Regulatory Futures Review

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Executive summary

Introduction

UK regulatory practice is highly regarded worldwide, and regulation of the private sector is generally seen as having improved over the past decade as a result of successive government initiatives and regulators' own efforts.

This Regulatory Futures Review arose from a view among regulators that significant improvements in operational efficiency could be found by sharing good practice between regulators and developing more collaborative working models, and that this would help achieve ambitious spending review targets.

The objectives, agreed between a steering group of regulators and the Cabinet Office, were to:

- identify opportunities to achieve significant improvements in operating efficiency by reviewing functions across the sector looking particularly at the experience of businesses and consumers affected by regulation;
- identify the sources of burdens on regulators themselves, the opportunities to reduce those burdens and hence to reduce cost, complexity and delays in regulation; and
- develop a taxonomy of effective regulatory delivery models that makes it possible to extend the work of this review across all regulators.

The review is the first of a series of functional reviews of arm's length bodies, and was led and carried out by regulators themselves. It excluded a number of regulators already involved in other reviews, notably the economic regulators. Owing to the large number of regulators in scope (70+) as well as differing levels of involvement, the review focused on some key themes:

- the future of regulation;
- regulated self-assurance and earned recognition;
- charging for regulation;
- collaboration between regulators; and
- burdens on regulators.

This report makes recommendations in each area, and gives estimates of the potential financial impact of our proposals and how implementation of our recommendations should be taken forward.

The future of regulation

Regulated entities, whether public, private or voluntary sector, have the main responsibility for meeting legal requirements and for providing the quality expected by their customers, employees, investors and others. They are also responsible for satisfying stakeholders, including regulators, that they are meeting legal requirements.

The best organisations achieve this partly through effective self-assurance. We see this in safety-critical sectors (e.g. civil aviation), in public services (e.g. in schools and hospitals), in supply chains (e.g. the Red Tractor scheme in the food sector) and industry schemes (e.g. the gas safety register).

Some organisations fail to meet their responsibilities through ignorance or lack of capacity: for example, some small businesses and failing public sector bodies, such as some schools and hospitals. Others wilfully ignore their responsibilities: for example, illegal gangmasters and illegal waste operators.

Neither the state nor individual regulators are directly responsible for each regulated entity meeting its legal obligations or quality expectations. Organisations should be able to find the best way to self-assure that they are meeting their legal responsibilities (although where the state itself is the purchaser of services some additional assurance will often be necessary). The job of regulators, then, is mainly to provide information and advice to ensure that organisations assure themselves effectively and reliably, and intervene when they do not.

Effective regulatory delivery models should therefore focus, as far as possible, on outcomes. While outcome-based regulation is a long accepted regulatory principle, many regulators face a constant battle to resist pressures to increase regulatory prescription.

Regulators should use the range of levers available to them in addition to their own statutory powers to reduce harm and ensure quality. These levers can include the influence of users and consumers, of buyers and commissioners, and other professionals involved in the sector. Using these levers, as well as regulated entities' own quality management systems ensures that assurance processes of all kinds can be minimised whilst still meeting desired regulatory outcomes.

Regulated self-assurance and earned recognition

We propose a general shift towards what we have termed 'regulated self-assurance'. Many regulators already practise this: for example, in the food industry, through earned recognition via membership of the Red Tractor assurance scheme, and through companies' self-assurance in the egg and poultry industries. However, there is scope to extend this approach not just in the food industry but also more generally, especially among inspection-focused regulators. These include the Food Standards Agency (FSA), the Driver and Vehicle Standards Agency (DVSA), and the Environment Agency. Where services are publicly funded, and/or there is limited user choice of provider, as is the case for many of the services regulated by Ofsted and the Care Quality Commission (CQC), we call this approach 'earned recognition' to emphasise the fact that inspection will still be key given the state's role as a purchaser of some of the services and in

ensuring user confidence in the quality of the service. However, such inspection should be proportionate and focused on where there are problems. Furthermore, if alternative forms of assurance schemes were to be brought forward, the threshold for approval would need to be very high in order to command the confidence of the public, service users and Ministers.

Greater use of regulated self-assurance and earned recognition will lead to greater efficiency in meeting regulatory outcomes and reduce the burden of duplicate assurance processes on businesses.

Regulated self-assurance and earned recognition is different from self-regulation. In many of the highly-regulated sectors, regulatory frameworks make substantial use of the internal quality assurance and reporting processes of regulated entities: for example, the Drinking Water Inspectorate (DWI) takes this approach with water companies.

In practice this means that businesses who 'do the right thing' should be regulated with a very light touch. As part of this, regulators should encourage more ethical business practices. However, where regulated entities do not 'do the right thing' and do not follow ethical business practices, redress should be sought.

Over time, external assurance schemes may be able to consolidate different regulatory inspection and assurance functions in a way that has sometimes been difficult for individual regulators to achieve. This has the potential to reduce further the burden of multiple inspection visits and information collection, which can cause great frustration for the regulated and increase regulated entity costs.

Competition and choice in such schemes can be a good thing, and may help to unlock the potential disruptive effects of new technology to provide new solutions to legal compliance and quality management.

Charging for regulation

Where regulated self-assurance is feasible, government should implement fully its existing policy of funding regulators through charges on those they regulate, rather than through Exchequer funding. It is still the case that around half the cost of running regulators is met by government grant rather than through charges, largely due to lack of legislative powers, time limitations, and because of history and circumstance.

Where costs are not fully covered in charges, there is a disincentive to the adoption of regulated self-assurance. There should therefore be a default presumption of full cost recovery for regulatory activities where regulated self-assurance is feasible. This may not be appropriate in every case, such as where the sector regulated is generally publicly funded, or perhaps where one of the regulator's main activities is providing information or education.

In addition, (as long as this does not deter self-reporting) entities who impose the greatest cost on regulators should bear that cost themselves (cost-reflective charging) rather than it being spread across all regulated entities. Consistent with this principle, more self-assurance by the regulated should, where possible, be accompanied by a reduced charge for regulation by the

regulator. This should help to ensure that compliant entities will have less to fear from full-cost charging for regulatory services and may gain a competitive advantage relative to less effective operators.

We also believe there is a strong case for HM Treasury to allow regulators greater freedom to recover enforcement costs through charges, rather than covering costs from grant in aid. Our proposed approach of 'earned recognition' for those who do the right thing also requires adequate levels of enforcement against those who wilfully do not.

Introducing greater regulated self-assurance would also introduce contestability into assurance processes, creating a competitive pressure on the regulator to increase efficiency. Alongside a requirement to consult on fees and charges, this should allay concerns that a greater use of fees and charges might lead to greater inefficiency in the regulators.

The proposals for greater regulated self-assurance and a presumption of full cost recovery are closely linked. Putting the costs of regulation on the regulated will incentivise them to find more efficient ways of meeting regulatory requirements and reduce the internal costs of the regulated in dealing with the regulators.

Greater collaboration between regulators

We found untapped scope to improve intelligence and data sharing between regulators. The benefits of data sharing mainly accrue to the regulated, through only having to 'tell us once'. Our work identified some of the information and data being collected, and this work is being taken forward by a number of other initiatives led by the Government Digital Service and others.

In this review, therefore, we have looked more at the potential of intelligence sharing to inform more targeted and efficient regulatory activities. Pathfinder projects have been identified in the areas of farm inspection and labour market enforcement, and the Health and Safety Executive (HSE) is pursuing these projects with the relevant regulators. Other longer-term projects have also been identified.

Regulators also believe there is considerable potential for a more co-ordinated approach to intelligence sharing through the establishment of a Regulatory Intelligence Hub. While the pathfinders can help to illustrate the benefits of establishing a hub, developing a standard approach to intelligence sharing would help to avoid the creation of multiple dissimilar bilateral arrangements.

The review has highlighted potential benefits of greater sharing of good practice between regulators, especially for non-business regulation, where the Better Regulation Executive has a limited remit. Some examples of good practice are described here, and others have arisen on a more bilateral and informal basis through contacts made in review workshops. We see value in building on this through a more formalised network of regulators.

While there are existing networks of economic and safety regulators, we consider that there would be value in a broader network. There is a good case for a small central unit (perhaps two to three full-time equivalents), reporting to a steering group of regulators, which would:

- hold and develop knowledge and expertise around regulation (with a particular focus on non-business regulation), which is currently mostly developed in isolation;
- be responsible for organising the development of a series of core training courses for regulators;
- serve as the secretariat for the regulators' network;
- co-ordinate action on initiatives such as the Regulatory Intelligence Hub; and
- possibly provide co-ordination of career development.

We do not consider that at this stage there is a sufficient case for the development of a regulatory profession along the lines of, for example, the Government Economic Service or Government Finance Profession.

Burdens on regulators

We also considered whether government places undue burdens on regulators. These burdens are felt most strongly by small regulators, where a more proportionate approach would be merited to mitigate the impact.

Summary of financial benefits

With a large number of regulators in scope and differing levels of involvement, we have only been able to make high-level estimates of the financial effects of our proposals. We have made broad estimates for the three most significant proposals: full implementation of charging, increased use of regulated self-assurance and earned recognition, and greater intelligence sharing.

In all cases full benefits would take some years to achieve. As well as the development work itself and a reasonable lead-in time for regulated entities to prepare, in some cases legislative change would be required. We believe full benefits might realistically be achieved by the end of 2020.

Benefits of charging

Our analysis of the 45 regulators for which we collected data indicates that of their total £2.54 billion combined annual spend on regulation, some £1.37 billion is grant funded. This potential gross Exchequer saving must then be reduced as some regulatory charging would recirculate public funds, with no net effect. We focused our analysis on the largest regulators where regulated self-assurance is possible and/or those where cross-charging of the public sector could be material. Such regulators account for £1 billion of grant funding and reducing this by the estimated value of cross-charging yields a potential Exchequer saving of £640 million. However, there will also be some cases where it will be undesirable to charge. On the other hand there will be some scope

among regulators that were not included in this data analysis. Taking the two countervailing influences into account, in our view, indicates a potential saving of at least £500 million.

It is worth noting that our analysis excluded the impact of cross-charging for the purpose of developing an estimate of potential net Exchequer savings. There may be good reasons for publicly funded entities to be charged for regulation to incentivise good behaviour by the regulated.

Benefits of charging

Total regulatory budget (£m) pa	Total government grant funding (£m) pa	Grant funding analysed (£m) pa	Estimated value of cross charging (£m) pa	Potential reduction in Exchequer cost (£m) pa
£2,540m pa	£1,370m pa	£1,000m pa	£360m pa	£640m pa

Note: all figures rounded to nearest £10 million

Benefits of increased self-assurance and earned recognition

We also assessed the potential benefits of moving towards greater regulated self-assurance. We analysed the activities of five of the largest six regulators, which tend to be those with the most inspection activities. In our judgement, based on the available evidence and the nature of the activities of the larger regulators, the potential savings are likely to be around 10% of their total costs, and hence of the order of £120 million. It should be noted that in the case of individual regulators the scope for savings might be significantly more or less than this average estimate of 10%. Extending this analysis to other regulators could lead to further potential savings.

Benefits of increased self-assurance and earned recognition

Total regulatory budget[1] (£m) pa	Regulatory budget analysed (£m) pa	Potential benefits (£m) pa	Potential benefits (%) pa
£2,540m pa	£1,080m pa	£120m pa	11% pa

Note: all figures rounded to nearest £10 million or percentage point

Two points must be emphasised about these estimated benefits.

