulators' Compliance Code and the voluntary Enforcement Concordat should be replaced with a new code?
- Question 2:** Do you agree with the name of Regulators' Code? If not, please suggest alternative titles for the Code.
- Question 3:** Are the draft requirements of the Regulators' Code appropriate? Please provide any supporting evidence in your response.
- Question 4:** Are there additional requirements you consider important that are not captured by the draft code? Please state these and your reasons.
- Question 5:** Do you agree with the principles based approach of the code, together with the requirement for each regulator to publish detailed, specific service standards?
- Question 6:** What should be included in regulators' service standards to meet the requirements of the code and ensure that these standards enable businesses and other regulated bodies to hold regulators to account?
- Question 7:** How should regulators' compliance with the requirements of the code and their published service standards be monitored?
- Question 8:** How can the code be made more accessible to business and regulated bodies and how can they be encouraged to engage with regulators in developing policy and challenging poor practice?
- Question 9:** How should the scope of the Regulators' Code be defined?
- Question 10:** Should the scope of the Regulators' Code be amended? Please provide reasons and any supporting evidence for your answer.
- Question 11:** Do you agree with this approach to providing guidance on the code?



Department  
for Business  
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**Annex A: Draft Regulators' Code**

**Regulators' Code**  
**Draft for Consultation**

## Requirements for regulators

This Code is published in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). As required by the Act, regulators whose functions are specified by order under section 24(2) of the Act **must** take into account and give due weight to the following requirements when developing policies and operational procedures, setting standards, or giving guidance on enforcement. If a regulator chooses not to follow the requirements of the Code, they should be able to justify this using material evidence.

Regulators should publish a set of clear standards, including a compliance and enforcement policy, explaining how they will apply the requirements of the Code in practice. These standards should clearly set out what businesses and regulated bodies should be able to expect from regulators. Standards should cover areas including providing advice and other support for compliance, responding to stakeholder views, setting fees and charges and the professional competency of officers. Service standards, including compliance and enforcement policies, should be published and easily accessible, including on the regulator's website, and clearly 'labelled' as to when they were last reviewed and the date of the next review.

Regulators should publish details of their performance against their service standards, including examples of innovative practice and reasons why any standards have not been met.

Regulators should ensure that all enforcement staff understand the requirements of the Regulators' Code and how they are delivered through their published service standards. Enforcement decisions taken by regulators should be made in accordance with their service standards and compliance and enforcement policies.

### **1. Regulators should carry out their activities in a way that helps businesses and regulated bodies to comply and grow**

1.1 Regulators should avoid creating unnecessary regulatory burdens whilst carrying out their enforcement duties.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should do so in a way that supports or enables economic growth<sup>15</sup>, for example, by considering how they can best:

- reduce business costs;
- help those they regulate to design simple and cost-effective compliance solutions to improve confidence and day to day management control; and
- secure wider economic benefits to society.

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<sup>15</sup> This does not mean noncompliant or illegal economic activity that undermines markets to the detriment of consumers, the environment and legitimate business.



- 1.3 Regulators should consider the impact of their approaches to compliance and enforcement on economic growth, considering the costs and effectiveness of the approach alongside potential costs to society and the environment from noncompliance<sup>16</sup>. Regulators should consider whether similar social, environmental and economic outcomes could be achieved by less burdensome means.
- 2. Regulators should provide simple and straightforward ways to communicate with those they regulate, and resolve disputes**
- 2.1 Regulators should have mechanisms in place to communicate with businesses, regulated bodies and citizens, and for businesses and citizens to contact the regulator.
- 2.2 Regulators should clearly explain the purpose of any interactions they have with those they regulate and what business and regulated bodies can expect from the regulator.
- 2.3 Regulators should have mechanisms in place to allow businesses, regulated bodies, representative bodies and citizens to offer views and contribute to the development of policies and service standards.
- 2.4 Regulators should commit to early dialogue with those they regulate to resolve issues or address noncompliance.
- 2.5 Regulators should offer an open, independent, impartial and transparent appeals procedure<sup>17</sup>.
- 2.6 Regulators should clearly advertise ways to challenge or appeal against a regulatory decision. This should include the option to discuss and receive advice about decisions taken.
- 2.7 Regulators should regularly publish data on the number of complaints about them or appeals against decisions made and the proportion of those complaints or appeals that are upheld in whole or in part. This data should be published at least annually.
- 2.8 Regulators should regularly carry out customer satisfaction surveys, including common questions which will be suggested by the Government, using a sample from all those contacted during the year. They should publish the results on an annual basis.
- 2.9 Regulators should publish clear and transparent information on their fees and charges, explaining clearly the basis on which fees are calculated, both in principle and where relevant, to individual regulated bodies. Regulators should ensure that this information is easily accessible to businesses and regulated bodies.
- 3. Regulators should base their regulatory activities on risk, including the use of alternatives to enforcement**
- 3.1 Regulators should allocate resources based on an assessment of the priority risks in their area of responsibility.

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<sup>16</sup> From January 2013 a number of regulators will participate in the first phase of a new system where regulators will quantify and consult with industry on the scale of new impacts each regulator has on business (both increases and decreases in costs).

<sup>17</sup> Government is currently consulting upon the impact of non-economic regulator appeals processes as part of the Focus on Enforcement initiative. Early findings of this work have been referenced in these draft proposals, which are subject to revision in the light of further evidence received during the consultation.

- 3.2 Regulators should consider risk at every stage of their decision making processes. This process includes choosing the most appropriate type of intervention or way of working with those regulated, targeting checks on compliance and taking enforcement action.
- 3.3 Regulators should consider a full range of regulatory and non-regulatory approaches to achieve outcomes, including using the power of informed citizens and well functioning markets.
- 3.4 Regulators should demonstrate that they understand the sectors they regulate, including differing approaches to compliance taken by businesses and regulated bodies, by selecting appropriate and effective enforcement approaches.
- 3.5 Regulators should evaluate and demonstrate the effectiveness of their chosen approaches to compliance and enforcement.
- 3.6 Regulators should recognise the efforts made by those they regulate to comply, enabling earned recognition, and take account of the use of non-regulatory standards verified by accredited assurance bodies in deciding enforcement approaches.
- 3.7 Regulators should have mechanisms to consult with businesses, regulated bodies and representative bodies about risk assessment and risk rating approaches. Clear risk assessment methodologies and risk ratings should be published, easily accessible and reviewed regularly by the responsible regulator.
- 3.8 Regulators should publish details of their approach to checks on compliance, including inspections, to clearly set out what businesses and regulated bodies should be able to expect. These details should cover the circumstances in which inspections or visits will or will not be announced in advance, and an assurance that feedback, ideally written, will be provided. They should also set out what can be expected during an inspection or visit, including showing identification, explaining the purpose of the visit and how it will be carried out. They should explain next steps including how feedback will be provided by the regulator and how to appeal.

#### **4. Regulators should share information about compliance and risk**

- 4.1 Regulators should follow the principle of collect once, use many times when requesting information from businesses and other regulated bodies.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.
- 4.3 Regulators should consider appropriate information from non-regulatory bodies, such as accredited assurance bodies, as part of an assessment of business compliance and risk and use of earned recognition approaches.

#### **5. Regulators should provide advice and guidance to help businesses and other regulated bodies meet their responsibilities to comply with the law**

- 5.1 Regulators should ensure that advice and guidance is readily available<sup>18</sup> and focused on assisting businesses and other regulated bodies in understanding their obligations, and should consider the impact of any advice and guidance so that it does not impose unnecessary burdens in itself.

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<sup>18</sup> The [Government Digital Strategy](#) sets out how government will redesign its digital services, including moving to a single gov.uk website, to make information more accessible.

