



Department for
Business, Energy
& Industrial Strategy

Draft Statutory Guidance on the Growth Duty, Presented to Parliament pursuant to Section 110(6) of The Deregulation Act 2015, to be laid in the name of **Secretary of State Greg Clark**.

DRAFT GROWTH DUTY STATUTORY GUIDANCE

Draft Statutory Guidance to lay in both Houses of Parliament under Section 110(6) of The Deregulation Act 2015, for approval by resolution of each House of Parliament'.



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Foreword

This Government is working to ensure that the UK is the best place to set up and grow a business. UK business has a proud history of innovation, from individual entrepreneurs to our globally respected brands. We are freeing businesses from needless regulation to enable them to innovate, creating greater prosperity and opportunity for all.

Proportionate delivery of regulation plays an important role in supporting competitive markets and improving social and environmental outcomes. Regulatory enforcement that is not proportionate and risk-based imposes unnecessary costs on business, creates uncertainty and undermines investment. So, our priority is clear: we will cut £10 billion of regulatory burdens over the lifetime of this Parliament and will make sure that enforcement regimes work to support, rather than hinder, legitimate business. This new growth duty for regulators is a vital step towards achieving our deregulatory priorities.

The growth duty clearly establishes Government's expectation that economic growth is an outcome that all regulators should be working towards. This guidance, which has been issued under section 110(1) of the Deregulation Act 2015, has been produced to assist regulators in fulfilling their new responsibilities, both at a strategic and operational level, including the proper consideration that must be made before allocating resources, setting enforcement policies, and making sanctioning decisions.

I believe that the growth duty will encourage regulators to develop more mature and productive relationships with those sectors and businesses that they regulate, driving up the accountability of regulators to the business community. And we are asking regulators to consider how legislation and enforcement frameworks could adapt to emerging technologies and innovative business models. Our expectation is that this will help to deliver our aspirations for greater productivity and growth in our economy.

Margot James

Parliamentary Under Secretary of State for Small Business, Consumers and Corporate Responsibility

Contents

Introduction	4
Understanding the Business Environment	7
Minimising burdens on business productivity	11
Proportionate decision-making	14
Demonstrating regard for the growth duty	16

1. Introduction

- 1.1 Section 108 of the Deregulation Act 2015 (“the Act”) establishes that any person exercising a regulatory function must have regard to the desirability of promoting economic growth (the “growth duty”). In performing this duty, they must, in particular, consider the importance for the promotion of economic growth of exercising the regulatory function in a way which ensures that regulatory action is taken only when it is needed, and any action taken is proportionate. The duty applies in respect of regulatory functions specified by order under section 109(1) of the Act. It applies whenever regulators exercise their specified regulatory functions, from, for example, the setting of policy to the individual actions of officers.
- 1.2 The growth duty is one of a number of statutory measures that support improvements in the implementation and delivery of regulation. These measures include the Regulators’ Code¹ and the statutory principles of good regulation².
- 1.3 The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.
- 1.4 Non-compliant activity or behaviour undermines protections to the detriment of consumers, employees and the environment and needs to be appropriately dealt with by regulators. It also harms the interests of legitimate businesses that are working to comply with regulatory requirements, disrupting competition and acting as a disincentive to invest in compliance.
- 1.5 The growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections. The purpose is to ensure that specified regulators give appropriate consideration to the potential impact of their activities and their decisions on economic growth, both for individual businesses and more widely for sectors or groups that they regulate, alongside their consideration of their other statutory duties.

¹ The Regulators’ Code provides a flexible, principles-based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated activity. It is issued under section 22 of the Legislative and Regulatory Reform Act 2006 and applies to regulatory functions specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, as amended. A link to the code can be found here:
<https://www.gov.uk/government/publications/regulators-code>.

² The principles in section 21 of the Legislative and Regulatory Reform Act 2006 are that regulatory activities should be delivered in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. The principles apply to regulatory functions specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, as amended.