[1] Regulatory spend comprises 45 of the 71 bodies identified as having some regulatory role and Local Authority spend for regulation (excluding housing, pest control, public conveniences and licensing). Data not readily available for RPA and EFA.

First, these are not necessarily (and in most cases will not be) net additional savings on top of Spending Review budget reductions. They show a mechanism by which these reductions can be achieved and made permanent.

Secondly, they cannot be added to the potential income from charges to attain a total reduction in Exchequer costs. If there is total cost recovery through charging then the benefit of reductions in regulatory costs will pass through to regulated entities in line with the principles of 'Managing Public Money'.[2]

Benefits of increased intelligence sharing

Regulators considered there to be a strong case for greater central co-ordination of intelligence sharing. This ranged from storing and maintaining data catalogues and centrally procured intelligence through to best practice and intelligence sharing research. The idea of a Regulatory Intelligence Hub, with a combined cross-department role for government, was seen as being a priority. Outline estimates suggest that savings in the order of £7.5 million per annum are achievable from such a concept.

Implementation of recommendations

This Regulatory Futures Review has been one of the most comprehensive reviews of regulatory practice since the Hampton Report in 2005, though with a rather different focus on exploring opportunities to make regulatory delivery more efficient. It has also been the first opportunity for the whole regulatory community to share and exchange their developing approaches and good practice.

The review should therefore be seen as the start of a journey to involve regulators themselves in developing and improving the set of regulatory models employed by government. Making this happen is the responsibility of the regulators concerned and their sponsor departments. We set out below the recommendations, responsibilities and suggested timescales.

We recommend that regulators and their sponsor departments should respond on how far and how fast they can move on the two changes envisaged here: a presumption of a move to greater regulated self-assurance and earned recognition underpinned by full-cost recovery charging for regulatory activities.

As some of the above would require legislative change **we recommend** that **government** should reflect on the impact on policy and set out a definite way forward for implementation. Government should also consider further ideas such as companies or sectors having a 'right to challenge' regulators by setting out how they propose they might provide their own assurance model within the broad framework of regulated self-assurance and earned recognition.

We recommend that regulators as a group should take forward the pathfinder projects for intelligence sharing in relation to farm inspections and labour market and establish a working group to report back in six months on the feasibility, scope and funding mechanism of a

[2] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf

Regulatory Intelligence Hub. Alongside this, a working group of regulators should take forward the idea of establishing a small central hub to encourage development and the sharing of regulatory models and good practice.

We recommend that the **Better Regulation Executive** together with regulators should consider and report back within six months as to how burdens placed on smaller regulators might be made more proportionate.

We **recommend** that **regulators** should move as far as practicable towards an outcome-based approach to regulation. Regulators should also consider how such a change would affect the level and nature of their engagement with regulated companies. We further **recommend** that regulators should periodically (around every five years) review their regulatory approach, with a view to stripping back accumulations of excessive standards and process controls. We also **recommend** that all regulators should consider how far they can make use of other agents who can bring influence to bear on minimising harm and improving the quality of services as part of their regulatory strategy.

1. Introduction

1.1. The Regulatory Futures Review was instigated by the Minister for the Cabinet Office as the first of a series of functional reviews of public bodies and executive agencies in December 2015 as part of the Public Bodies Reform strategy.

1.2. Unlike the Triennial Reviews carried out in the last Parliament, this Review covered a large number of bodies (over 70 were potentially in scope) and was directed and carried out by the regulators themselves. The Review was directed by a steering group which comprised:

- Amanda Spielman (Chair): Chair, Ofqual;
- Judith Hackitt: Chair, Health and Safety Executive (until March 2016);
- Graham Turnock: Director, Better Regulation Executive;
- Philip Graf: Chair, Gambling Commission;
- Paul Kirby: Non-Executive Director, Cabinet Office;
- Lesley Ann Nash: Director, Public Bodies Reform Cabinet Office;
- Chris Banks: Chair, Quality Assurance Agency for Higher Education; Chair, Public Chairs Forum;
- John Alty: Chief Executive, Intellectual Property Office (until Aug 2016); Chair, Association of Chief Executives;
- Gillian Pratt: Director, Environment Agency; and
- Rod Ainsworth: Director, Food Standards Agency.

Other initiatives and reviews which had overlap with the Regulatory Futures Review

1.3. Whilst the Review was taking place, there were a number of other initiatives that were ongoing where desired outcomes overlapped with those of the Review. Wherever possible, the Review team sought to work alongside other initiatives to minimise duplication. These initiatives have influenced the scope of the Review. We highlight below the principal examples of these initiatives and the impact on the Review.

1.4. Some departments have been preparing transformation plans which naturally affect a number of regulators potentially in scope of this review. The Review has therefore sought to keep departments updated as to the progress and overall direction of travel for the

Review. We interacted with the Government Digital (GDS) to link up with initiatives involved in the 'tell us once' principle.

1.5. Both the Better Regulation Executive and the Regulatory Delivery Office have sought to tackle aspects of the Review in initiatives that have concluded or are ongoing. The Review team has engaged with both teams throughout the Review to ensure that where possible a collaborative solution can be delivered.

Approach to which bodies were in scope, and varying levels of participation

1.6. The Review in theory covered all regulators which satisfied the definition of a regulator as set out in the Better Regulation Executive definition of a statutory regulator:

- a function under any enactment of imposing requirements, restrictions or conditions, setting standards in relation to any activity or guidance relating to other regulatory activities; and/or
- a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which is under or by virtue of any enactments relating to any activity.

Sometimes the term 'regulation' is used more narrowly to include only entities that can enforce, but we have deliberately adopted the wider definition and so have included purely inspection bodies such as HMI Probation.

1.7. At an early stage we excluded some regulators from active consideration for a variety of reasons such as:

- they had recently been established or subject to review (e.g. Financial Conduct Authority and Prudential Regulation Authority);
- they were primarily, or entirely registration bodies (e.g. Intellectual Property Office, and DVLA); or
- they were part of a Department for Business, Energy and Industrial Strategy-led review of economic regulators and there was a desire to avoid them being over-reviewed.

1.8. In other cases departments, or the regulators themselves, felt that because of other initiatives which were current in terms of departmental transformation plans (for instance at the Department for Environment, Food & Rural Affairs), changes in the nature of the body occurring in the course of the Review (the proposals for HEFCE and OFFA becoming the Office for Students), or reviews of the individual body taking place at the same time (for instance at the Homes and Communities Agency) that the extent of their involvement in the Review might be reduced.

1.9. In addition, as potentially 70+ bodies were in scope of the Review some bodies only received our data information request and were not subject to further review either because they were particularly small or were particularly specialised. We therefore focussed on 31 regulators in detail. In general it is the data for these regulators which is presented (where the focus is on a different sized group of regulators this fact is highlighted). As a result the degree of scrutiny between regulators varied. The review did not look at regulators established by the Devolved Administrations.

1.10. The degree of contribution which regulatory bodies made to the Review also varied and included one, or more, of:

- financial contributions to the costs of the Review;
- providing staff to carry out fieldwork and/or lead particular work-streams;
- being a member of the steering group;
- leading or presenting at Review workshops;
- attending workshops;
- submitting returns to the initial information request;
- taking part in structured interviews in the course of the Review; and
- assistance in estimating the potential benefits of the conclusions and recommendations of the Review.

1.11. Financial contributions to the costs of the Review were received from: Food Standards Authority, Gambling Commission, Homes and Communities Agency, Health and Safety Executive, Information Commissioner's Office, Insolvency Service, Intellectual Property Office, Ofqual, Ofsted, and The Pensions Regulator.

1.12. The following regulators provided staff to carry out fieldwork and/or lead particular work-streams: Gambling Commission, Health and Safety Executive / Health and Safety Laboratory and Ofsted. The following regulators led or presented at Review workshops: Care Quality Commission, Food Standards Authority, Gambling Commission, Ofgem, Ofqual, Ofsted, NHS Improvement and Professional Standards Agency for Health & Social Care.

1.13. There were three stated objectives of the Review:

- identify opportunities to achieve significant improvements in operating efficiency by reviewing functions across the sector, looking particularly at the experience of businesses and consumers affected by regulation;
- identify the sources of burdens on regulators themselves; the opportunities to reduce those burdens and hence to reduce cost, complexity and delays in regulation; and

- develop a taxonomy of effective regulatory delivery models that makes it possible to extend the work of this review across all regulators.

1.14. The Review took the view that its terms of reference did not include considering whether regulation is required at all nor what the regulation itself should be, as that was seen as relating to regulatory policy. Instead we considered how regulators can operate better within the existing set of regulations.

1.15. Following feedback from regulators, the Review team also took a decision at an early stage to focus attention on the 'front office' functions of the regulators, which was the justification for the cross-functional review, rather than to consider 'back office' functions which had been, and were, the subject of other efficiency initiatives.

1.16. Due to the nature of the participation of the bodies and the large number of regulators potentially in scope, the approach the Review team took was to examine a number of themes which would potentially have applicability across a wide range of regulators, rather than to make very specific recommendations concerning particular regulators.

1.17. The rest of this report is structured around these themes as follows:

Section 2: The regulatory landscape

Section 3: Current regulatory practice and challenges

Section 4: The regulatory future

Section 5: Government setting high-level principles: outcome-based regulation

Section 6: Increased use of regulated self-assurance and earned recognition

Section 7: Cost recovery

Section 8: Intelligence and data sharing

Section 9: Developing expertise within regulators

Section 10: Burdens on regulators

Section 11: The potential benefits of our proposals

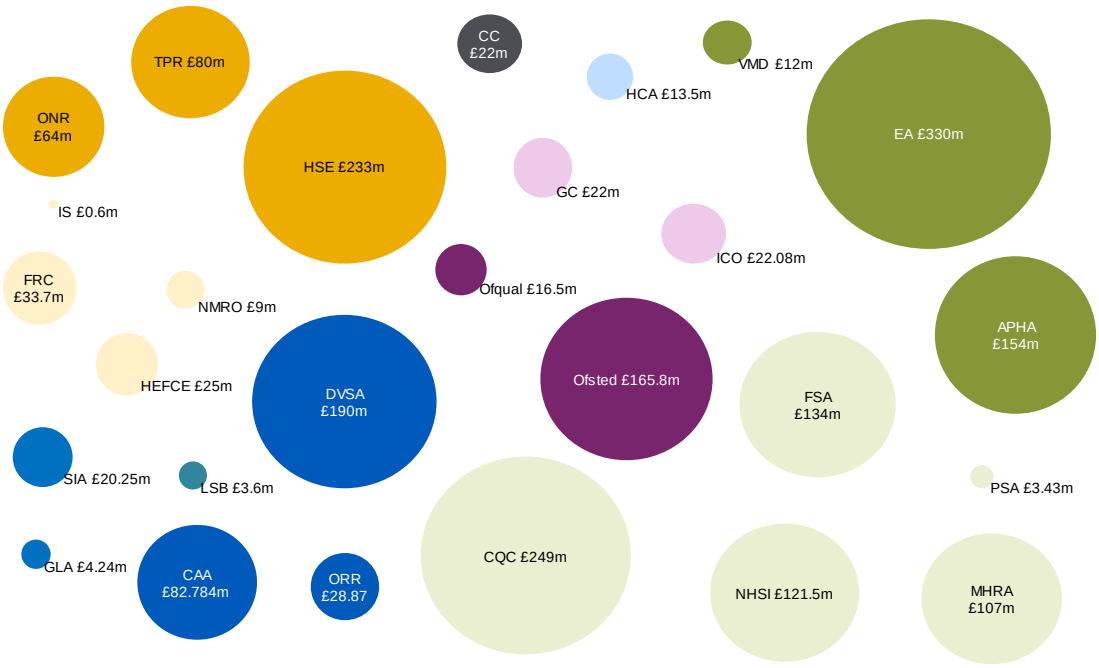
Section 12: Conclusions and recommendations

1.18. This report represents the views of the steering group. We engaged extensively with a wide range of regulators and discussed our emerging conclusions with them. Their input significantly influenced these conclusions and recommendations and had their broad support, although inevitably individual regulators may not necessarily agree with every single recommendation. We propose that how these recommendations could and should be applied to individual regulators and departments will be now for regulators (either individually or collectively), their sponsor departments, the Cabinet Office and Department for Business, Energy & Industrial Strategy to take forward.