- 5.2 Regulators should publish guidance and information in a clear, accessible, concise format, using a range of media and written in plain language.
- 5.3 Regulators should have mechanisms in place to consult businesses, regulated bodies and business representative bodies, prior to publication, when developing guidance. Mechanisms should also be in place to co-publish guidance with business or business representative bodies to ensure that it meets the needs of business.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in advice received and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concern should be to provide the reliable advice and guidance necessary to help ensure compliance, and to do so in a manner that enables businesses and regulated bodies to rely on the advice they receive.
- 5.6 Regulators should have mechanisms to work collaboratively to assist businesses and other bodies regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

### **Monitoring the effectiveness of the Regulators' Code**

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published service standards.

Regulators, when challenged, should have mechanisms in place to discuss the issue and reach agreement. The Government will monitor the published service standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that service standards are lacking or inadequate.

## **Annex B: Summary findings of the post implementation review of the Regulators' Compliance Code**

### **PURPOSE OF THIS DOCUMENT**

A public consultation was carried out in mid-2011 on guiding principles and specific areas for reform, as part of developing the Government's Transforming Regulatory Enforcement strategy. Included in the consultation were two questions relating to the Regulators' Compliance Code (the Code). Firstly, whether it had been referred to by businesses when addressing an issue with a regulator and secondly, in what ways it could be enhanced to improve the delivery of regulatory services. Over 100 businesses, local authorities, national regulators, other government departments, professional bodies and trade associations responded. Findings indicated that the profile of the Code was too low, and that it lacked the power to transform the way in which regulation is delivered.

The Government published the strategy for Transforming Regulatory Enforcement in December 2011 and, in light of these results, committed to carrying out a Post Implementation Review of the Code to examine its potential to improve the transparency of regulators and their accountability to businesses.

The review has been led by the Better Regulation Delivery Office (BRDO), a new organisation within BIS focusing on improving regulatory enforcement. This document summarises the evidence gathered and analysis carried out during the review, highlighting its impact to date on regulatory enforcement and its potential for further development. The findings are intended to serve as a developing evidence base to support ministers in considering the future potential of the Code.

### **METHODOLOGY**

The review followed a similar methodology to the previous Hampton Implementation Reviews<sup>19</sup>, and focused on gathering evidence around the principles of the Code. As part of the commitment not to impose unnecessary burdens on front-line staff and businesses, the review has used publicly available data and previously gathered stakeholder views as far as possible. However between May and August 2012 all of BRDO's stakeholder reference panels were asked for their views on the Code. These panels cover business representative bodies including the BRC, FSB, BCC and sector based trade associations, 25 local authorities and 8 national regulators<sup>20</sup>. Additional views were sought from other government departments, including DEFRA and CLG, and bodies such as Citizens Advice and Trades Union Congress. In addition, a short web based review of local authority enforcement policies was undertaken.

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<sup>19</sup> More information on Hampton Implementation Reviews can be found at: <http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/reviewing-regulators/hampton-implementation-review-reports>

<sup>20</sup> The Regulatory Excellence Forum comprises: Animal Health and Veterinary Laboratories Agency; Association of Port Health Authorities; Better Regulation Executive, BIS; Chartered Institute of Environmental Health; Chief Fire Officers Association; Consumer and Competition Policy Directorate, BIS; Department for Communities and Local Government; Department for Environment, Food and Rural Affairs; Environment Agency; Food Standards Agency; Gambling Commission; Health and Safety Executive; Institute of Licensing; Intellectual Property Office; Local Government Association; National Measurement Office; National Trading Standards Board; Office of Fair Trading; Trading Standards Institute; Welsh Government

This was supplemented by reference to the large existing evidence base on the behaviour of regulators including the Hampton Implementation Reviews of national regulators, which used the Code as a benchmark for assessment, and previous work done by the Local Better Regulation Office to draw together the views of businesses and evaluate changes in regulatory culture and practice.<sup>21</sup>

We have also drawn on relevant findings of other BIS departmental work such as the Business Perceptions of Regulation Survey 2012, in which 2,000 businesses were surveyed, providing statistically robust data. Evaluation evidence was also drawn on, such as the Retail Enforcement Pilot. This involved over 35 local authorities and included in-depth interviews with businesses and two focus groups with a diverse range of business stakeholders.<sup>22</sup>

These various sources provide a wide evidence base, both quantitative and qualitative, from a range of different stakeholders and data sources, acting as background for analysis to support further development work.

## EXECUTIVE SUMMARY

### Background

1. The Code is currently an integral part of the overall framework for improving regulation, setting out the principles for effective enforcement. With its roots in the principles of good regulation, the Code already has a strong alignment with Coalition Government priorities for greater accountability and transparency of public services to citizens and businesses. It promotes a consistent, targeted and risk based approach to enforcement that minimises the burdens on compliant, well run businesses.
2. Since the publication of the Code, there has been significant focus on regulatory enforcement including, for example, the introduction of the Regulatory Enforcement and Sanctions Act 2008 and Primary Authority scheme to improve local authority consistency, sector based reviews and efforts to improve data collection. From 2007 to 2009 the Better Regulation Executive (BRE) carried out Hampton Implementation Reviews that used the Code as a benchmark to review progress in implementing better regulation in 36 national regulators.
3. As a result of this focus, it is difficult to attribute any change in regulatory practice and culture solely to the introduction of the Code. This was acknowledged in the original Impact Assessment which anticipated that, as a *framework*, the Code could be an important contributory factor to change.

### Overarching findings

4. Looking at the Code itself, at a policy level, national and local authority regulators have generally accepted the Code and its principles based approach. This is exemplified in the feedback from regulators that the Code made them take stock of their approaches, a process which many found very useful when updating their policies. National regulators have by and large adopted the principles of the Code into their enforcement policies, which can be traced in part to the impact of the Hampton Implementation Reviews. Local authorities however do not reflect the principles consistently in their enforcement policies, which are also often hard to locate on local authority websites.

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<sup>21</sup> For example, Business End of the Telescope 2010; Age Restricted Products Report 2010; Use by dates report 2011; Business perceptions surveys 2008 and 2012.

<sup>22</sup> [www.bis.gov.uk/assets/brdo/docs/publications-2009/09-1662-rep-methodology.pdf](http://www.bis.gov.uk/assets/brdo/docs/publications-2009/09-1662-rep-methodology.pdf)

5. Whilst at a policy level regulators appear to have adopted the principles of the Code, the extent to which regulators perceive their role as supporting business growth is not consistent. Whilst the Code contains the principle that regulators should support economic progress, regulators consistently see their role as primarily to protect consumers and citizens.
6. Business representatives are critical that the Code has failed to promote more open and early dialogue with regulators. Part of the issue is that visibility of the Code amongst businesses is low – many businesses consulted had little or no knowledge of the Code's existence for example.
7. The other issue businesses cite is that the Code does not apply to individual enforcement actions. Those businesses who have tried to use the Code to hold regulators to account for their behaviour say that regulators' appeal mechanisms need to be strengthened to provide a clear route to raise concerns where regulation is not being delivered in accordance with the Code. It is worth noting that businesses see the Code as having unfulfilled potential as the standard to which businesses can hold regulators to account for their behaviour.
8. A further criticism from businesses is that the Code is not comprehensive in the regulators or legislation that it covers. At a national level, the Code has a broad coverage of regulators, although this does not yet reflect recent changes in the responsibilities of national bodies, nor incorporate many organisations that carry out regulatory-type functions that impact on business or other regulatory bodies. At a local level, planning and building control are regularly cited by businesses as being burdensome and inconsistent, but are not within the scope of the Code.
9. The Code is structured around seven principles and a brief summary of the review's findings against each is given in the table below:

*Table 1. Post Implementation Review summary findings*

	<b>Principle of the Code</b>	<b>Review Finding</b>
<b>i</b>	<p><b>Supporting economic progress</b></p> <p>Performing regulatory duties should not impede business productivity.</p>	<p>Supporting economic growth is seen as a secondary function by regulators, if at all; their primary statutory purpose is to protect.</p> <p>Businesses are not seen as customers.</p> <p>Beyond some isolated examples, regulators lack the tools or evidence to tailor their activities to support growth.</p>
<b>ii</b>	<p><b>Risk assessment</b></p> <p>Undertaking a risk assessment of all their activities.</p>	<p>Regulators state that risk assessment is routinely used to target activity; however methodology is not clearly set out in enforcement policies and thus is not visible.</p> <p>Earned recognition is not yet built in to regulators' risk assessments.</p>

iii	<p><b>Information and advice</b></p> <p>Providing information and advice in a way that enables businesses to clearly understand what is required by law.</p>	<p>Businesses routinely use third parties to provide advice, often paid for, and having assurance that they can rely on advice they receive is important. Businesses are often reluctant to approach regulators for advice for fear of sanction. However when advice is sought from local authorities, businesses are often satisfied. National regulators provide information via their websites; however they can be reluctant to provide advice tailored to a specific business situation. Businesses are sometimes consulted when guidance is being developed, but not consistently.</p>
iv	<p><b>Inspections</b></p> <p>Only performing inspections following a risk assessment, so resources are focused on those least likely to comply.</p>	<p>Inspections can be valued by businesses, as an opportunity to obtain advice and guidance (although this can differ between sectors). The quality of officers' approaches during inspections can vary markedly. Risk assessment drives inspection activity, however mechanisms to ensure inspections are as joined up as possible are patchy. There is scope for greater focus on selection of the right <i>intervention</i> rather than just focusing on inspections.</p>
v	<p><b>Data requirements</b></p> <p>Collaborating with other regulators to share data and minimising data requests on businesses by collecting information once, and using many times.</p>	<p>This remains the greatest challenge for regulators to implement – legal issues are often cited as reasons why data cannot be shared.</p> <p>Businesses continue to cite this as the most burdensome aspect of complying with regulation.</p>
vi	<p><b>Compliance and enforcement actions</b></p> <p>Applying formal enforcement actions, including sanctions and penalties, in a proportionate and transparent manner in line with the Macrory principles</p>	<p>Regulators and businesses all support the provision of proportionate and effective sanctioning regimes – ensuring that there is fair competition and no commercial advantage to be gained from noncompliance. However businesses find that it can be very difficult to have a productive dialogue ahead of formal enforcement action. Regulators have concerns about whether there are credible alternatives to prosecution.</p>
vii	<p><b>Accountability</b></p> <p>Increasing the transparency of regulatory organisations by asking them to report on outcomes, costs and perceptions of their enforcement approach.</p>	<p>The transparency of regulators' activities and outcomes is poor; very few businesses feel able to complain about the way regulation is enforced. Some regulators have created mechanisms to routinely consult their business stakeholders, but not all.</p>

## BACKGROUND TO THE POST IMPLEMENTATION REVIEW

The Regulators' Compliance Code has a statutory basis in the Legislative and Regulatory Reform Act 2006 and was first published in 2008 in accordance with section 23 of the Act. The Act also provides that regulators must consider the five principles of good regulation originally developed by the Better Regulation Taskforce (consistency, transparency, proportionality, accountability and targeting) when exercising their specified regulatory functions. As such, the Code sits as part of the underpinning framework for policy direction regarding regulatory enforcement.

The Code was drafted in response to the 2005 Hampton Review<sup>23</sup> of inspection and enforcement in the UK, which proposed a series of principles for regulatory enforcement based on a risk-based and proportionate approach to improving the outcome of regulation without imposing unnecessary burdens on business.

The original objectives of introducing the Code were to promote efficient and effective approaches to regulatory inspection and enforcement. The Code encourages regulators to perform their duties by planning regulatory interventions in a way that causes least disruption to the economy. It emphasises the need for regulators to adopt a positive and proactive approach to help businesses understand and meet their regulatory requirements, and to respond in a proportionate way to non-compliance.

The Regulators' Compliance Code is a statutory code of practice concerning the exercise of regulatory functions. It was first published in 2008 in accordance with section 23 of the Legislative and Regulatory Reform Act 2006. The RCC currently applies to regulatory functions which are exercised in England by specified non-economic regulators and local authorities, and following an extension of the legislation in 2009, it also applies to regulatory functions exercised by local authorities in Wales, Scotland and Northern Ireland in relation to reserved UK matters<sup>24</sup>.

Those regulators and local authorities are required to have regard to the provisions of the code in determining general policies or principles, such as their standards, guidance and compliance and enforcement policies. The code does not apply at the operational level of individual cases or decisions made by regulatory officers.

The Principles of Economic Regulation<sup>25</sup>, first published in April 2011, pose similar requirements to the Regulators' Compliance Code on economic regulators in that the Principles set out characteristics of a successful framework for regulation.

The Code was placed on a statutory footing in response to the Hampton Review which found the earlier voluntary Enforcement Concordat<sup>26</sup> was not working effectively. Although the vast majority of organisations had accepted and adopted the Concordat, wide variations and inconsistency in its implementation were found and business had no mechanism for monitoring regulators' adherence to the Concordat. The Regulators' Compliance Code was made statutory, building on many of the principles contained in the voluntary Concordat but, significantly, the Code did not replace the Concordat.

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<sup>23</sup> <http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/assessing-our-regulatory-system>

<sup>24</sup> The question of extension of the Code in Wales is the subject of a separate, accompanying review commissioned by the Welsh Government, also being carried out by BRDO.

<sup>25</sup> [www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation)

<sup>26</sup> [www.lbro.org.uk/docs/regulators-compliance-code.pdf](http://www.lbro.org.uk/docs/regulators-compliance-code.pdf)



The introduction of a statutory Code, with an emphasis on transparency and accountability to business, was intended to drive a change in regulator behaviour that would deliver real benefit to businesses, regulators and society more generally. It was anticipated that as regulators integrated the standards of the Code into their culture and processes, regulatory enforcement would become more efficient and effective.

A primary aim of the Code was developing a cultural change advocated by Hampton; enacting a shift towards regulators adopting a positive and pro-active approach to helping businesses understand and meet their regulatory requirements. The ambition was to create a culture of regulation that is accountable, transparent and customer focused, an ambition even more critical to current priorities for regulatory enforcement and wider public service reform.

## THE POST IMPLEMENTATION REVIEW FINDINGS

### Overarching findings

As a framework, the Code is central to improving the way regulatory enforcement is delivered. Business perception data shows that whilst the burden of new and existing regulations remains a concern to business, the impact of regulatory changes largely depends on the way in which they are communicated and delivered on the ground<sup>27</sup>.

Businesses contacted during the review felt the principles on which the Code was based were generally current and relevant but there was a perception that more could be done to ensure it is fully understood and embedded at grass roots level.<sup>28</sup>

Business representative bodies expressed concerns over the limitations of the Code in operating only at a policy level and the barriers this creates in holding regulators to account. The British Retail Consortium commented that the Code *'is not fit for purpose... it should apply directly to enforcement decisions and not via a process of being applied to regulators own codes of practice and then at third hand to decisions on the ground. We said that such a process would lead to it being ineffective – and we were right. There is no point in referring to it in individual cases because it is not supposed to cover individual cases'*<sup>29</sup>.

Businesses interviewed during the review were concerned about how local compliance with the Code was enforced and monitored, and stressed the importance of having transparent enforcement policies. Twenty local authority websites were reviewed to assess the extent to which their enforcement policies were accessible and comprehensive regarding the requirements of the Code<sup>30</sup>. Findings showed that policies were not always easy to locate and did not always reflect the requirements of the Code.

- An enforcement policy could not be located on 15 per cent of local authority websites reviewed
- Of those published, there was considerable variation in how compliance with the Code's requirements is demonstrated and levels and format of information provided<sup>31</sup>.