Scope

- 1.6 The growth duty applies to a person exercising a regulatory function specified by Order³ by a Minister of the Crown (such persons are collectively referred to as “regulators” for the purposes of this guidance). The regulatory functions that are specified for the purposes of the duty are, broadly, those of named national regulators and certain regulatory functions exercisable by a Minister of the Crown.
- 1.7 The regulatory functions of local authorities are not specified for the purposes of the growth duty.
- 1.8 Regulatory functions are broadly defined⁴ for the purposes of the growth duty as functions under or by virtue of an Act or subordinate legislation:
- A. of imposing requirements, restrictions or conditions in relation to an activity;
 - B. of setting standards or giving guidance in relation to an activity⁵; or
 - C. relating to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which relate to an activity.
- 1.9 In the context of criminal proceedings by a regulator, the growth duty applies to all functions up to and including the decision to refer the case to a prosecutor to review whether criminal proceedings should be instigated. The functions of instituting or conducting criminal proceedings are excluded from the growth duty⁶. Similarly, the function of conducting civil proceedings is excluded from the growth duty⁷.

About this guidance

- 1.10 This guidance is issued under section 110(1) of the Deregulation Act 2015, and should be read in conjunction with the Act. All those exercising specified regulatory functions to which the growth duty applies must have regard to this guidance. In accordance with section 110(5) of the Act, the Secretary of State has consulted the persons whose functions are specified in this Order and such other persons as the Secretary of State considered appropriate.
- 1.11 The guidance assists regulators in discharging their responsibilities under the growth duty. It also provides clarity for stakeholders as to what they should expect of regulators.
- 1.12 The requirement that regulators must have regard to the guidance means that regulators must consider the provisions of the guidance and give them due weight in determining how they will exercise their regulatory functions. They are not bound to follow a provision of the guidance in a particular case if they properly conclude that the provision is either not relevant or is outweighed by other considerations. However, the reasons for such a conclusion should be recorded (see section 5.4).

³ The Economic Growth (Regulatory Functions) Order 2016

⁴ Section 111(1) – (3) of the Act.

⁵ Section 111(3) of the Act provides that an ‘activity’ includes providing goods and services and employing or offering employment to a person.

⁶ Section 111(2)(b)(i) of the Act.

⁷ Section 111(2)(b)(ii) of the Act.

- 1.13 This guidance concerns the performance of the growth duty in section 108 of the Act and sets out ways in which regulators can exercise their regulatory functions in accordance with the growth duty by:
- A. ensuring that they understand the business environment, their business community and individual businesses that they regulate, and the likely impact of their activities on those businesses, particularly in respect of growth (section 2);
 - B. applying their understanding of the business environment and their business community to their risk-based approach, ensuring that they are acting only where needed (section 3); and
 - C. applying their understanding of their business community and individual businesses they regulate in order to ensure that their actions are proportionate (section 4).
- 1.14 The guidance sets out ways⁸ in which a regulator can be transparent about the ways in which they have regard to the desirability of promoting economic growth (section 5), and this will allow stakeholders to hold the regulator accountable.

Terminology

- 1.15 The collective term ‘businesses’ has different meanings dependent on context. In order to provide clarity, the following terms are used in this guidance:
- A. ‘business environment’ is used to indicate the environment in which all businesses operate, in terms of the factors that affect them, the challenges they face, including regulatory costs, and the support that is available to them;
 - B. ‘business community’ is used to indicate all businesses that fall within scope of the legislation for which the regulator is responsible. For some regulators, their business community will be just one industry sector, or part of a sector, that they interact with, whilst for other regulators their business community may comprise multiple sectors; and
 - C. ‘individual business’ is used to mean any single regulated entity, including regulated entities that might not match conventional views of a ‘business’, for example, licensed individuals, public sector bodies, not-for-profit organisations.
- 1.16 The term ‘regulator’ (see 1.6) is used in this guidance to cover any person exercising a specified regulatory function, meaning both an organisation acting within scope of the growth duty and an officer or officers acting on behalf of that organisation in exercising a specified regulatory function.

⁸ Section 110(2)(b) of the Act.

2. Understanding the Business Environment

- 2.1 Regulation is one of the many factors that shape the environment within which businesses operate. Regulators need to have an appropriate level of understanding of the business environment, of the role that regulation and the activities of regulators play in that environment, of their own business community, and of individual businesses that they regulate. This understanding will inform their approach when they exercise their regulatory functions, allowing them to properly discharge their responsibilities in respect of the growth duty.
- 2.2 Regulators should ensure that their officers have a level of understanding of the business environment, their business community, individual businesses, and the impact of regulator activities on them that is appropriate to their duties and responsibilities, enabling them to deliver a risk-based, proportionate approach in their day-to-day activities. Appropriate steps that a regulator may take to ensure competency include:
- A. incorporating an understanding of business into recruitment considerations, induction programmes and early training;
 - B. considering business understanding as part of the performance management of staff, including in setting objectives;
 - C. supporting improvements in business understanding through the provision of staff development and training; and
 - D. sharing relevant information and good practice in relation to business understanding.
- 2.3 Regulators should ensure that their officers have a level of understanding of the growth duty that is appropriate to their duties and responsibilities and that they understand how the regulator delivers its activities in accordance with the duty, including that they understand that the growth duty is applicable in relation to individual activities and decisions.