2. The regulatory landscape

2.1. The regulatory landscape is diverse and can be classified in a number of ways to help draw conclusions. Figure 1 shows the differing size of the regulators by expenditure.

Figure 1: Overview of regulators by regulatory spend and department classification in 2015



Source: Public Bodies 2015, Regulatory Futures Review data collection, desk research and RFR analysis

Note: Data excludes LA spend for regulation. Data not readily available for RPA and EFA

2.2. Drawing on data returns and initial meetings with the regulators we sought to classify the regulatory bodies according to three categories (which are summarised in Figures 2a, 2b and 2c):

- Who is regulated?
- Who is protected?
- The standards used for regulation.

Figure 2a: Classification of regulatory bodies: Who is regulated?

		Who is regulated?				
Name	Economic regulators	Businesses	Not for Profit	Providers of public services	Machinery of Governmen	Individuals - Professionals
Animal and Plant Health Agency		Y				
Care Quality Commission		Y	Y	Y		
Charity Commission for England and Wales			Y			
Civil Aviation Authority	Y	Y				Y
Driver and Vehicle Standards Agency (DVSA)		Y		Y		Y
Education Funding Agency		Y	Y	Y		
Employment Agency Standards Inspectorate		Y				
Environment Agency		Y				
Financial Reporting Council (FRC)		Y				Y
Food Standards Agency		Y	Y	Y		Y
Gambling Commission		Y	Y	Y		Y
Gangmasters Licensing Authority		Y		Y		
Health and Safety Executive		Y	Y	Y		Y
Higher Education Funding Council for England (HEFCE)		Y	Y	Y		
HM Inspectorate of Probation				Y		
Homes and Communities Agency		Y	Y	Y		
Information Commissioner's Office		Y	Y	Y	Y	Y
Insolvency Service		Y				Y
Legal Services Board		Y	Y			Y
Medicines and Healthcare Products Regulatory Agency		Y	Y	Y		Y
National Measurement and Regulation Office		Y				
NHS Improvement		Y	Y	Y		
Office of Nuclear Regulation		Y		Y		Y
Office of Rail and Road	Y	Y	Y	Y		Y
Ofqual		Y	Y			
Ofsted				Y		
Pensions Regulator		Y	Y	Y		Y
Professional Standards Authority for Health & Social Care						Y
Rural Payments Agency		Y				
Security Industry Authority						Y
Veterinary Medicines Directorate		Y	Y	Y		Y

As might be expected, the majority of regulators regulate businesses, but many also regulate different types of organisations in the form of 'not for profit' entities and/or providers of public services.

There is also a high level of integration in terms of regulators of organisations (businesses, 'not for profit' or providers of public services) also regulating professionals.

Note that the Financial Reporting Council, the Legal Services Board, and the Professional Standards Authority for Health and Social Care provide oversight of regulators who are responsible for regulation of the groups selected in the respective lines above.

Figure 2b: Classification of regulatory bodies: Who is protected?

		Who is protected?				
Name	Economic regulators	Businesses	Natural Resources	National Infrastructure	Consumers	Citizens
Animal and Plant Health Agency		Y	Y		Y	Y
Care Quality Commission					Y	Y
Charity Commission for England and Wales						Y
Civil Aviation Authority	Y				Y	Y
Driver and Vehicle Standards Agency (DVSA)					Y	Y
Education Funding Agency						Y
Employment Agency Standards Inspectorate						Y
Environment Agency			Y			Y
Financial Reporting Council (FRC)		Y			Y	Y
Food Standards Agency		Y			Y	Y
Gambling Commission					Y	Y
Gangmasters Licensing Authority		Y				Y
Health and Safety Executive		Y		Y		Y
Higher Education Funding Council for England (HEFCE)					Y	Y
HM Inspectorate of Probation						Y
Homes and Communities Agency		Y			Y	Y
Information Commissioner's Office		Y			Y	Y
Insolvency Service		Y			Y	
Legal Services Board		Y			Y	Y
Medicines and Healthcare Products Regulatory Agency		Y			Y	
National Measurement and Regulation Office		Y	Y		Y	
NHS Improvement					Y	Y
Office of Nuclear Regulation		Y		Y	Y	Y
Office of Rail and Road	Y	Y		Y	Y	Y
Ofqual					Y	
Ofsted					Y	Y
Pensions Regulator						Y
Professional Standards Authority for Health & Social Care					Y	Y
Rural Payments Agency					Y	Y
Security Industry Authority					Y	Y
Veterinary Medicines Directorate		Y	Y		Y	Y

The majority of regulators seek to protect consumers and/or citizens, with some also involved in protecting businesses. It is worth noting that regulators' responsibility for protecting these groups may not apply uniformly across each group as a whole when selected above. For example, regulators are normally interested in consumers of products and/or services arising within the sector they regulate rather than consumers as a whole. Similarly, a desire to protect citizens would be linked to the role citizens play in the area being regulated, for example whether they are acting as investors or employees.

Figure 2c: Classification of regulatory bodies: Standards used for regulation

		Standards used for regulation						
Name	Economic regulators	Professional standards	Service standards	Product standards	Operating standards	Environmental standards	Pricing controls	Other controls
Animal and Plant Health Agency								Y
Care Quality Commission			Y					
Charity Commission for England and Wales								Y
Civil Aviation Authority	Y	Y						Y
Driver and Vehicle Standards Agency (DVSA)		Y	Y	Y	Y			
Education Funding Agency								Y
Employment Agency Standards Inspectorate			Y					
Environment Agency						Y		Y
Financial Reporting Council (FRC)		Y	Y					
Food Standards Agency		Y	Y	Y	Y			
Gambling Commission				Y	Y			Y
Gangmasters Licensing Authority					Y			
Health and Safety Executive		Y		Y	Y			Y
Higher Education Funding Council for England (HEFCE)			Y					
HM Inspectorate of Probation			Y					
Homes and Communities Agency			Y		Y		Y	
Information Commissioner's Office								Y
Insolvency Service		Y						Y
Legal Services Board		Y	Y					Y
Medicines and Healthcare Products Regulatory Agency		Y	Y	Y	Y	Y		
National Measurement and Regulation Office		Y	Y	Y	Y	Y	Y	Y
NHS Improvement			Y		Y		Y	
Office of Nuclear Regulation					Y			
Office of Rail and Road	Y	Y	Y		Y			Y
Ofqual			Y	Y	Y		Y	
Ofsted								Y
Pensions Regulator				Y	Y			Y
Professional Standards Authority for Health & Social Care		Y						
Rural Payments Agency						Y		Y
Security Industry Authority		Y						
Veterinary Medicines Directorate			Y	Y		Y		

While the previous two charts suggest that there are some regulators who seek to regulate similar groups and also seek to protect similar groups, this chart suggests that their methods vary significantly. This is partly a function of the (combination of) outcome(s) that regulators seek to attain.

2.3. Figures 2a, 2b and 2c show that there is no consistent pattern as to whether regulation is organised around:

- industry (e.g. Civil Aviation Authority; Office of Rail and Road);
- harm (e.g. Health and Safety Executive; Food Standards Agency);
- product standard (e.g. Medicines and Healthcare Products Regulatory Agency);
- service standard by entity (e.g. Care Quality Commission Ofsted);
- profession (e.g. Professional Standards Authority for Health and Social Care);
- ethical standards (e.g. Human Tissue Authority); or
- a combination of these (e.g. Driver and Vehicle Standards Agency covering individuals and entities; the Insolvency Service covering harm, profession and professional practice; the Financial Reporting Council covering standards, professionals and professional practices).

2.4. In some cases regulatory activities have been combined with non-regulatory activities.

- the Environment Agency has substantial regulatory activities in relation to industrial installations, waste, water quality and abstraction, and inland fishing, but also has responsibility for flood prevention work;
- the Rural Payments Agency has responsibility for payments to farmers and other parties under the Common Agricultural Policy but also for livestock identification and traceability to aid prevention and management of animal diseases; and
- NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support teams. NHS Improvement contains the regulatory activities exercised by Monitor, alongside wider improvement activities, building on improvement activities delivered by its legacy organisations.

The precise current combination of functions is often a product of history and convenience as much as logic. In many cases the precise form of the regulator has been determined by specific past events which have led government to take action.

Examples

The **Sports Ground Safety Authority** was formed following the Hillsborough Disaster in 1989. It has statutory responsibility to oversee local authority regulation of safety at 94 major football grounds, and also issues licences to admit spectators directly to those grounds.

The **Human Tissue Authority (HTA)** was established following events in the 1990s that revealed a culture in hospitals of removing and retaining human organs and tissue without consent.

The HTA now regulate organisations that remove, store, and use human tissue for a number of purposes, including research, medical treatment, post-mortem examination, education and training, and for display in public. They are also responsible for approving organ and bone marrow donation from living people.

The primary focus of the HTA has always been to ensure that human organs and tissue are used safely, ethically, and with proper consent, assuring the public that their wishes will be respected.

The sector-specific **Office of Rail and Road** was established to take on some of the rail-safety functions previously regulated by the HSE following concerns after the Ladbroke Grove and Hatfield rail disasters.

The **Office for Nuclear Regulation (ONR)** was also separated from HSE and established as a stand-alone public corporation. This provided ONR with greater operational flexibility, easing the recruitment of nuclear specialists and providing a greater focus on nuclear skills and expertise given the planned nuclear new build programme and the associated role of the ONR in Generic Design Assessment approval for new nuclear reactors.

2.5. Indeed, while there have been a number of mergers of regulators since 2010, with the creation of regulators such as the Driver and Vehicle Standards Agency (DVSA) from the Drivers Standards Agency (DSA) and the Vehicle and Operator Services Agency (VOSA), and the Animal and Plant Health Agency from the Animal Health and Veterinary Laboratories Agency and parts of the Food and Environment Research Agency (Fera), there have probably been as many cases of creation of new regulators such as the Office of Nuclear Regulation, and the Oil and Gas Authority.