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<sup>27</sup> LBRO, Business End of the Telescope, 2010

<sup>28</sup> LBRO, Business End of the Telescope, 2010

<sup>29</sup> Response to Transforming Regulatory Enforcement consultation from British Retail Consortium

<sup>30</sup> A random sample of local authority websites, incorporating unitary, upper and lower tier authorities, were selected. Authorities were selected from England only given the differing application of the Code to Welsh local authorities.

<sup>31</sup> BRDO review of local authority enforcement policies, September 2012

- A small number of enforcement policies covered the majority of the principles contained in the Code, however, none of the policies found were comprehensive.
- The majority were not easily located on local authority websites without using the search facility and most did not include a date of publication or review date.

Feedback from national regulatory agencies and local government is that the Code has been useful in codifying expectations, setting out clearly the standard of good regulatory enforcement<sup>32</sup>. At a national level, regulators described using the Code to review their activities and prioritise areas for improvement, however, this was often regarded as a discrete exercise, for example in preparation for the Hampton Implementation Reviews. There is less evidence of use of the Code as a reference for continuous challenge and improvement. Regulatory agencies created since the introduction of the Code cited it as a useful framework for designing effective regulatory services, whilst others stated they used the Code's principles in service design rather than the Code itself.

Many local authority regulatory services say they still use the earlier voluntary Enforcement Concordat as the guiding principles for their activity and argue that compliance with the Concordat meets their obligations under the Code<sup>33</sup>. In the Transforming Regulatory Enforcement consultation, a number of trade associations stated they referred to the Concordat rather than the Code when seeking to challenge the action proposed by a local authority, as they were unaware of the Code. To reduce this confusion voluntary Concordat could be replaced by a revised statutory Code, creating a single framework setting out Government expectations regarding regulatory enforcement. to have one standard framework. This approach is supported by the British Retail Consortium. . .

Professional bodies representing local regulatory officers have argued that 'many of the Code's requirements are difficult to apply locally and create burdens. This concern reflects broader issues within local delivery, including issues of capacity in a time of resource pressure and the complexity of interaction between local and national delivery responsibilities. However, regarding the Code, these bodies wish to consider how requirements applicable to local regulators could potentially be discharged at a national or sub national level<sup>34</sup>. Regulators have also highlighted that, as currently drafted, the Code is a mixture of statements and requirements or duties.

Of other beneficiaries of good regulation, feedback from citizen and other representative bodies is largely supportive of the Code, agreeing with the principles on which it is founded<sup>35</sup>. However, there was a strong view that accountability provisions are insufficient and public awareness of the Code is too low for it to be used effectively as a mechanism to hold regulators to account when they propose unnecessarily burdensome enforcement. There was also a strong view that in moving away from a culture of tick box compliance towards a focus on real risks, the Code could make clear reference to the purpose of regulation in protecting citizens and business, delivering outcomes and supporting fair competition<sup>36</sup>.

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<sup>32</sup> Feedback received from BRDO Regulatory Excellence Forum

<sup>33</sup> Feedback from BRDO Local Authority Reference Panel and telephone surveys with local authorities conducted during the review

<sup>34</sup> Response to Transforming Regulatory Enforcement strategy consultation received from Association of Chief Trading Standards Officers (ACTSO)consultation response

<sup>35</sup> Feedback from BRDO Representative Steering Group

<sup>36</sup> Feedback from Citizens Advice and Trade Unions Congress

## **Specific Findings on Principles of the Code**

Turning to looking specifically at the each of the principles of the Code:

### **1. Economic progress**

#### **Review Findings**

The general view amongst regulators is that their primary role is to deliver protection for consumers, citizens and the environment, while supporting economic growth is a secondary function. In particular, national regulators operating with a clearly defined statutory role set out in their establishing legislation do not view this as consistent with a role in promoting economic growth. Where regulators are thinking about their role in regard to economic growth, their view often seems to be that this role is a subsidiary one that is at best contributory, rather than a direct stimulator to growth<sup>37</sup>.

Several evidence bases<sup>38</sup> demonstrate that regulators do not widely understand the notion of businesses as customers, although some regulators state that customer insight thinking is used in developing their enforcement strategies.

#### **Discussion/Analysis**

The Code states that 'regulators should consider the impact that their regulatory interventions may have on economic progress, including through considerations of the costs, effectiveness and perceptions of fairness of regulation'. A particular approach or intervention should only be pursued if the benefits justify the costs and it imposes the minimum burden on business. The review findings suggest that this is currently not the approach being taken by regulators.

### **2. Risk assessment**

#### **Review Findings**

The Code encourages regulators to ensure that regulatory efforts and resources are targeted where they will be most effective and the risks are the greatest. Risk assessment should be based on relevant data, including previous compliance records and willingness to comply. Evidence from national regulators and local authorities illustrates that forms of risk assessment methodologies are in widespread use in some regulatory areas, however they lack the breadth, transparency and scope required to make a significant impact.

A number of different risk assessment schemes are in operation by national and local regulators<sup>39</sup>. This results in a lack of transparency to business, unnecessary inspections and inefficient use of regulatory effort<sup>40</sup>. Risk assessments are carried out before inspections by the vast majority of authorities, but the degree to which the methodology used to assess the risk rating of the business is explained in an enforcement policy is very limited<sup>41</sup>. Engagement with businesses when developing risk assessment approaches appears limited, as does consultation before risk based approaches are implemented<sup>42</sup>.

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<sup>37</sup> Findings of the initial Focus on Enforcement reviews and identification of systemic issues.

<sup>38</sup> Feedback from BRDO Business Reference Panel, Focus on Enforcement reviews, telephone surveys, business perception surveys

<sup>39</sup> LBRO, Common Approach to Risk Assessment, 2010

<sup>40</sup> LBRO, Common Approach to Risk Assessment, 2010

<sup>41</sup> BRDO review of local enforcement policies

<sup>42</sup> Feedback received from the Chief Fire Officers Association

Businesses interviewed were keen to see regulatory-type requirements, such as codes of practice, standards and accreditation, considered as an illustration of their commitment to compliance and taken into consideration during risk assessment for the purpose of earning recognition. There is evidence of overlap between 'core' regulation and regulatory-type requirements and some evidence of burden that can be associated with non-statutory regulation<sup>43</sup>. Business interviewees believed that regulators in their industry were primarily concerned with 'core' regulation alone and do not have a good understanding of non-statutory requirements.

Trade associations have cited the need to extend the Code to require regulators to introduce co-regulatory approaches. They would like regulators to recognise the accredited schemes of which businesses can take advantage. They report that there is an opportunity for regulators to make greater use of these in enforcing regulation and to provide recognition for efforts taken to comply with regulations<sup>44</sup>.

### **Discussion/Analysis**

A risk based approach to regulation should concentrate resources in the areas that need them most. Whilst forms of risk assessment methodologies are in use, there is scope for them to be applied more broadly by regulators, and for greater use to be made of earned recognition and co-regulatory approaches. Currently use of risk assessment is at times narrow, concentrated on targeting inspections and making decisions on enforcement action.

Work is in train in this regard, for example the members of BRDO's Regulatory Excellence Forum<sup>45</sup>, are working to introduce greater commonality in risk assessment schemes and encourage greater transparency to businesses regarding their risk ratings.

### **3. Advice and guidance**

#### **Review Findings**

The Code states that regulators should provide general information, advice and guidance to make it easier for businesses to understand and meet their regulatory requirements. The advisory role of regulators is an expectation of businesses: 84% of businesses surveyed thought that the role of regulators was to enforce regulations and to provide advice rather than to enforce rules and regulations only<sup>46</sup>.