Business Environment

- 2.4 Regulators should ensure that they understand the current and developing business environment, and where their business community sits in that environment. Factors that may contribute to the regulator's understanding include:
- A. awareness of the current economic environment in which businesses are operating;
 - B. awareness of economic, social and technological factors likely to drive changes in the business environment;
 - C. knowledge of how regulation impacts on growth in both positive and negative ways;

- D. knowledge of how a regulator's approach to delivering regulation, and the individual actions that a regulator takes, impact on businesses generally, and on business growth; including both direct economic impacts and indirect impacts;
- E. knowledge of how a regulator's approach to delivering regulation can assist in creating a more dynamic business environment, supporting innovation;
- F. awareness of the business lifecycle, and of key indicators of growth associated with it;
- G. knowledge of how a regulator's approach to delivering regulation, and the individual actions that a regulator takes, impact at the level of individual businesses, and of how this impact varies at different stages of the business lifecycle; and
- H. awareness of business support mechanisms that are available, including online resources⁹ and Government initiatives to support businesses.

Business Community

- 2.5 Regulators should ensure that they have a detailed understanding of their business community. Factors that may contribute to the regulator's understanding include:
- A. knowledge of the key issues in the business community, including regulatory issues;
 - B. knowledge of other regulators that regulate the business community, particularly where these regulators may have complementary areas of responsibility;
 - C. knowledge of other public sector bodies that have a relevant monitoring role in respect of the business community;
 - D. knowledge of relevant self-regulatory approaches that are operating in the business community, for example industry assurance programmes or accredited certification schemes;
 - E. awareness of how supply chains work in the business community, including how this affects considerations of timeliness for regulatory interventions, and the extent to which actors in the supply chain are dictating compliance approaches;
 - F. awareness of the maturity of the regulation in the business community and the extent to which compliance is embedded, for example long-established regulatory requirements are likely to be more embedded than new requirements, or requirements that are subject to frequent changes;
 - G. awareness of the key benefits associated with regulatory compliance in the business community; and
 - H. awareness of the key risks associated with non-compliance in the business community.

⁹ Online resources for businesses include the Government's Business is Great website (www.greatbusiness.gov.uk) and the GOV.UK. website.

- 2.6 Regulators should take appropriate steps to develop their understanding of innovation occurring in their business community, for example through horizon scanning. They should work with other regulators, policy departments and relevant businesses and representatives to understand emerging business models, processes or products that may present a challenge to the existing regulations or the way the regulator operates, and should seek, where appropriate, to develop suitable responses which encourage appropriate innovation. These may include:
- A. considering what arrangements might be agreed to support safe testing of new products and service
 - B. underpinning their approach with evidence and analysis drawn, for example, from horizon scanning and engagement with relevant businesses, including new market entrants; and
 - C. explaining the ways in which they promote and support business innovation.
- 2.7 Regulators should take appropriate steps to understand the views of their business community, in particular in relation to how they experience regulation. This will involve developing and maintaining productive relationships with relevant businesses and business organisations that are representative of the business community. Appropriate steps for the regulator to take may include:
- A. ongoing engagement with their business community to understand any economic impacts and perceived impacts of
 - the regulator's current approach to delivering regulation;
 - proposed changes to the regulator's approach;
 - B. ongoing engagement with their business community to establish their views on:
 - relevant compliance drivers, pressures and threats;
 - opportunities arising from good regulation that the regulator could facilitate, for example in terms of sharing information to enable consumer choices which benefit legitimate businesses;
 - current challenges that the regulator could address, for example through the provision of information, guidance or tools to support compliance;
 - ways in which existing methods of operating might need to change to take account of technological or other innovation in the business community, including the development of new products and services;
 - C. inviting suggestions from the business community on areas where regulatory burdens could be reduced; and
 - D. providing mechanisms for businesses to easily provide feedback on their interactions with the regulator¹⁰.

¹⁰ The Regulators' Code (provision 2) sets out specific provisions in relation to feedback and complaints.