3. Current regulatory practice and challenges

3.1. There has been a series of initiatives over the years which have sought to improve regulation of the private sector. Following deregulatory moves under the Conservative Government to 1997, the Labour Government sought to improve the practice of regulation with initiatives such as the Better Regulation Task Force set up in 1997, the Better Regulation Executive, and then the Hampton Report[3] and Macrory Review[4] which resulted in the Regulatory Enforcement and Sanctions Act 2008.

3.2. These were followed by the One-in, One-Out (later One-In, Two-Out) initiative under the 2010 to 2015 Coalition government which delivered savings to business worth £10 billion over the Parliament. It was supported by:

- Red Tape Challenge and Focus on Enforcement reviews which took a sectoral approach to identifying how to reduce the impact of regulation on business;
- the upgrading of the long-standing statutory code of practice for regulators which gives effect to the Hampton principles of regulation; and
- legislation creating a duty for regulators to have regard to the desirability of economic growth.

The Small Business, Enterprise and Employment Act 2015 required future governments to set a Business Impact Target (BIT) for the impact of regulation on business over the lifetime of a Parliament.

3.3. The Conservative Government from 2015 had a more explicit deregulatory agenda, with a manifesto commitment to make a further £10 billion of regulatory savings for business (which is the BIT of the 2015 to 2020 Parliament). This is being delivered through:

- regulatory budgets for departments, which take account of the impact of changes in policy and practice by the regulators which they sponsor as well as legislative changes; and
- Cutting Red Tape reviews, the successors of the Red Tape Challenge and Focus on Enforcement.

3.4. As a result of this constant focus on seeking to improve regulation, UK regulation is generally seen as best practice worldwide as recognised by, for example, OECD reviews

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

4 http://webarchive.nationalarchives.gov.uk/20121212135622/http:/www.bis.gov.uk/files/file44593.pdf

of regulatory practice.[5] In our discussions with business representative organisations there was recognition of the efforts governments have made to improve the practice of regulation. As a result regulation is a less frequent cause of complaint from their members. At the same time they still argued that there is a lot more that could be done to improve regulatory practice.

3.5. Current best practice as set out in the Regulators' Code emphasises a number of key aspects:

- an emphasis on provision of advice and information to facilitate and encourage compliance rather than inspection and enforcement;
- a risk-based approach to regulation and inspection and, where possible, a 'no blame' approach to encourage reporting of non-compliance; and
- greater information and intelligence sharing and collaboration between regulators.

3.6. Much of the pressure for improvement in regulatory practice has been driven by top-down initiatives in the past. This review, led by the regulators, is an opportunity for regulators themselves to contribute their extensive knowledge and experience to how regulation might be improved operationally.

3.7. In addition, in public services, regulatory practice is rather less mature and cross-country comparisons are less developed due to the very different structures, ownership and means of funding public services between countries. Indeed, in the UK, public services have been subject to frequent change as government sees it as being more its responsibility to secure improvements in public services than it does in the private sector where its aim is more (though not entirely) directed towards compliance.

3.8. Devolution has meant that there is both greater diversity in the structure of public services and also in the nature of regulation. For example, in a centrally-run health service without a purchaser/provider split (as in Scotland), whilst there still is the need for an inspectorate (Healthcare Improvement Scotland) along the lines of CQC, there is no need for an economic regulator (or a financial monitoring organisation) as performed by Monitor in England.

3.9. As a result, within some areas of public services, notably health and education, regulators have more often been subject to government policy objectives shifting and changing the context of regulation, than has been the case in the private sector. In this review our focus on public services is in relation to England.

3.10. There are other influences which have had, or will have, a strong impact on regulatory practice.

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5 http://www.oecd.org/gov/regulatory-policy/44912041.pdf

Constraints on public spending

3.11. With a few notable exceptions, such as the Office of Nuclear Regulation and the Care Quality Commission, regulators, like most of the public sector, have been required to make reductions in public expenditure in the recent past. In the case of most regulators this will continue in the period to 2020. This review will not necessarily identify **additional** savings which can be made. Rather, in many cases it may simply identify approaches regulators may use to achieve these target reductions.

The impact of withdrawal from the European Union

3.12. The referendum vote to withdraw from the European Union occurred towards the end of the Review. Consideration has been given to the impact that this might have for the conclusions of the Review, particularly as EU regulation was one of the issues in debate between the two sides of the Referendum campaign.

3.13. Once the future desired relationship between the UK and the EU is secured issues for regulation such as:

- the status of the UK in relation to the Single Market;
- free movement of labour; and
- labour market regulations more generally,

will be known.

3.14. The extent to which the UK Government will seek to revise some non-Single Market regulations such as environmental regulations is to be negotiated.

3.15. The United Kingdom will in due course be leaving the European Union. The formal negotiations will determine the precise arrangements that will determine the new regulatory environment. The Government has stated it will introduce a Great Repeal Bill to remove the European Communities Act from the statute book and convert the body of existing EU law into domestic law. Parliament will then be free to amend, repeal and improve any law it chooses. In that context, we have assumed for the purpose of the Review that any substantive regulatory impact will be from 2020 at the earliest - and hence beyond a likely timescale for implementation of this Review's main recommendations. Indeed we hope that some of the principles laid down in this Review may help in considering how future regulations might best be drafted to aid their implementation. However, for those regulators whose work will be most influenced by withdrawal from the EU, there may be re-allocation of management focus, and so implementation of this Review's recommendations may take longer.

3.16. There will be some very specific impacts on some regulators, for example the Medicines and Healthcare Products Regulatory Agency (MHRA) and its relationship with the London-based European Medicines Agency, but not to the extent that it would affect the validity and ease of implementation of the Review's recommendations. Indeed, some

recommendations may be easier to implement. For example, there has been some uncertainty in the Food Standards Agency as to whether self-assurance in abattoirs would be permissible under existing EU regulations.

Recent research on regulatory best practice

3.17. There has been a range of academic work on regulation which has informed the development of regulatory practice.[6] For example, the Ayres and Braithwaite enforcement pyramid has had a significant influence on stressing that enforcement action should generally be a last resort in terms of ensuring regulatory compliance. The UK Regulators' Code[7] and OECD Best Practice Regulatory Principles[8] have drawn on this academic work and both stress that regulation should be risk-based. There has been continued academic research into models that minimise the hands-on assurance role of the state. One such model is 'meta-regulation' which involves government rather than regulating directly, encouraging industry to put in place its own systems of internal control, which are then scrutinised by regulators.

3.18. Perhaps the most recent new development is the work of Christopher Hodges (Hodges, 2016) summarised in a paper for the Better Regulation Delivery Office (BRDO).[9] Hodges takes an approach which draws on empirical evidence from behavioural psychology (rather than economics) and regulatory practice to propose a more collaborative approach in the UK between businesses, their stakeholders and public officials, based on a shared ethical approach.

3.19. In particular he argues that:

- effective regulation should be viewed as producing desirable *behaviour* by the people involved; and
- businesses should be encouraged to adopt ethical practice and regulatory systems and actions should support and incentivise this.

3.20. Hodges argues that enforcement policies should generally avoid the concept of deterrence, since it has limited effect on behaviour and conflicts with a learning-based performance culture. Where sanctions are imposed, the totality of sanctions should be proportionate to the degree of moral culpability involved.

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6 For example see 'The Oxford Handbook of Regulation' edited by Baldwin, R., Cave, M., & Lodge, M. (2010) Oxford University Press

7 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

8 http://www.oecd.org/gov/regulatory-policy/governance-of-regulators.htm

9 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497539/16-113-ethical-business-regulation.pdf

3.21. Hodges believes that adoption of a robust and evidenced ethical business regulatory system would enable the regulatory architecture to be rationalised. He argues that the implications for UK regulators are that the architecture should consist of:

- high-level general principles (provided by the national regulator), which can be seen as akin to outcome based regulation; and
- provision of detail at a lower (potentially non-regulator) tier, for example in guidance at sectoral (trade association), internal (group or corporate), or area (Chambers of Commerce for SMEs) level.

3.22. This general approach has received endorsement from the Committee on Standards in Public Life who, in their report 'Striking the balance - upholding the 7 principles of public life in regulation',[10] recommended that best practice in regulation is that "regulators should actively engage with those they regulate and take a leadership role by encouraging positive attitudes towards compliance".

3.23. This proposed architecture has influenced our proposals for what we have termed 'regulated self-assurance'. However our proposals vary this architecture by using third parties and assurance bodies in addition to regulated entities for assurance tasks.

3.24. Furthermore, we recognise that government will still be ultimately responsible for regulation and therefore will still supervise this self-assurance. They may still need to retain an assurance role in certain circumstances - such as where there is a high number of very small firms or a high level of criminality.

[10] https://www.gov.uk/government/publications/striking-the-balance-upholding-the-7-principles-in-regulation

4. The regulatory future

4.1. While there is much that is good in UK regulatory practice, there is scope for improvement. Currently regulators are operating in a context where they are being required to make, in many cases, year on year reductions in expenditure. Hence no change is not an option and one of the objectives of this review requires us to identify how regulators can achieve significant improvements in operational efficiency.

4.2. Areas in which regulators think there is scope for improvement include:

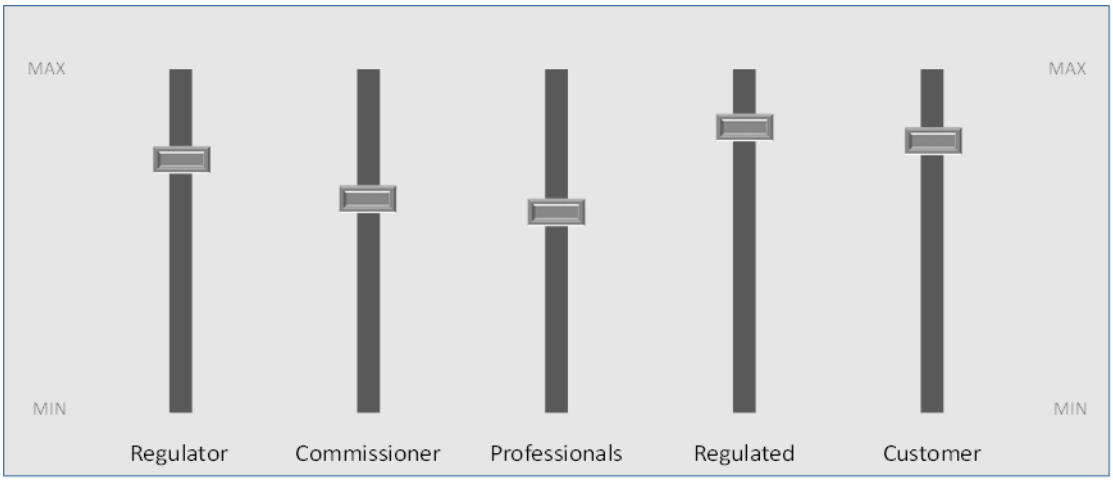
- an even greater focus on outcome based regulation than there is currently;
- a shift in the expectations of what regulators can and should do and what businesses and others such as purchasers/commissioners and professionals should do to ensure, not just compliance, but steady reduction in the risk of harm and/or improvement in the quality of services. The interaction of these roles is summarised in the graphic equaliser model (summarised below);
- greater harnessing of data, surveys and use of regulated entities' own quality management systems to reduce (though probably never entirely remove) the need for physical inspection; and
- greater sharing of information and intelligence between regulators and other public bodies.