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<sup>43</sup> GHK. Business experience of regulatory type burdens imposed by non regulatory bodies, Early Headline Findings Report- Summary, September 2012

<sup>44</sup> Government response to the Transforming Regulatory Enforcement Consultation, December 2011.

<sup>45</sup> [www.bis.gov.uk/brdo/partners/regulatory-excellence-forum](http://www.bis.gov.uk/brdo/partners/regulatory-excellence-forum)

<sup>46</sup> Business Perception Survey 2012, page 21:

[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

Businesses find the most burdensome aspects of regulation are accessing information about which regulations apply to their business and keeping up to date with the introduction of new regulations<sup>47</sup>. The sources of information and advice used by businesses in complying with regulation are varied, but insufficient advice from regulators was a key reason leading them to use external agents. Around half of businesses have used trade associations, insurance companies and accountants to help them comply with regulation whilst only one in three businesses surveyed mentioned their local council and around a quarter mentioned a government department as sources of advice<sup>48</sup>. Evidence suggests that a contributory factor in businesses' reluctance to approach regulators for advice and guidance is a fear of the potential consequences<sup>49</sup>.

Where businesses have received advice and guidance from a local authority regulator, there is generally a high level of satisfaction with the officer's explanation of what businesses need to do to comply with the legal requirement. However, businesses are keen to receive advice that is assured, in that the advice can be relied upon and will be respected by other regulators.

While there were high levels of satisfaction with advice received from regulators, findings regarding stakeholder involvement in drafting and setting advice and guidance was more mixed. The Code contains requirements for regulators to consult with businesses and other regulated bodies before issuing advice and guidance. The review of local authority enforcement policies carried out during the review gave an overriding sense that business views or involvement were not routinely sought, and that diverse customer needs were not always considered with regard to the provision of advice and guidance<sup>50</sup>.

Regarding perceived inconsistency of advice provided by local councils, evidence suggests an improvement since the introduction of Primary Authority and the ability for primary authorities to provide assured advice that is respected by other local authorities. The proportion of businesses that considered the advice to be inconsistent has decreased from 33% in 2008 to 19% in 2012<sup>51</sup>. Around two-thirds (63%) of businesses dealing with more than one local council feel that the advice they receive from the various councils is consistent.

## Discussion/Analysis

The Code envisages a role for business and regulated entities in developing both the content and style of regulatory advice and guidance. This was a requirement supported by the Anderson Review of Government Guidance on Regulation<sup>52</sup>, published in 2009, and given stronger emphasis through the Transforming Regulatory Enforcement strategy. However, the concept of co-producing guidance with industry is not yet embedded in all regulatory agencies.

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<sup>47</sup> Business Perception Survey 2012, page 7:  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>48</sup> Business Perception Survey 2012, page 7:  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>49</sup> Leicester and Leicestershire LEP baseline business survey.

<sup>50</sup> BRDO review of local authority enforcement policies

<sup>51</sup> Business Perception Survey 2012, page 8:  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>52</sup> <http://webarchive.nationalarchives.gov.uk/http://www.berr.gov.uk/whatwedo/bre/reviewing-regulation/The%20Anderson%20Review/page45278.html>

In the Transforming Regulatory Enforcement strategy, there was a commitment to consider using the Code as a means of clarifying the concept that no business should face a sanction for simply having asked a regulatory authority for advice and to extend Primary Authority as a mechanism to enable more businesses to benefit from assured advice.

#### **4. Inspections and other visits**

##### **Review Findings**

Businesses surveyed expressed the significant benefits of an integrated approach to regulation. They stressed that inspections by enforcement officers were not always a burden, but could be an opportunity to seek guidance and advice from professional officers. For example, some branches of national retailers stated that they valued inspections by local authority regulatory services, viewing them as an extra pair of eyes and a validation of their compliance procedures. In some circumstances, some SMEs also saw inspections as an opportunity to receive validation of their efforts in achieving compliance<sup>53</sup>. However this attitude regarding the potential value of inspections does differ by sector, for example the farming sector, which is heavily regulated and inspected by a number of different regulators, was more negative about the value of inspection. Generally, the issues raised were around how inspections are carried out, not necessarily the fact of the inspection<sup>54</sup>.

Evidence from regulators supports these findings. Given the shift away from inspection as the primary tool to secure compliance, there is a stronger emphasis on selecting the most appropriate type of intervention or response or using alternatives to enforcement. However, regulators argued that the language of inspection can be very negative and reinforce misconceptions of its purpose. There is a lack of shared understanding and common language around key terms such as visits, inspections, interventions and alternatives to state regulation, including co-regulation and earned recognition.

##### **Discussion/Analysis**

Inspections should not take place without a reason, and the Code emphasised that inspections must be targeted on the basis of risk. The Retail Enforcement Pilot was established to encourage new risk based approaches to reduce unnecessary burdens on retailers, whilst maintaining protection for consumers and employees. The pilot brought together business, central government policy owners and local authority officers to work collectively on identifying and testing new ways of working, but evaluation of the pilot also provided business views of such approaches<sup>55</sup>.

Regulators have made significant progress in embedding risk based approaches to inspection activity and although inspection levels in certain regulatory functions have reduced it is not clear whether this has been driven by sound analysis or whether pressure on resources has forced regulators toward a more haphazard reduction in the number of programmed, routine inspections.

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<sup>53</sup> LBRO, Business Experiences of the Retail Enforcement Pilot

[www.lbro.org.uk/resources/docs/rep-cred-summary-rf.pdf](http://www.lbro.org.uk/resources/docs/rep-cred-summary-rf.pdf)

<sup>54</sup> Macdonald Review [www.defra.gov.uk/food-farm/farm-manage/farm-regulation](http://www.defra.gov.uk/food-farm/farm-manage/farm-regulation)

<sup>55</sup> [www.bis.gov.uk/assets/brdo/docs/publications-2010/10-1407-rep-lessons-learned.pdf](http://www.bis.gov.uk/assets/brdo/docs/publications-2010/10-1407-rep-lessons-learned.pdf)

## **5. Information requirements**

### **Review Findings**

Feedback from regulators during this review has been that the Code's standards are difficult to meet. In particular the Code's suggestion that regulators should only request data from businesses once and should facilitate the co-ordinated collection and sharing of data was highlighted as a difficulty. There remain concerns about the legalities of data sharing, as evidenced through exploratory work by LBRO to consider the establishment of an enforcement actions database<sup>56</sup> and also issues regarding incompatible electronic databases.

Businesses report that the requirement for providing information remains the most burdensome aspect of complying with regulation, particularly where information is requested more than once<sup>57</sup>.

### **Discussion/Analysis**

Integral to a risk based approach is effective use of data and information and the Code's requirements regarding information seek to balance the need to collect information with minimising the burdens this can generate for business. There is ongoing work amongst the DEFRA regulators focusing on improving data transparency and reducing burdens on business. The project aims to move towards a much simpler data transaction process that will enable business to report the required information to a single place at a single time, allow others who need to capture this information to access it and link it with other sources. This approach is in line with the wider Government vision for digitising all information and promoting shared services across government departments and regulators by 2015, but there is a need to clarify legal issues regarding data and information sharing.

## **6. Compliance and enforcement actions**

### **Review Findings**

Feedback from both businesses and regulators supports the importance of proportionate and effective sanctioning regimes. These are considered critical to fair competition, ensuring there is no commercial advantage to be gained from non compliance. However, national regulators have expressed concerns that there is currently limited access to alternative sanctioning regimes and 'credible alternatives to prosecution'<sup>58</sup>.

Businesses highlight examples of positive approaches by regulators, including Camelot who meet with businesses on a regular basis, provide good feedback and allow businesses to correct issues before taking formal action<sup>59</sup>. However, businesses report that many regulators are not discussing action with businesses at an early stage, citing the requirements of the Police and Criminal Evidence Act 1984 (PACE) as a barrier.