- 2.8 Regulators should, where possible, take steps to understand the views of businesses for which the perceived burdens of regulation have been a critical factor in their decision not to carry out regulated activities. For example, a business might choose:
- A. to remain below a regulatory threshold;
 - B. not to enter a market that requires authorisation;
 - C. to leave a market that requires authorisation; or
 - D. not to supply products that are subject to the regulation.

Individual Businesses

- 2.9 Many businesses are committed to meeting regulatory requirements and invest considerable time and resources in achieving and maintaining compliance, and a significant proportion of them source expertise to develop or check their compliance systems. Other businesses are willing to comply but may lack either the understanding or capacity to achieve or maintain compliance. In general, those businesses that willfully disregard regulatory requirements are a small minority, although this may vary in different sectors. Regulators should ensure that they have a good understanding of the approaches that individual businesses take to achieve compliance and the reasons for these. This will enable them to regulate in a cost-effective way that recognises the good track record of compliant businesses; effectively motivates and supports compliance improvements where needed; and tackles significant non-compliance.
- 2.10 Relevant factors that regulators should understand in their interactions with individual businesses will include some or all of the following:
- A. how the business is managing compliance and where it sources regulatory guidance and advice;
 - B. what the business' internal drivers are, and where the responsibility for relevant decision-making lies;
 - C. the stage the business is at in the business lifecycle; and
 - D. what the business needs from the regulator. For example, in relation to advice, some businesses need clarity on how the regulatory requirements apply in their business context, whilst others want to have confidence that the compliance decision they are making will be acceptable (see 3.3).

3. Minimising burdens on business productivity

- 3.1 Section 108(2)(a) of the Act provides that regulators must consider, in particular, the importance for the promotion of economic growth of exercising their regulatory functions in a way which ensures that regulatory action is taken only when it is needed. This can be achieved by using the regulator's understanding of the business environment and their business community to inform the regulator's risk-based approach, ensuring that the nature and level of their interventions is necessary to address the regulatory risks posed.
- 3.2 The growth duty applies across a regulator's activities, from the strategic to the operational level, including in relation to individual activities and decisions. Regulators should consider how they will ensure, at all levels, that regulatory action is taken only where needed. Indicators that a regulator has considered how the duty will be discharged at all levels include:
- A. recognition in the regulator's strategic priorities, aims and objectives of the desirability of promoting economic growth, both in relation to their business community and in relation to individual businesses;
 - B. recognition in relevant operational policies and procedures, including the regulator's enforcement policy, that economic growth is a factor to have regard to;
 - C. providing services in a way that meets identified business needs and maximises cost-effective delivery, in particular through digital delivery and using networks that already exist in their business community;
 - D. appropriate recognition of self-regulatory and third party assurance programmes, to reduce duplication of effort;
 - E. an assessment of relevant regulatory barriers associated with key stages of the business lifecycle and measures put in place to minimise these; and
 - F. an assessment of relevant regulatory barriers associated with the development of new products and services, and measures put in place to minimise such barriers.

Compliance support

- 3.3 Simple, clear and timely guidance and advice¹¹ is often the most important contribution that the regulator can make to supporting compliance. It can provide businesses with clarity and certainty, minimising the cost to them of complying with regulatory requirements. Good guidance and advice provide assurance for businesses that gives them and others, such as their customers, confidence that what is required is being delivered. It supports investment in new products, processes or markets and can help businesses to grow. Indicators that a regulator is meeting business needs for compliance support include:

¹¹ The Regulators' Code (provision 5) sets out specific provisions in relation to information, guidance and advice.

- A. working with business representative groups, such as trade associations, to agree clear, straightforward guidance that meets the needs of their businesses;
- B. publishing clear, robust compliance guidance in areas where the regulator has evidence that this is needed;
- C. making available tailored compliance advice for those businesses whose needs are not met by the regulator's existing standards and guidance, for example, in relation to innovative products or processes;
- D. providing reassurance to businesses which gives them confidence to rely on guidance or advice issued by the regulator^{12 13};
- E. working with other regulators to ensure that guidance and advice is consistent and streamlined; and
- F. making available timely compliance support that is tailored to the needs of pre-start and start-up businesses.