The graphic equaliser model

The Care Quality Commission uses a conceptual framework, 'the graphic equaliser model', which we have found particularly useful (presented in Figure 3). This outlines a set of five stakeholders who can each act as levers of influence and take responsibility for quality in the health and social care sector. The extent of the role each plays will vary between sectors but also over time depending on the particular circumstance and challenges facing the sector.

This framework can be generalised so that it applies to the private sector more generally, where the commissioner/user combined is the purchaser. According to economic theory, one of the justifications for regulation is when there is asymmetry of information between the purchaser and the provider. This can be particularly the case where the purchaser is an individual. Hence the more informed the purchaser the less the need for a regulator to be involved in the purchaser/provider relationship. In principle, the more a purchaser can be an active lever for quality, the less that action is required from the regulator.

Figure 3: Care Quality Commission stakeholder equaliser



4.3. Currently, in some cases, too much of the responsibility falls by default on the regulator and too little on the regulated entity, the commissioners or the professionals working in the entity. This can be addressed through legal means or through seeking to emphasise this in the values of the entities concerned.

4.4. In other cases the regulator may be duplicating the assurance which the regulated entity or the purchasers are carrying out themselves. For example, in the case of food safety, large supermarkets will already make use of quality-management systems to assure food hygiene and currently both local authorities (on behalf of the FSA) and BRC Global Standards (on behalf of retailers who are the purchasers) assure that food manufacturers meet food safety standards.

4.5. In such cases there may be scope for the regulator to rely more on assurance being provided by, or on behalf of, the regulated entity themselves (suitably audited), or by purchasers or professionals, rather than doing duplicate assurance themselves. We set out a number of examples below of areas where this already happens.

Purchasers taking responsibility for their supply chain: Red Tractor scheme

This was established following the salmonella, E-coli and BSE scares in the 1980s and 1990s. Food retailers sought to ensure greater control over their supply-chain standards as food hygiene issues among their suppliers can lead to brand damage for retailers and costs associated with product recall. Establishing a scheme of third-party assurance avoids farms being inspected by multiple retailers. The scheme is owned jointly by the National Farmers Union and the British Retail Consortium. More recently the Food Standards Agency recognised that it could use this assurance scheme to inform its own risk assessments when deciding on frequency of inspection.

Red Tractor (and associated assurance schemes such as the Agricultural Industries Confederation and BRC Global Standards) does assurance from farm to processing, covering some of the regulatory controls within the scope of FSA, local authorities, Animal and Plant Health Agency (APHA) and Environment Agency (EA), through certification bodies who compete to assure farms etc. Farms negotiate fees and membership with certification bodies. Red Tractor covers around 80% of farming production. As a result, Red Tractor assured farms are less likely to be inspected in any single year (2% compared to 25% for non-Red Tractor assured farms), with the result that inspections can be better targeted and their number reduced.

Companies self-reporting: Drinking Water Inspectorate (DWI)

Currently the DWI operates a system of self-reporting which involves water companies testing drinking water themselves with their own processes, sampling and testing all assured by UKAS assured certification bodies and reporting results to the DWI. Companies have a statutory obligation to report on incidents concerning the quality of the drinking water which the DWI then investigates. In this case therefore the assurance is all done by the companies themselves under the supervision of the regulator.

Companies self-reporting: Health and Safety Executive (HSE)

RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013) place a legal duty on the relevant duty holder, normally the employer, to report injuries at work to the HSE.

Professions taking responsibility: Medicines and Healthcare products Regulatory Authority (MHRA)

The MHRA operates a ‘yellow card’ system where doctors have a (voluntary) responsibility to report if there is an adverse reaction arising from the use of a particular medicine or medical device, in order to identify where particular medicines or combination of medicines are having an adverse impact.

Professions taking responsibility: Civil Aviation Authority (CAA)

Pilots and air traffic controllers have a statutory responsibility to report any near misses (proximity events) to the CAA, on a 'no blame basis'.

4.6. A similar framework might be used in cases where regulation seeks to protect the provider against the purchaser. Here the regulator might make use of other agents to help ensure compliance and/or avoid duplication of assurance. For example, could developers or insurers be used more to encourage high standards of health and safety in construction?

4.7. In other cases it may be that other agents make use of the assurance provided by the regulator. For example, it is said that lenders to private registered providers of social housing (commonly referred to as housing associations) take reassurance from the regulation of housing associations by the Homes and Communities Agency which is a contributory factor in the cost of funds to the sector.

4.8. The role of insurers and purchasers and that of the regulator can become self-reinforcing. For example there is evidence that food hygiene ratings are starting to be taken into account by corporate and individual purchasers of food and by insurers when determining insurance premiums. The DVSA, in developing an earned recognition scheme for heavy goods vehicle and public service vehicle operator licence holders, is looking to commercial pressures through purchasers of transport services and insurers to encourage transport operators to join the scheme.

4.9. However, for roles to be appropriately allocated it is important that the economic costs of the various assurance activities are transparent and the allocation of tasks fully taken into account. For this reason we believe there should be a presumption of full-cost recovery for regulatory services - an issue which we consider further in Section 8.

4.10. We **recommend** that all regulators consider how far they can make use of other agents who can bring influence to bear on minimising harm and improving the quality of services as part of their regulatory strategy. This will help to minimise oversight and, in the case of regulation of public services, ensure that the most appropriate public body is responsible for each element of assurance.

5. Government setting high-level principles: outcome-based regulation

5.1. The first part of our proposed approach to regulation (described in Section 4) involves the regulator being very clear about the outcome they are seeking to achieve and focusing on what high-level outcomes the regulated entity is required to achieve rather than on failure to comply with detailed rules. This approach is consistent with the Hampton principles.

5.2. The extent to which detailed rules are required to ensure compliance with the outcome will vary between types of regulation. For example, where the outcome is to ensure that purchasers get what they think they are paying for (trade descriptions regulation), or where the outcome is expressed in quantitative terms (e.g. restrictions on carbon emissions of power generation plants), there is more of a simple pass/fail in terms of compliance.

5.3. However, where the regulation is designed to minimise the risk of harm, the outcome may be rather more subjective. For example, in 'ensuring a safe working environment' the standard expected may change over time, whereas regulation focused on a process may not. The measure of whether sufficient steps have been taken to avoid harm generally relies on the principle that the risk of harm is 'as low as reasonably practicable' (the ALARP[11] principle). In such a case costs should not be 'grossly disproportionate to further risk reduction'. Hence the judgement as to what is reasonably practicable can change over time.

The Health and Safety Executive (HSE)

The work of the HSE is outcome-based, addressing problems by matching a mixed set of interventions tailored to specific risks in different sector circumstances. This includes both direct and indirect interventions. Their new strategy, 'Helping Great Britain work well', encourages others to take responsibility for a common-sense approach to health and safety in the workplace.

11 http://www.hse.gov.uk/risk/theory/alarpglance.htm

Gambling Commission

The Gambling Commission is seeking to encourage a conversation with gambling operators about how responsible gambling can be promoted. It is communicating to industry that it needs to invest in different forms of research and data analytics in order to improve outcomes for vulnerable gamblers, and to use information they collect for commercial purposes for social responsibility reasons. There is a recognition that different businesses will take different approaches and that, in piloting such programmes, there will be successes and failures. The Commission's focus is on ensuring that innovation in this area is effectively evaluated with learning shared across the industry. Given that the data and systems involved in identifying potential problems in gambling are often the same ones used by gambling operators for commercial purposes, there are some challenges in getting operators to share this information.

The Gambling Commission is also trialling different ways to encourage the industry to be more responsible for meeting the outcomes required, including engaging with larger operators at board level and putting the onus onto operators to demonstrate how they are embedding systems to meet licensing objectives. Operators are keen to have intended outcomes clearly stated to give them confidence that they are reaching them, or what steps they need to take to do so.

5.4. In principle, good public policy prefers a focus on outcomes to a focus on outputs, processes or inputs. Outcome-based regulation can be flexible to technological and market changes including reduced barriers to new entrants - important in fast changing industries, where implementation of detailed regulations can have the effect of suppressing innovation. It can also reduce the resources required by the regulator for inspections/investigations which were confirmed by the Review information collection exercise to be the most significant area of current regulator activity.

5.5. A further advantage of outcome-based regulation is that as long as the intent is clear it avoids the risk that regulated bodies are focused on strict compliance with rules rather than the desired outcome.

Experience of rules based systems: Office of Gas and Electricity Markets (Ofgem)

Ofgem have learned that rules-based systems have a number of problems:

Any rule can be subverted. Suppliers attempted to get around rules requiring them to make clear to customers whether they are on the cheapest tariff through use of 'white label' or collective switch deals.

Focus on the rules not the outcome. One supplier argued that a strict application of the rules would require a 20-minute introduction every time they were on a sales call to a customer.

Rules can get in the way of innovation The restriction to four tariffs per supplier restricted innovation in terms of offering local deals to community energy supply companies (whilst derogations were allowed these took time to attain).

5.6. The potential downsides are that it might provide insufficient certainty to business and potentially insufficient legal clarity to the regulated as to whether they are meeting regulators' requirements. This can be addressed through the concept of safe harbour, or a 'sandbox'.

5.7. The concept of a regulatory sandbox as used by the Financial Conduct Authority (FCA) aims to create a 'safe space' in which businesses can test innovative products, services, business models and delivery mechanisms in a live environment without immediately incurring all the normal regulatory consequences of engaging in the activity in question and as such it also mitigates this uncertainty. In the FCA case, the sandbox is useful for authorised firms looking for clarity around applicable rules before testing an idea that does not easily fit into the existing regulatory framework and for unauthorised firms that need to become authorised before being able to test their innovation in a live environment.

5.8. It may also be the case that, due to the particular circumstances of a regulated sector, focusing purely on a single outcome will be inadequate to protect those that the regulation is seeking to protect. For example the Pensions Regulator has objectives:

- to protect the benefits of members of occupational pension schemes;
- to reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund; and
- to minimise any adverse impact on the sustainable growth of an employer.

5.9. Given the uncertainties and timescales over which outcomes are achieved in pensions, regulating this sector in simple outcome terms is problematic. The Pensions Regulator's objectives may sometimes come into conflict, which requires the Pensions Regulator to then strike a balance in the specific case before it. For example, the requirement to protect the benefits of pension scheme members - which might point towards requiring an employer to pay more into the pension scheme - and minimising any adverse impact on the employer's sustainable growth.

5.10. There is the constant need for vigilance on the part of regulators to challenge the understandable pressure to introduce further conditions after specific incidents of wrongdoing by industry. We **recommend** that the regulator should review on a periodic basis (perhaps every five years) the extent to which its licences and regulatory practices adhere to the principle of outcome-based regulation and so ensure that regulatory creep has not occurred since the last review.

A case study of regulatory creep: Ofgem

When energy supply licences were first introduced more than 10 years ago each supplier licence was approximately 160 pages long. A review to get rid of unnecessary and verbose conditions led to a shorter licence of approximately 60 pages. But now the licence is approximately 500 pages long! Approximately 200 of these pages were introduced by Ofgem in response to specific incidents of wrongdoing within the industry such as mis-selling and unauthorised doorstep sales.

5.11. There is also a risk that even if the mandatory rules are outcome-based, guidance on what is behind a licence condition (or use of an external standard) which when followed provides an assured route to compliance (by supplying the certainty and legal clarity), can increasingly be seen as part of the rules. Ofgem highlighted that they have over 500 documents on their website providing guidance on the meaning of licence conditions.