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<sup>56</sup> Paper prepared for the LBRO World Class Coalition, now the BRDO Regulatory Excellence Forum

<sup>57</sup> Business Perceptions Survey 2012:

[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>58</sup> Feedback from DEFRA Regulators Group

<sup>59</sup> Government response to Transforming Regulatory Enforcement strategy, December 2011

One of the objectives of PACE was to provide suspects with safeguards in light of the powers of the police and other investigation officers. However, businesses' are concerned about the lack of initial discussion when regulators suspect a breach of the law. Local authority officers have emphasised<sup>60</sup> the need for PACE requirements to be complied with as soon as an officer thinks an offence has been committed so that any future criminal proceedings are not prejudiced. Legal representatives for business have reported that this perception can limit constructive dialogue. Additionally they add that correspondence sent to business under these circumstances can be very confrontational.

Trade associations reported that many small businesses do not understand the process and are fearful of action. This contrasts with businesses that report positive experience of resolving issues through the partnership approach of Primary Authority that allows early discussion between a business, its primary authority and the local authority (enforcing authority) proposing action.

### **Discussion/Analysis**

The Code states that 'when considering formal enforcement action, regulators should, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding how to proceed'.

Business representatives have been critical of the failure of the Code to change the culture of regulators towards more open and early dialogue in the event of a breach of law. Evidence shows that compliance matters to businesses as it sends a positive message to customers.

## **7. Accountability**

### **Review Findings**

Evidence shows that businesses who have been contacted by local council regulators demonstrate high levels of satisfaction with the service provided<sup>61</sup>. However, officers' knowledge about the situation of the business remains the area of lowest satisfaction<sup>62</sup>. This suggests that intentions are good, but that a culture of understanding businesses as customers of regulation is not yet embedded.

Very few businesses have been engaged in suggesting improvements to the system, or feel able to complain about the way regulation is enforced<sup>63</sup>.

### **Discussion/Analysis**

The Code encourages regulators to establish effective consultation and appeals procedures, enabling more open and customer focused relationships between regulators and businesses. This evidence suggests that the Code needs to be supported by stronger accountability mechanisms.

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<sup>60</sup> Feedback from BRDO Business Reference Panel / local authority discussion, August 2011

<sup>61</sup> Business Perceptions Survey 2012, page 5  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>62</sup> Business Perceptions Survey 2012, page 5:  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)

<sup>63</sup> Business Perceptions Survey 2012, page 6:  
[www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/b/12-p145-business-perceptions-survey-2012-report.pdf)



Focus on Enforcement reviews have all reported that the lack of a transparent, impartial, effective appeals process is a major concern for business.

The work of the pathfinder Local Enterprise Partnerships provides a good example of work at a local level to translate the principles of the Code into meaningful local accountability. Greater Birmingham & Solihull and Leicester and Leicestershire Local Enterprise Partnerships (LEPs) have produced Business Charters to formalise the expectations which businesses and regulators should have of each other. The charters are based closely on the requirements of the Code and do not create any additional burden on regulators. They lend clarity to the Code's requirements and move them closer to the front line of regulatory practice.

#### **Case study: Business Charters in Local Enterprise Partnerships**

In Greater Birmingham and Solihull LEP, a number of events and facilities have been organised to support and embed the Charter. Regulators signed up to the LEP include local authority based regulators: food hygiene, health and safety, pollution control, trading standards and licensing and the following national/regional regulators: Environment Agency and the West Midlands Fire Authority. In several instances, these are specifically described in the Charter itself. Examples include:-

- A website which allows a business to submit its premise's postcode and access the contact details of all relevant regulators. This contributes towards the Charter commitment to "make advice about regulation accessible to business through a website/phone app single point of contact".
- A document entitled 'Inspection made simple', explaining how the inspection process works and setting out what to expect and how to comment, complain or appeal. This contributes to the Charter commitment to "improve transparency by publishing our approach to compliance and enforcement".
- The creation of a single mechanism, operated by an independent body, for businesses to give feedback on any regulator covered by the Charter; meeting the Charter commitment to be "accountable to business, giving them confidence to make comment and criticism through the proposed LEP feedback mechanism".
- The tangible nature of the Charters' commitments helps to address the perception that the Regulators' Compliance Code is remote from day to day operations due to its policy-level focus.

A key factor in the success of the Charters is the collaborative way in which they were produced, with all key stakeholders participating in the process. This results in a robust Charter, which is acceptable to all parties.

Key business Charter Commitments include:

- Provide support for business through a programme of advice and through participating in Primary Authority.
- Create an environment where businesses feel confident to seek advice from a regulator without fear of attracting enforcement activity.
- Take ownership of any enquiry made to us by business until a satisfactory response is made. Make advice about regulation accessible to business through a website/phone app single point of contact
- Ensure that all service delivery staff are competent and adopt a professional attitude when engaging with business. Consistency seminars will be provided to ensure that regulation is applied fairly and effectively across the LEP area, and to improve business understanding among staff.
- Take a risk and intelligence led approach to all compliance and enforcement activities, ensuring protection of consumers, workers, public health and the environment whilst providing a level playing field for business. Recognition will be given to businesses that can demonstrate effective controls.
- Improve transparency by publishing our approach to compliance and enforcement that explains what the regulator will do and why.
- Consult with local businesses to shape service delivery and develop innovative regulatory approaches that promote business success.
- Be accountable to business, giving them confidence to make comment and give criticism through the proposed LEP feedback mechanism.

## **Annex C: Specified regulatory functions subject to the Regulators' Compliance Code**

Note: the list is not exhaustive – there may be new regulators missing – see consultation questions 9 and 10.

**Regulators who are subject to the Regulators' Compliance Code in the exercise of all their regulatory functions:**

- Animal Health and Veterinary Laboratories Agency
- Animals in Science Regulation Unit
- Architects Registration Board
- British Hallmarking Council
- Care Council for Wales
- Care Quality Commission
- Charity Commission for England and Wales
- Civil Aviation Authority (in relation to specified regulatory functions, otherwise classed as economic regulator)
- Coal Authority
- Commission for Equality and Human Rights
- Companies House
- Competition and Markets Authority
- Council for Healthcare Regulatory Excellence
- Disclosure and Barring Service
- Drinking Water Inspectorate
- Driver and Vehicle Licensing Agency
- Driving Standards Agency
- Employment Agency Standards Directorate
- English Heritage
- Environment Agency
- Equality and Human Rights Commission
- Financial Conduct Authority
- Financial Reporting Council
- Fish Health Inspectorate, Centre for Environment, Fisheries and Aquaculture Science
- Food and Environment Research Agency
- Food Standards Agency
- Forestry Commission
- Gambling Commission
- Gangmasters Licensing Authority
- Groceries Code Adjudicator
- Health and Safety Executive
- Highways Agency
- HM Revenue and Customs (Money Laundering Regulations and National Minimum Wage)
- Homes and Communities Agency
- Human Fertilisation and Embryology Authority
- Human Tissue Authority
- Information Commissioner's Office
- Insolvency Service including Insolvency Practitioner Unit
- Intellectual Property Office
- Legal Services Board
- Marine Management Organisation

- Maritime and Coastguard Agency
- Medicines and Healthcare Products Regulatory Agency
- Monitor
- National Counter Terrorism Security Office
- National Measurement Office
- Natural England
- Northern Lighthouse Board
- Office for Fair Access
- Office of Fair Trading (in relation to specified regulatory functions, otherwise classed as an economic regulator)
- Office of Nuclear Regulation
- Office for Standards in Education, Children's Services and Skills
- Office of the Regulator of Community Interest Companies
- OFQUAL (status as an economic regulator to be confirmed)
- Pensions Regulator
- Postgraduate Medical Education and Training Board
- Rural Payments Agency
- Security Industry Authority
- Serious Organised Crime Agency
- Solicitors Regulation Authority
- Sports Grounds Safety Authority
- Traffic Commissioners
- Trinity House Lighthouse Service
- UK Anti-doping
- UK Border Agency
- UK Sport
- Vehicle and Operator Services Agency
- Vehicle Certification Agency
- Veterinary Medicines Directorate