Authorisations

3.4 Where regulators impose requirements, restrictions or conditions as part of a system of authorisation, such as in licensing or permitting, there are associated compliance costs for businesses in terms of time and money. By applying their understanding of the business community and individual businesses they regulate, regulators are able to ensure that such requirements, restrictions or conditions are proportionate and used only when necessary, that associated costs are reduced to the minimum necessary, and that the positive impacts of authorisation systems are maximised. Indicators that a regulator is taking steps to minimise unnecessary regulatory burdens associated with authorisations include:

- A. the regulator collaborates with others who operate related authorisations to ensure a consistent approach;
- B. the regulator takes care to minimise the requirements, restrictions or conditions, and the frequency of changes to them, recognising that such changes incur cost for business;
- C. the regulator takes steps to streamline application and renewal processes, and provides clear guidance on them;
- D. the regulator takes steps to minimise and streamline data that is required of business in connection with the authorisation; and
- E. the regulator makes considered choices as to whether an applicant should be subject to a pre-authorisation check, such as an inspection, based on the circumstances and risk.

¹² The Regulators' Code (provisions 1.2 and 5.4) provides that regulators in scope should consider how they can provide greater certainty and confidence in compliance for those they regulate.

¹³ Regulators that deliver through or in conjunction with local authorities should be aware of the ways in which Primary Authority delivers assurance for businesses regulated by local authorities. The Regulatory Enforcement and Sanctions Act 2008, as amended by the Enterprise Act 2016, provides for specified national regulators to play a greater role in Primary Authority.

Interventions

- 3.5 Where regulators intervene to conduct checks on businesses with a view to securing compliance, such as by inspection, the manner in which these interventions are conducted will influence the degree to which costs are incurred by the businesses. Indicators that a regulator is taking steps to minimise unnecessary costs and maximise the benefits of interventions include:
- A. the regulator evaluates the outcomes of its interventions and is clear about their value;
 - B. the regulator determines its activities on the basis of a robust assessment of risks to its regulatory outcomes¹⁴;
 - C. the regulator draws on all relevant information that is available to it to improve the targeting and focus of interventions;
 - D. the regulator collaborates with other regulators, and other bodies with a monitoring role, to improve the efficiency and streamlining of interventions, minimising duplication of effort for both the businesses and regulators, or other monitoring bodies;
 - E. the regulator makes considered choices as to whether businesses should receive advance notification of interventions, based on the circumstances and risk;
 - F. the regulator recognises where a business has established its own compliance system or participates in a wider compliance scheme and has regard to this in conducting its interventions;
 - G. the regulator provides timely feedback on interventions, being clear about the areas checked, to the person in the business who will need to respond to the feedback; and
 - H. the regulator uses interventions as an opportunity to provide details of upcoming changes to regulatory requirements or other relevant information, and to signpost to sources of support or relevant Government initiatives which may be of interest to the business.

¹⁴ The Regulators' Code (provision 3) sets out specific provisions in relation to risk-based activities.

4. Proportionate decision-making

- 4.1 Section 108(2)(b) of the Act provides that regulators must consider, in particular, the importance for the promotion of economic growth of exercising their regulatory functions in a way which ensures that any regulatory action they take is proportionate¹⁵. This can be achieved by applying their understanding of the impact of regulatory action on their business community and on individual businesses, in order to respond to particular issues in a manner that is appropriate, having regard to the facts and circumstances.
- 4.2 Regulators have a range of interventions at their disposal when responding to non-compliance, from those designed to incentivise and support compliance to those intended to tackle the most serious or persistent non-compliance. In some circumstances they may also refer a matter to an organisation, such as another regulator, that is better suited to dealing with it. Certain enforcement actions, and other activities of the regulator, can be particularly damaging to the growth of individual businesses. These include, for example, enforcement actions that limit or prevent a business from operating; financial sanctions; and publicity, in relation to a compliance failure, that harms public confidence.
- 4.3 Regulators, therefore, should ensure that their enforcement policy sets out clearly the hierarchy of their enforcement actions and the factors that guide their use, so that their interventions are deployed in a proportionate manner on a day-to-day basis. Indicators that a regulator has regard to the growth duty in making decisions on how to respond to non-compliance involve recognition in their enforcement policy of relevant factors including:
- A. the nature and level of risks to regulatory outcomes associated with the non-compliance, including the risks to economic growth;
 - B. the steps taken by the business to achieve compliance and any clear reasons for the failure;
 - C. the willingness and ability of the business to address the non-compliance;
 - D. the likely impact of the proposed intervention on the business, both in terms of remedying the non-compliance and in terms of economic costs; and
 - E. the likely impact of the proposed intervention on the wider business community, both in terms of deterring non-compliance and in terms of economic benefits to legitimate businesses.