5.12. There are legitimate concerns about how regulation affects small businesses and new entrants to a market. At one level the simpler the objective of regulation, the better for small businesses. However the more that there needs to be detailed guidance explaining what the regulation means, the more difficult it will be for small businesses and new entrants, because large businesses are more likely to have significant numbers of personnel who can liaise with and influence the regulator in providing guidance and/or be involved in joint industry/regulator working groups. For this reason, many regulators think that they should make particular efforts to provide information and advice to new entrants and small firms. Ofgem runs a small supplier forum for this reason.

5.13. In the energy industry the ability of incumbent large suppliers to influence and help draw up complex industry and network codes (which can arguably be anti-competitive) was one of the issues addressed by the Competition and Markets Authority in its recent review of the energy market.

5.14. Regulation based on outcomes, which then relies on ‘case law’ for interpretation of the outcome, risks favouring incumbent suppliers who will have a good corporate memory of how the regulation has been interpreted compared to new suppliers. This may require the regulator to be more responsive to new and small suppliers in providing information and to take such potential uncertain interpretation of the licence into account in enforcement.

5.15. For outcome-based regulation to be more effective it will be important that the instinctive reaction of the government and/or regulators to any wrongdoing is not just to introduce more rules. Regulated companies need to have regard to the outcome desired by the regulator rather than simply adhering to rules.

5.16. This requires regulators to be more challenging with the companies they regulate. For example the CAA in moving from a compliance-based approach towards a more performance-based approach involves greater challenge to a company on how they are performing. Ofwat meets non-executive directors of water companies prior to their appointment to explain to them their responsibilities as provider of a vital public service.

It also invites all non-executive directors to a six monthly meeting in which to share learning about how outcomes are delivered and to discuss current issues affecting the industry.

5.17. This will require the regulator having more active and intelligent conversations at senior level (primarily executive but also non-executive) than in the past, and will require regulators who are more strategic and senior than those existing under more compliance-based approaches.

5.18. Despite the risks of an outcome-based approach, we **recommend** that regulators should move as far as practicable towards an outcome-based approach, with appropriate safeguards to ensure that new and small firms do not suffer as a result. Regulators should also consider how such a change should affect the nature of their engagement with regulated companies.

6. Increased use of regulated self-assurance and earned recognition

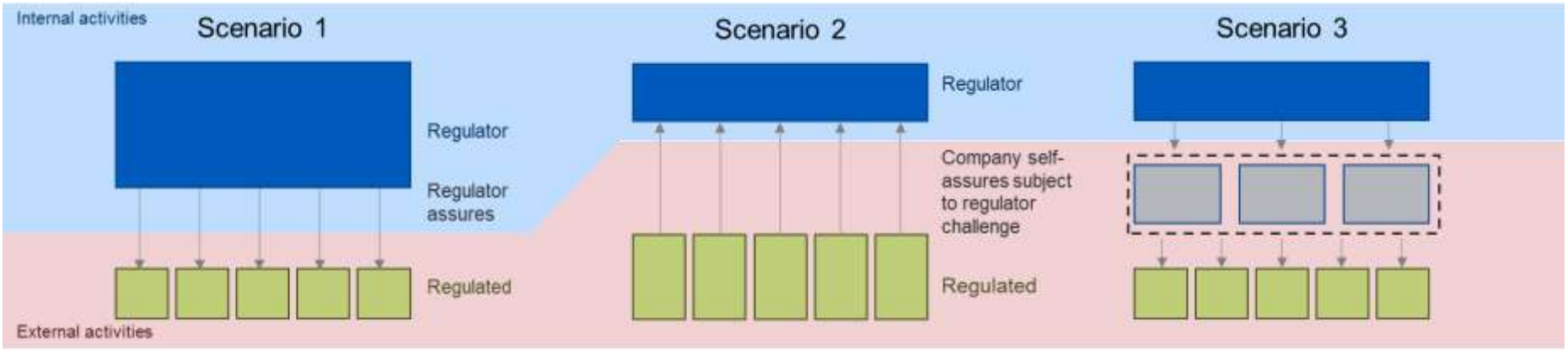
6.1. While regulators should focus on outcomes we propose that there should be greater freedom for regulated businesses to self-assure either directly themselves or through the use of assurance bodies. In the case of publicly funded bodies such as schools and hospitals we use the term ‘earned recognition’ to acknowledge explicitly that the fact that they are publicly funded involves a slightly different rationale for inspection. In the case of some of the services regulated by CQC there is also the need to ensure user confidence in the quality of service. At a high level the case for an approach involving regulated self-assurance and earned recognition was set out in Section 4, ‘The regulatory future’, and in this section we examine it in more detail and consider some of the advantages and disadvantages.

6.2. Figure 4 sets out how the scenarios of greater regulated self-assurance and earned recognition might work. Scenario 1 sets out how regulation currently works for some regulators where regulation and assurance is done directly by the regulator. Scenario 2 sets out where the assurance is carried out by the regulated entity itself, the results of which may be reported to the regulator, or which are subject to challenge by the regulator. Scenario 3 sets out where the assurance is carried out by intermediary assurance or certification bodies.

6.3. We propose that where feasible there should be movement towards scenarios 2 and 3. Whether this is feasible may depend on the structure of the industry, and in the case of publicly funded and provided entities a pure self-assurance model may not be desirable. Where there is a sector with a limited number of companies such as the water industry Scenario 2 alone may be feasible. In other sectors all three scenarios may apply with self -assurance being carried out by the largest entities, assurance by an intermediate body for most medium and small entities with the tail, and those who have a particularly poor record of compliance still being subject to direct regulation by the regulator.

6.4. It is important to stress that what we are proposing is not self-regulation as it will still involve the regulator having a responsibility for ensuring that regulations are adhered to. Indeed some of the sectors which are regarded as heavily regulated such as the nuclear, drinking water and civil aviation industries are good examples of where such an approach being applied relies heavily on outcome based regulation and a lot of “no blame” self-reporting. Inspections by the regulator may still occur, particularly for those with a poor history of compliance and/or who do not have a satisfactory method of assurance in place.

Figure 4: Scenarios of split of regulatory activity



Civil Aviation Authority (CAA)

The CAA is responsible for economic, safety, and environmental regulation of the aviation sector. Safety policy covers personnel, infrastructure, and aircraft, with rules determined with reference to European and UK legislation as appropriate. There is a responsibility on pilots and air traffic controllers to self-report near misses and incidents. The training and qualifications of pilots are managed by 'approved entities' which the CAA oversees rather than by the CAA itself. Aircraft maintenance schedules are submitted by the operator themselves and approved by the CAA and then audited by the CAA. European legislation allows a degree of earned autonomy in inspection regimes and the CAA is moving towards this. Hence the CAA is an example of a heavily regulated sector which relies heavily on self-reporting, approval and audit of airlines' own safety management systems and allowing third party entities to assure the training and quality of pilots.

6.5. Regulated self-assurance can work through a variety of mechanisms:

- assurance schemes (e.g. Red Tractor);
- industry-run registers (e.g. the Gas Safe scheme of registered gas engineers or FENSA the register of window installers);
- regulator supervision of industry / professions' self-regulation (e.g. Financial Reporting Council supervision of accountancy bodies);
- accredited voluntary registration (e.g. the Professional Standards Authority accreditation of bodies like the British Acupuncture Council or the Association of Child Psychotherapists); and
- company self-regulation (e.g. water companies are responsible for monitoring water quality and reporting adverse incidents, with every stage of the process being accredited, likewise medicines approval and testing).

6.6. There can then be a number of different ways that this is implemented in practice:

(a) Earned recognition

Entities who demonstrate compliance with standards or who are accredited with an assurance scheme may earn recognition from regulators who reduce oversight and inspection visits. An example of this is the Red Tractor scheme, established by a number of farming industry and retailing bodies and described in Section 4.

(b) Delegation of regulatory tasks

In this case the assurance task is delegated either to the company itself or to an assurance body. For example, meat hygiene inspection in poultry plants can be carried out by the plant's own plant inspection assistants rather than FSA-employed Meat Hygiene Inspectors (MHIs). Under the Environment Agency's Pig and Poultry Assurance Scheme if a farm is not a scheme member it is inspected

at least once a year by the Environment Agency who charge an annual subsistence fee of £2,490. A farm that is a member of the scheme is inspected by a Certification Body (CB). If the farm is also a member of another scheme, such as Red Tractor Assurance or the Lion Code of Practice, the CB will do both inspections together whenever possible and the charge from the EA is reduced by £910. The CB then have to submit an inspection report to the EA.

(c) Co-regulation

Government sets the top-level regulatory requirements and leaves the sector to define how these general principles are met in terms of technical solutions. For example, in the case of broadcast advertising standards the Office of Communications effectively delegates regulation to the Advertising Standards Authority, a self-regulatory body, but retains a legislative backstop power.

The existing system of regulation used in the higher education sector currently uses a co-regulatory approach involving the Higher Education Funding Council in England, subcontracting its quality assurance activities to the Quality Assurance Agency for Higher Education which has substantial sector involvement in its assessment framework and inspection activity. Whilst not formally co-regulation the inspection activities of Ofsted and CQC in relation to schools and hospitals make substantial use of serving teachers and medical staff to work on inspections.

(d) Primary Authority

A recent initiative, which develops greater regulated self-assurance (although its remit is considerably broader) is the Government's Primary Authority scheme. This offers businesses the opportunity to form legally recognised partnerships with a single local authority and hence may lead to 'meta-regulation' (Baldwin, Cave and Lodge, 2012) - the delegation of some of the risk control function to individual businesses or groups of businesses.

For example, a large retailer such as Tesco might have its food safety systems 'approved' by a single local authority and then that local authority can be responsible for the schedule of sample inspections. Changes to the scheme through the Enterprise Bill, which received Royal Assent on 4 May 2016, enhance the role of national regulators, enabling them to support local authorities who are primary authorities to develop and issue advice, guidance and inspection plans to businesses. The advantage to businesses is consistency of advice, which in turn results in savings in time and money.

This trend towards greater regulated self-assurance is also starting to be considered internationally. An example of where a government/industry structure has been introduced with a high-level regulator and accredited verifiers is meat inspection in New Zealand. The regulatory model has successfully moved from

end product inspection (with the onus on government to prove non-compliance) to industry-demonstrated compliance.[12]

Advantages of regulated self-assurance

6.7. The advantages of this approach rest on considerations of expertise and efficiency:

- putting the challenge of designing an effective compliance regime substantially in the hands of the businesses being regulated, with higher levels of relevant expertise and technical knowledge than is possible with independent regulation, can result in a more efficient and better targeted regime;
- efficiency (for the public purse and the customer) - an organisation can be inspected once rather than many times, and there is a reduced requirement on government to inspect. It promotes co-ordination, intelligence-sharing and better-targeted regulation;
- critical mass - it may be impracticable to get specialist nationwide coverage of a niche sector; delivery is much easier if regulation is added to the remit of say, independent certification houses;
- economies of scope - an independent assurance body may be able to combine inspections/assurance activities in a way that government regulators have found it difficult to do; and
- customer choice - as long as regulatory standards are maintained (which in turn requires an appropriate level of separation and independence regarding inspection), choice between certification houses can drive up efficiency and customer service.