**Regulatory functions exercised by local authorities under the following legislation:**

**Environmental Health**

Agriculture Act 1970

Agriculture (Miscellaneous Provisions) Act 1968

Agricultural Produce (Grading and Marking) Act 1928

Agricultural Produce (Grading and Marking) Amendment Act 1931

Animal Boarding Establishments Act 1963

Animal Health Act 1981 (also 2002)

Animal Welfare Act 2006

Breeding of Dogs Act 1973

Breeding of Dogs Act 1991

Breeding and Sale of Dogs (Welfare) Act 1999 (amends the Breeding of Dogs Act 1973)

Business Names Act 1985

Caravan Sites and Control of Development Act 1960

Caravan Sites Act 1968

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Chronically Sick and Disabled Persons Act 1970

Chronically Sick and Disabled Persons (Amendment) Act 1976

Cinemas Act 1985

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Control of Pollution Act 1974 (as amended by the Noise and Statutory Nuisance Act 1993)  
Control of Pollution (Amendment) Act 1989  
Crime and Disorder Act 1998  
Criminal Justice and Public Order Act 1994  
Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Disabled Persons Act 1981  
Dogs Act 1906 (as amended)  
Dogs (Fouling of Land) Act 1996  
Environment Act 1995 (Powers of Entry)  
Environment and Safety Information Act 1988  
Environmental Protection Act 1990  
Factories Act 1961  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Food Standards Act 1999  
Game Act 1831  
Health and Safety at Work Act 1974  
Sections 20, 21, 22, 25 and the provisions of Acts specified in the third column of Schedule 1  
Health Services and Public Health Act 1968  
Highways Act 1980  
Housing Act 1985  
Housing Act 1996  
Housing Grants, Construction and Regeneration Act 1996  
Land Compensation Act 1973  
Litter Act 1983  
Local Government and Housing Act 1989  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Medicines Act 1968  
Mines and Quarries Act 1954 - Section 151  
Mines and Quarries (Tips) Act 1969  
National Assistance Act 1947  
National Assistance Act 1948  
National Assistance Act (Amendment) 1951  
National Health Service Amendment Act 1986  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Office, Shops and Railway Premises Act 1963  
Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951  
Pet Animals Amendment Act 1983  
Petroleum (Consolidation) Act 1928  
Planning (Hazardous Substances) Act 1990  
Police and Criminal Evidence Act 1984  
Pollution Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Protection of Animals Act 1911  
Protection of Animals Act 1934  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Disease) Act 1984  
Radioactive Substances Act 1993 (as amended by the Environment Act 1995)  
Refuse Disposal (Amenity) Act 1978  
Riding Establishments Act 1964

Riding Establishments Act 1970  
Safety of Sports Grounds Act 1975  
Scrap Metal Dealers Act 1964  
Sunday Trading Act 1994  
Theatres Act 1968  
Theft Act 1968  
Theft Act 1978  
Trade Descriptions Act 1968  
Water Act 1989  
Water Industry Act 1991  
Water Resources Act 1991  
Wildlife and Countryside Act 1981  
Wildlife and Countryside (Amendment) Act 1985  
Wildlife and Countryside (Amendment) Act 1991  
Young Persons (Employment) Act 1938  
Zoo Licensing Act 1981

***Trading Standards***

Access to Health Records Act 1990  
Accessories and Abettors Act 1861  
Accommodation Agencies Act 1953  
Abandonment of Animals Act 1960  
Administration of Justice Act 1970  
Administration of Justice (Miscellaneous Provisions) Act 1933  
Agriculture Act 1967  
Agriculture Act 1970  
Agriculture and Horticulture Act 1964  
Agriculture (Miscellaneous Provisions) Act 1968  
Agricultural Produce (Grading and Marking) Act 1928  
Agricultural Produce (Grading and Marking) Act 1931  
Airports Act 1986  
Animal Health Act 1981  
Animal Health Act 2002  
Animal Health and Welfare Act 1984  
Animal Welfare Act 2006  
Antisocial Behaviour Act 2003 (As amended by CNEA 2005)  
Bankers' Books Evidence Act 1879  
Broadcasting Act 1990  
Broadcasting Act 1996  
Business Names Act 1985  
Cancer Act 1939  
Clean Air Act 1993  
Charities Act 1992  
Charities Act 1993  
Charities Act 2006  
Cheques Act 1992  
Children and Young Persons Act 1933.  
(As amended by the Children and Young Persons (Protection from Tobacco) Act 1991)  
Children and Young Persons Act 1963  
Children & Young Persons (Protection From Tobacco) Act 1991  
Christmas Day (Trading) Act 2004  
Civil Aviation Act 1980  
Civil Aviation Act 1982  
Civil Aviation Act 1992  
Civil Aviation Act 2006

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Communications Act 2003  
Companies Act 1985  
Companies Consolidation (Consequential Provisions) Act 1985  
Company Directors Disqualification Act 1986  
Consumer Credit Act 1974  
Consumer Credit Act 2006  
Consumer Protection Act 1987, Part iii, Misleading Price Indications  
Contracts (Rights of Third Parties) Act 1999  
Control of Pollution Act 1974  
Copyright, Designs and Patents Act 1988  
Copyright etc and Trade Marks (Offences and Enforcement) Act 2002  
Courts and Legal Services Act 1990  
County Courts Act 1984  
Customs and Excise Management Act 1979  
Crime and Disorder Act 1998  
Criminal Appeal At 1968  
Criminal Attempts Act 1981  
Criminal Justice Act 1925  
Criminal Justice Act 1982  
Criminal Justice Act 1987  
Criminal Justice Act 1988  
Criminal Justice Act 1991  
Criminal Justice Act 1993  
Criminal Justice Act 2003  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994 (Touting)  
Criminal Justice (Terrorism and Conspiracy) Act 1998  
Criminal Law Act 1977  
Criminal Procedure and Investigations Act 1996  
Dangerous Dogs Act 1989  
Dangerous Dogs Act 1991  
Development of Tourism Act 1969  
Dogs Act 1906  
Dogs (Amendment) Act 1928  
Drug Trafficking Act 1994  
Education Reform Act 1988  
Electricity Act 1989  
Employment Act 1989  
Employment Agencies Act 1973  
Energy Act 1976  
Energy Conservation Act 1981  
Energy Conservation Act 1996  
Enterprise Act 2002  
Environmental Protection Act 1990  
Estate Agents Act 1979  
Explosives Act 1875 (Manufacture and Storage of Explosives Regulations 2005)  
Explosives Act 1923  
Explosives (Age of Purchase etc) Act 1976  
Explosive Substances Act 1883  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Fatal Accidents Act 1976  
Firearms Act 1968 (also 1982)  
Fireworks Act 1875  
Fireworks Act 1923