¹⁵ Proportionality is one of the principles of good regulation that regulators in scope of section 21 of the Legislative and Regulatory Reform Act 2006 must have regard to – see footnote 2.

- 4.4 Where a business fails to comply with regulatory requirements regulators may be able, by applying their understanding of the business community and individual businesses that they regulate, to ensure that the costs associated with remedying the non-compliance are reduced to the minimum necessary. Indicators that a regulator is taking steps to minimise unnecessary costs include:
- A. The regulator discusses with the business the non-compliance and potential reasons for it, in order to be able to provide the best guidance and advice on sustainable solutions;
 - B. The regulator takes account of the business' own approach to delivering compliance, including establishing whether this is based on advice or guidance that the business has received, for example from a regulator or third party;
 - C. The regulator explains clearly to the business what compliance would look like in the business' context and acknowledges where there might be different ways of delivering compliance, recognising that these might incur different costs for the business;
 - D. The regulator clearly explains the potential consequences of non-compliance;
 - E. The regulator is clear about the expected timescale for remedying the non-compliance, taking into account representations from the business about what is reasonable; and
 - F. The regulator communicates any decision to take enforcement action to the business clearly and promptly, and provides a timely explanation of the business' right to appeal¹⁶.
- 4.5 Regulators should, where appropriate, follow the principle that enforcement action is a last resort and they should help businesses first. In particular, businesses that are in the 'start-up' period, for example, require a specific style of intervention to enable them to meet the particular challenges that they experience in achieving compliance in all areas, whilst becoming established in their business. A regulator's response to identified non-compliance by start-up businesses should recognise these challenges.

¹⁶ The Regulators' Code (provision 2.3) provides that regulators within scope should provide an impartial and clearly explained route to appeal against a regulatory decision.

5. Demonstrating regard for the growth duty

- 5.1 Regulators should ensure that they are transparent¹⁷ about the ways in which they have regard to the desirability of promoting economic growth across their activities. This will ensure that those they regulate, Government, and others with an interest in the regulation are able to hold the regulator accountable¹⁸.
- 5.2 Indicators that a regulator is acting in a transparent manner include:
- A. The regulator explains their approach to promoting economic growth, including in relation to promoting and supporting business innovation, and sets out what businesses and others can expect from them in relation to the growth duty;
 - B. The regulator engages with their business community, consulting publicly where appropriate, on proposed changes to their policy or practices which may have a significant economic impact on businesses they regulate, and publishes the results of any consultations; and
 - C. The regulator publishes any assessments that they undertake¹⁹ of the impacts that they have on their business community. For example, assessments of:
 - where and how their current approaches impact on their business community;
 - the likely impacts of proposed changes to their approach
- 5.3 Regulators may choose to incorporate information published to meet the provisions of this guidance into existing publications, such as their annual reports, service standards²⁰, and consultation responses.
- 5.4 Regulators should keep records of their decisions and the reasons for them. In doing so, they should record where the duty to have regard to the desirability of economic growth and the provisions of this guidance were relevant to their decisions and where, having regard to all the circumstances, those matters were not relevant or were outweighed by other considerations.

¹⁷ Section 110(2)(b) of the Act. Transparency and accountability are two of the principles of good regulation that regulators in scope of section 21 of the Legislative and Regulatory Reform Act 2006 must have regard to – see footnote 2.

¹⁸ The Deregulation Act 2015, as amended by section 16 of the Enterprise Act 2016, requires regulators in scope to publish annual performance reports as to the effect of the performance of the growth duty on the way the regulator exercised its relevant functions. This requirement will be brought into effect by secondary legislation and there will be guidance on the reporting requirement once it comes into effect.

¹⁹ The Small Business, Enterprise and Employment Act 2015, as amended by section 14 of the Enterprise Act 2016, requires regulators in scope to assess the impact on business of changes in the regulator's policy and practice.

²⁰ The Regulators' Code (provision 6) provides that regulators within scope should publish 'service standards' including clear information on how they communicate with businesses; their approach to providing information, guidance and advice; their approach to checks on compliance; their enforcement policy; any fees and charges; how to comment or complain about the service provided; and, routes for businesses to appeal.

- 5.5 Regulators should have in place mechanisms to ensure that their officers are applying their understanding of the business environment and of individual businesses in order to deliver a risk-based, proportionate approach in their day-to-day activities²¹.

²¹ The Regulators' Code (provision 6.4) provides that regulators within scope should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.