Disadvantages of regulated self-assurance

6.8. The disadvantages cited by regulators and in the literature (Baldwin, Cave and Lodge, 2012) are centred primarily on mandates, accountability and the fairness of procedures, including:

- in some cases assurance bodies may be more focused on process and less on outcomes compared to regulators;
- industry led standards can place a lot of power with big players. This risk can be reduced if the bodies setting the standards have a balance of interests involving producers, consumers and independent technical experts, as happens, for example, with the Red Tractor scheme;

[12] Ministry of Primary Industries, New Zealand – presentation to FSA (Hathaway, 2016).

- where self-regulation operates as a purely voluntary mechanism, it can leave unregulated those organisations which are least inclined to service the public or consumer interest. This is why this vision is not advocating a move to pure self-regulation and why there should still be a government backstop;

- costs to business arising from compliance with these standards, which are effectively mandatory, may be little different from the costs of formal regulation; and

- although ideally third party certification bodies should be prepared to share data with regulators, sometimes this does not happen. If something goes wrong, it is government/the regulator who gets criticised so there may be a limit to how far responsibilities can be delegated to third parties.

6.9. A concern raised by some regulators and businesses is that there may be duplication of assurance between regulators and assurance bodies, leading to further burdens by business on business, referred to as ‘blue tape’ (HSE has begun a project to understand and tackle the imposition of such burdens). This is why it is important for regulators to consider how far they can work with assurance bodies to achieve their objectives rather than to ignore their existence.

6.10. Perhaps the biggest challenge to regulated self-assurance is whether it can attain public confidence and hence political support. For example, the Care Quality Commission consulted in late 2015 concerning a move to greater co-regulation with regulated entities reporting their own assessment of performance relative to the CQC assessment framework. CQC would use this along with their own data to make a risk assessment of where further inspection might be required.

6.11. There was considerable public pushback from those who, among other concerns, had insufficient confidence in regulated entities to provide self-assurance, coming so soon after the problems exhibited by Mid Staffs Hospital (leading to the Francis Report), Morecambe Bay Hospital and Winterbourne View.

6.12. These concerns are understandable and highlight that the applicability of the use of such approaches will be in part a function of the maturity of regulation in the sector and the particular challenges which the sector faces.

6.13. The CQC is now planning to work with the sector so that they can develop a shared view of quality. This will then lead to both regulator and regulated using common measures of quality and over time may enable the development of greater sharing of data between regulated and regulator. Over time as confidence increases in the efficacy of such a system this could enable greater ‘earned recognition’, which is the term we use for this concept in the case of publicly funded services. In these cases if any alternative forms of assurance schemes were to be brought forward the threshold for approval would need to be very high in order to command the confidence of the public, service users and Ministers.

6.14. Government cannot and should not force self-regulation upon companies or sectors but we consider that there are several steps which could help to facilitate it:

- a broad acceptance by government and regulators that this should be the direction of travel (which many have already done) and a willingness to engage with this and facilitate it. We **recommend** that all regulators and their sponsor departments should respond as to how they plan to move towards such an approach and any reasons why they consider that it is not advisable at this stage;

- government should consider instituting a 'right to challenge'. This is an initiative which has been established in the Netherlands whereby an individual company or sector can propose **how** it should prove compliance with government regulations, with an obligation on the regulator to consider the proposal; and

- more actively, the government or individual regulators could run a challenge competition inviting sectors to propose how they might provide their own assurance model within the broad framework of 'regulated self-assurance'.

6.15. A move to greater regulated self-assurance may however be impeded by the fact that assurance schemes or greater self-regulation may incur cost whereas currently regulated entities in some cases do not have to pay for the costs of regulation. We turn to this issue in Section 7 on charging.

Where might greater use of regulated self-assurance and earned recognition be adopted?

6.16. In the course of our discussions with regulators it is clear that many either currently use this approach or are already actively considering it and in some cases doing detailed feasibility work/pilot studies. In this section we give a flavour for some of the areas where greater use of self-assurance might be considered.

6.17. This is neither an exhaustive list, nor a definitive recommendation that such an approach should be adopted in the area concerned, as this will need to be considered in detail and the costs and benefits examined.

Care Quality Commission (CQC)

Hospitals

The Commission consulted in 2015/16 on a system of co-regulation for all health and social care providers which would have involved hospitals doing more self-assessment. The proposals did not proceed, given continuing concern about the maturity of regulation in the sector post the Mid Staffs and Morecambe Bay Hospital problems. We understand these concerns and consider that the CQC amended proposals to work towards a shared view of quality within the sector are a sensible way forward.

We consider that in the medium to long term, as regulation of the sector becomes more mature, the sector could move further in the direction of self-assurance and earned recognition. In the meantime the frequency of inspection will become much more risk-based so there will inevitably be the development of greater earned recognition and self-assurance.

Care homes

A recent Cutting Red Tape team review of the social care sector highlighted that care homes are currently subject to multiple inspections by the CQC as regulator, local authorities as purchasers of residential care, and Clinical Commissioning Groups in some cases as purchasers of health care. In such cases a more logical approach to inspection might be for the CQC alone to do assurance with respect to social and health care and the purchasers to rely on that assessment. We recognise that this would not naturally be seen as regulated self-assurance but it would lead to a consolidation of assurance activities. Alternatively, a scheme along the lines of Red Tractor in the farm sector might be set up, owned jointly by the care home sector, local authorities and Clinical Commissioning Groups which provide assurance regarding the quality of the care home which the CQC would then factor into their risk assessment of the care home.

Dentist practices

One option would be for regulation of dentist practices to be carried out through the General Dental Council. Greater co-ordination is already taking place through the joint dental programme board. In addition, or alternatively, with the increasing development of chains of dental practices, regulation could be focused more on the corporate entity and make use of their quality and safety systems and reporting, rather than regulating the individual practices.

GP practices

Currently Clinical Commissioning Groups commission from GP practices on behalf of NHS England, the CQC inspects and regulates the GP practice itself, the General Medical Council regulates the individual GPs and the Nursing and Midwifery Council the nurses on-site. It was considered by a number of those interviewed that whilst coordination and intelligence sharing have improved in recent years there is still potential for there to be a clearer delineation of roles and responsibilities to ensure both that each entity's responsibilities were clear and that there was no duplication. This could develop through greater Clinical Commissioning Groups' oversight of GP practices within their areas and/or self-assessment, and CQC assessing more at a corporate level through chains of GP practices (which are becoming more prevalent) alongside greater co-ordination with the professional regulators. Building on the success of the dental programme board CQC and the General Medical Council have recently established a GP regulation programme board.

Driver and Vehicle Standards Agency (DVSA)

The merger of the Driver Standards Agency and the Vehicle and Operator Standards Agency to form the Driver and Vehicle Standards Agency (DVSA) has led the agency to consider afresh how it carries out vehicle and driver regulation, within the context of the Motoring Services Strategy.

Possible areas where greater regulated self-assurance might be adopted include:

- greater earned autonomy and self-assurance for large vehicle (both heavy goods vehicles and public service vehicles) fleet operators in areas such as vehicle testing and operator compliance including driver qualifications and driver hour monitoring. Excellent operators who joined the scheme would submit data reports to the DVSA so adherence to regulations could be monitored. This could lead to reduced roadside compliance checks from operators who are members of the scheme as well as potentially (subject to legislative change) the removal of the need for an annual vehicle test as the vehicle would be subject to more frequent vehicle monitoring;

- for medium and small size operators there may be scope for more vehicle testing to be carried out by approved testing companies (which might be those who have benefited from earned autonomy as discussed above) or even perhaps the development of sector assurance schemes working with existing industry associations; and

- for driving instructors there may be scope for greater earned autonomy via instructor companies (already motorcycle training assurance is via entities rather than individuals) and/or through sector bodies such as Approved Driving Instructor national associations.

There are currently 2,200 driving examiners employed by DVSA (though DVSA themselves do not categorise this as a regulatory activity). There is already a system of delegated examiners for MoD, police, fire, bus and some large transport companies. This might be expanded initially to include those operators who are part of the earned autonomy scheme.

Employment Agency Standards Inspectorate (EAS)

EAS have traditionally carried out reactive investigations, although they are rapidly moving to a system of proactive investigations to complement their inbound complaints system. EAS in general carry out reactive and proactive risk based investigations. Hence whilst a move to greater self-assessment might not lead to any significant reduction in cost for EAS, there could be an increase in effectiveness if there were to be the development of an industry International Organisation for Standardization standard or an EAS voluntary Kitemark scheme (paid for by the sector).

Environment Agency

The Environment Agency already makes use of self-assurance. For example, in the case of the Pig and Poultry Assurance Scheme the inspection task can be delegated to Red Tractor scheme assurers. Such approaches could be considered further, either in terms of delegation of tasks or membership of a scheme (e.g. the National Quality Mark scheme for land contamination) being factored into risk assessment. Similarly, as environmental management systems improve and are used more widely there may be scope for a greater degree of self-assurance.

Food Standards Agency (FSA)

Currently the FSA directly employs meat hygiene inspectors in abattoirs and in poultry plants. This costs approximately £60 million each year, around half of the FSA's total expenditure. There is scope to move towards greater self-testing and assurance, as is already possible for poultry plants and in egg testing, with reports made to the FSA and sample checks. There are currently some difficulties in moving to such a system under European regulations which the UK may no longer have to comply with post Brexit (depending on the terms of leaving the EU).

Under its proposed regulatory strategy the FSA is considering having direct strategic relationships with the largest 15 to 20 companies involved in food retailing, manufacturing and restaurants. A self-assurance mechanism could work in these cases where the company agrees what quality assurance system they should use with the FSA (or primary authority). There would then be sample audit checks to ensure that the quality assurance system is being used as intended alongside reporting of incidents to the FSA and potentially the FSA having full access to the QA reports.

For medium-sized companies there could be greater use of sector assurance schemes to inform the risk assessments by the FSA and local authorities. We have described elsewhere in the report how this works for farm inspections through the Red Tractor scheme. Currently the FSA is trialling with the British Retail Consortium (BRC) Global Standards whether a similar approach could also be used in relation to food manufacturing. For food retailers such a scheme could be operated through BRC Global Standards. Currently there is no such scheme for catering establishments but we understand that there is early-stage consideration of such a scheme. In the medium to long term, once confidence has been established, there might be full delegation of task to such sector assurance schemes.

Evaluation reports indicate that the food hygiene ratings used by the FSA in England and Wales have had considerable success in improving food hygiene. In order to ensure that such ratings have continuing currency and hence maintain the integrity of the scheme, the FSA should continue its exploration with the sector how external assurance/certification bodies might play a part in the future in the scheme.

Gambling Commission

Currently there is licensing of businesses, premises (by local authorities), personal management licences and personal functional licences. The Commission considers that there may be scope to reduce some of the personal functional licences (e.g. of croupiers in casinos), particularly where there is an operator with a good track record in meeting the Gambling Commission's licensing objectives.

Ofsted

Schools and further education colleges

There is already self-assurance by independent schools where, if they have been ranked 'good' or 'outstanding', they become eligible to apply for membership to a recognised association. Once accepted they can be inspected by the relevant inspectorate for their association. With the growth and intended further expansion of publicly funded multi-academy chains there is the potential for the regulator to assess quality assurance systems at a chain level and then for there to be greater self- assurance of individual schools by the academy chain itself.