Fireworks Act 1951  
Fireworks Act 2003  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Forgery and Counterfeiting Act 1981  
Gambling Act 2005  
Hallmarking Act 1973  
Health and Safety at Work, etc Act 1974  
Housing Act 1996  
Housing Act 2004  
Indictable Offences Act 1848  
Industrial and Provident Societies Act 1893  
Industrial and Provident Societies Act 1965  
Industrial and Provident Societies Act 1967  
Industrial and Provident Societies Act 1975  
Industrial and Provident Societies Act 1978  
Industrial and Provident Societies Act 2002  
Insolvency Act 1986  
Insurance Companies Act 1982  
Interpretation Act 1978  
Intoxicating Substances (Supply) Act 1985  
Knives Act 1997  
Law of Property (Miscellaneous Provisions) Act 1989  
Licensing Act 1964  
Licensing Act 2003  
Licensing (Young Persons) Act 2000  
Local Government (Financial Provisions) Act 1963  
Local Government Act 1972 (also 1966, 1988, and 1999)  
Local Government Act 1987  
Local Government Act 2000  
Local Government Act 2003  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government (Miscellaneous Provisions) Act 1976  
Magistrates' Courts Act 1980  
Magistrates' Court Procedure Act 1998  
Malicious Communications Act 1988  
Medical Act 1983  
Medicines Act 1968 (also 1971)  
Merchant Shipping Act 1979  
Merchant Shipping Act 1988  
Mines and Quarries (Tips) Act 1969  
Misuse of Drugs Act 1971  
Mock Auctions Act 1961  
Motorcycle Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991 (amends Road Traffic Act 1988)  
National Lottery Act 1993  
Nurses Agencies Act 1957  
Nurse, Midwives and Health Visitors Act 1997  
Offensive Weapons Act 1996  
Offshore Safety Act 1992  
Oil and Gas (Enterprise) Act 1982  
Olympic Symbol (Protection) Act 1995  
Patents, Designs and Marks Act 1986  
Pet Animals Act 1951  
Pesticides Act 1998



Pesticides (Fees and Enforcement) Act 1989  
Petroleum (Consolidation) Act 1928  
Petroleum (Transfer of Licences) Act 1936  
Plant Varieties Act 1997  
Plant Varieties and Seeds Act 1964  
Poisons Act 1972  
Police (Property) Act 1897  
Powers of Criminal Courts (Sentencing) Act 2000  
Prevention of Crime Act 1953  
Prices Act 1974  
Prices Act 1975  
Private Places of Entertainment (Licensing) Act 1967  
Proceeds of Crime Act 1995  
Proceeds of Crime Act 2002  
Property Misdescriptions Act 1991  
Prosecution of Offences Act 1985  
Protection Against Cruel Tethering Act 1988  
Protection from Harassment Act 1997  
Protection of Animals Act 1911  
as amended by the Protection of Animals (Amendment) Act 1954  
and the Agriculture (Miscellaneous Provisions) Act 1968  
Protection of Animals (Anaesthetics) Act 1954  
Protection of Animals (Penalties) Act 1987  
Protection of Animals (Amendment) Act 1988  
Protection of Children (Tobacco) Act 1986  
Public Passenger Vehicles Act 1981  
Registered Designs Act 1949  
Restriction of Offensive Weapons Act 1961  
Road Traffic Act 1988  
Road Traffic Act 1991  
Road Traffic Act (Consequential Provisions) Act 1988  
Road Traffic Offenders Act 1988  
Road Traffic (Foreign Vehicles) Act 1972  
Sale and Supply of Goods Act 1994  
Sale of Goods Act 1979  
Sale of Goods (Amendment) Act 1994  
Sale of Goods (Amendment) Act 1995  
Scotch Whisky Act 1988  
Scrap Metal Dealers Act 1964  
Serious Organised Crime and Police Act 2005  
Social Security Administration Act 1992  
Solicitors Act 1974  
Supply of Goods (Implied Terms) Act 1973  
Supply of Goods and Services Act 1982  
Sunday Trading Act 1994  
Telecommunications Act 1984  
Timeshare Act 1992  
Theft Act 1968  
Theft Act 1978  
Tobacco Advertising and Promotion Act 2002  
Torts (Interference with Goods) Act 1977  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Trading Schemes Act 1996  
Trading Stamps Act 1964

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Trading Representations (Disabled Persons) Act 1958  
Trading Representations (Disabled Persons) Amendment Act 1972  
Transport Act 2000  
Unfair Contract Terms Act 1977  
Unsolicited Goods and Services Act 1971  
Unsolicited Goods and Services (Amendment) Act 1975  
Video Recordings Act 1984  
Video Recordings Act 1993  
Weights and Measures Act etc 1976  
Weights and Measures Act 1985  
Welfare of Animals at Slaughter Act 1991  
Wildlife and Countryside Act 1981  
Wildlife and Countryside (Amendment) Act 1985  
Wildlife and Countryside (Amendment) Act 1991  
Youth and Criminal Evidence Act 1999

## **Annex D: List of organisations consulted**

In addition to the organisations at Annex C:

Heads of Regulatory Services for all local authorities in the UK

- AA
- Asda
- Association of British Bookmakers
- Association of British Healthcare Industries
- Association of British Pharmaceutical Industry
- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- Association of Manufacturers of Domestic Appliances
- Association for Road Traffic and Safety Management
- Assured Food Standards
- B&Q TSI Business Members Group
- Bar Council
- Bond Pearce
- British Amusement Catering Trade Association
- British Association of Removers
- British Beer and Pub Association
- British Chamber of Commerce
- British Coal
- British Frozen Foods Federation
- British Hospitality Association
- British Home & Holiday Parks Association
- British Independent Retail Association
- British Jewellery & Giftware Federation
- British Jewellers Association
- British Marine Federation
- British Meat Processors Association
- British Medical Association
- British Parking
- British Retail Consortium
- British Sandwich Association
- British Security Industry Association
- British Soft Drinks Association
- British Toy and Hobby Association
- CAB
- CBI
- Casino Operators Association UK
- Chartered Institute of Environmental Health
- Chartered Institute of Legal Executives
- Construction Products Association
- Co-op
- Country Landowners Association
- Cosmetics Toiletries and Perfumeries Association
- Dairy UK
- DWF
- EEF, The Manufacturers Association
- Federation of Master Builders

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- Federation of Small Businesses
- Food and Drink Federation
- Forum of Private Businesses
- Friends of the Earth
- Geldards
- Giftware Association
- Guide Association
- Greenpeace
- Health Food Manufacturers' Association
- Higgs & Co Solicitors
- Hire Association Europe
- Home Retail Group
- Hornby
- Independent Electrical Retailers
- Institute of Chartered Accountants in England and Wales
- Institute of Directors
- Institute of Food Science & Technology
- Institute of Licensing
- Institute of Occupational Health and Safety
- International Meat Trade Association
- Jewellery Distributors' Association
- JLP
- Ladbrokes
- Law Society
- Leatherhead Food Research Association
- Local Government Association
- Managing Agents Property H&S Forum
- Marine Stewardship Council
- Moto
- Motor Schools Association
- National Asian Business Association
- National Casino Industry Forum
- National Caterers Association
- National Farmers' Retail & Markets Association
- National Farmers' Union
- National Farmers' Union Wales
- National Federation of Fish Friers
- National Federation of Fishermens' Organisations
- National Federation of Meat & Food Traders
- National Federation of Property Professionals
- National Federation of Retail Newsagents
- National Office of Animal Health
- Petcare
- Pinsentmasons
- Proprietary Association of Gt Britain
- Provisions Trade Federation
- Remote Gambling Association
- RAC
- Retail Motor Industry Federation
- RH Environmental
- Road Haulage Association
- Royal Institute of British Architects

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- Royal Pharmaceutical Society
- Rural Shops Alliance
- Safety Assessment Federation Ltd
- Scout Association
- Seafish
- Shellfish Association of Great Britain
- Society of British Water and Wastewater Industries
- Society of Motor Manufacturers and Traders
- Soil Association
- Tesco
- The Giftware Association
- TSI Business Members Group
- UK Weighing Machine Federation
- UK Petrol Forecourt Equipment Association
- Wilkinsons
- Wine & Spirits Trade Association
- World Wildlife Fund
- Wragge & Co

## **Annex E: About this consultation**

### **Consultation Principles**

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

### **Confidentiality & Data Protection**

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

### **Comments or complaints**

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

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## Amending the Regulators' Compliance Code

Any enquiries regarding this publication should be sent to:

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