Similarly, with the development of some very large multi-site further education colleges there may be the potential to develop a similar self-assessment approach for regulation as for academy chains.

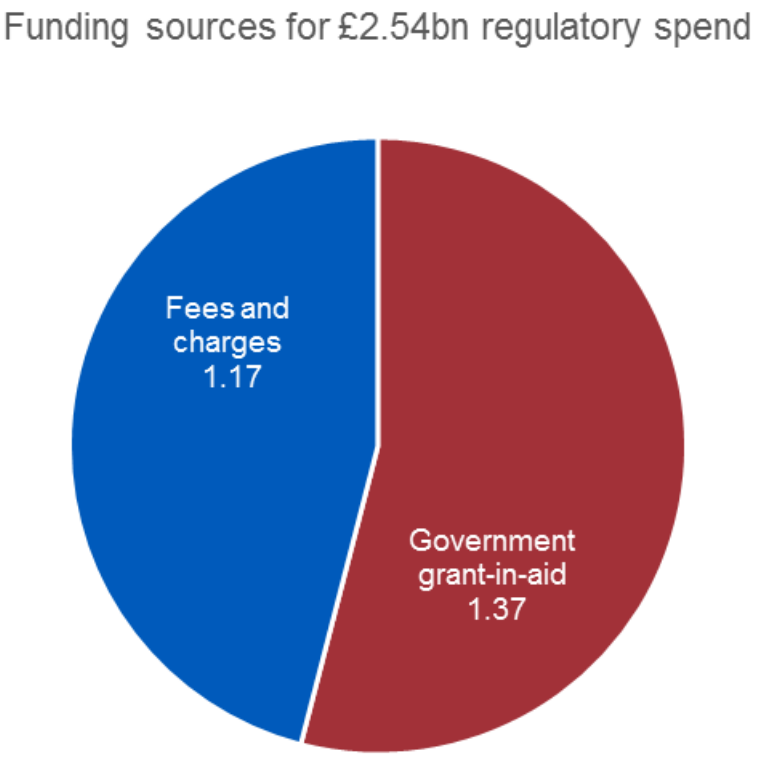
Early years providers

There are many nursery schools which are part of larger businesses are spread across multiple sites and hence a similar approach to assurance could be used for them as for academy chains. In the case of childminders, assurance could be carried out through sector associations, childminding agencies, or even potentially in connection with local schools (which would strengthen the relationship between schools and local childminders although adding a significant new role to schools).

7. Cost recovery

7.1. There is considerable variation between regulators in the extent to which they recover costs through charging the regulated for regulatory activities. Figure 5 shows the breakdown of regulatory costs between whether they are covered by government grant-in-aid or by charges, for those regulators for which we obtained data. Figure 6 shows the variation between regulators as to the percentage of the regulatory budget which is covered by fees.

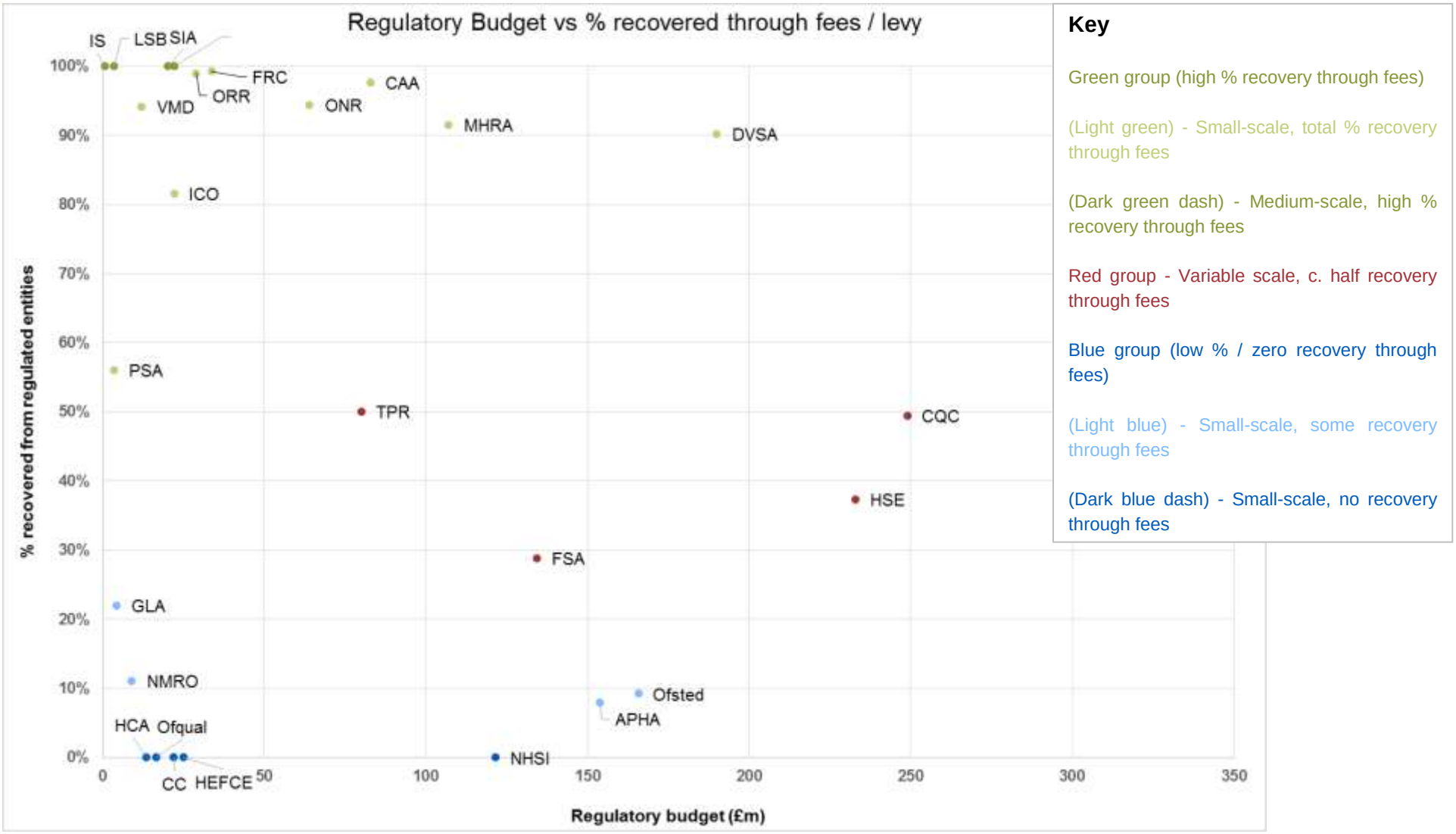
Figure 5: Funding split by source



Sources: Regulatory Futures Data Collection, PB2015, desk research

Notes: Regulatory spend comprises 45 bodies of the 71 bodies identified as having some regulatory role and local authority spend for regulation (excluding housing, pest control, public conveniences and licensing). Data not readily available for RPA or EFA.

Figure 6: Regulatory budget and cost recovery



Sources: Regulatory Futures Data Collection, PB2015, desk research

Notes: Data largely relates to the 2015 to 2016 financial period and therefore may not reflect the latest position

7.2. In some cases one can see a rationale why some regulators' costs might be borne by government grant-in-aid (e.g. the costs of Ofsted inspection of schools where the alternative would be government increasing the grant to individual schools and then levying a charge on schools).

7.3. However in many cases it is a product of history where the regulatory model and legislation vary, rather than logic. Examples include:

- the MHRA, where costs of regulating medicines are fully charged for, whereas the costs of regulating medical devices are primarily funded through a service level agreement with the Department of Health;
- Ofqual, where, although most qualifications are from private-sector providers, the costs are fully-borne by the Exchequer and the regulator has no legal power to levy charges for regulation; and
- the Care Quality Commission which is moving towards full-cost recovery for its regulatory services even where they are of publicly-funded entities, whereas Ofsted currently does not recover inspection costs from publicly-funded schools but it is moving towards full-cost recovery in other areas of its remit.

7.4. A number of regulators, in addition to CQC, have already decided to move in the direction of full-cost recovery or are consulting on doing so, for example the Charity Commission. Other regulators informed us that they would ideally like to charge but when they had considered doing so in the past encountered very strong push-back either from stakeholders or from within government.

7.5. In our view a default presumption of full-cost recovery for regulatory activities is a necessary condition in those areas where a move towards regulated self-assurance is feasible. Otherwise there will not be a level playing field between direct regulators' assurance and the use of self-assurance and third-party assurance.

7.6. For example, the Food Standards Agency allows poultry plants to carry out their own testing of meat hygiene through employing their own poultry inspection assistants rather than FSA employed Meat Hygiene Inspectors. However, there has been very little take-up. This is not surprising as the plant concerned will bear the full cost of the poultry inspection assistant whereas approximately half the cost of the FSA's Meat Hygiene Inspector is recovered through the charge to the poultry plant.

7.7. Similarly while the Red Tractor Assurance Scheme charges for membership, farms do not currently incur a direct charge for inspection by local authorities on behalf of the Department for Environment, Food & Rural Affairs (Defra) or the FSA. As a result there is not a level playing field between regulator direct assurance and self-assurance.

7.8. As either company self-assurance or assurance by a third party certification body is likely in most cases to be voluntary it would be necessary for the fee for regulatory services to be reduced if there were self-assurance by the company. An example of how this might work is provided by the Environment Agency's Pig and Poultry Assurance Scheme where

the task of inspection can be delegated to a Red Tractor inspector. In such cases there is a discount on the fee to the Environment Agency from £2,490 to £1,580.

7.9. A particular issue in relation to full-cost recovery is the extent to which enforcement costs can be recovered through licence fees. For example, in waste permitting the Environment Agency's costs associated with enforcement are covered through grant in aid rather than through subsistence charges.

7.10. With current constraints on government spending there have been reductions in the grant-in-aid for enforcement activity. In the recent Cutting Red Tape team review of waste, the industry feedback was reported to be that they would be prepared to bear the cost of a proper level of enforcement in their licence fees as this would help to ensure that those 'doing the right thing' by adhering to good practice were not at a competitive disadvantage.

7.11. We understand that the reason for this stance regarding enforcement costs is that use of the 'standard model' (Section 6 of 'Managing public money') would not permit recovering costs of enforcement from licence fee holders as they are not causing the costs to be incurred and will not be benefiting from the enforcement. However, in our view, other companies in the relevant sectors do benefit from a properly-resourced enforcement system ensuring a level playing field.

7.12. Section 6 of 'Managing Public Money' does enable the use of 'non-standard models' (which could enable the recovery of enforcement costs) subject to approval by HM Treasury. Furthermore there are examples of regulators, such as the DVSA (for some of their activities), who are able to recover enforcement costs.

7.13. We **recommend** therefore that HM Treasury consider adopting a presumption that regulators can recover the costs of enforcement actions through the licence fee or other charges which they consider to be appropriate, when considering such proposals under the non-standard model.

7.14. Currently, fines levied by regulators are paid into the Consolidated Fund. In some cases these can be substantial, for example £37 million in fines in 2015/16 in the case of the Health and Safety Executive. We understand why this is the case as it would not be desirable for regulators to take action motivated by a desire to generate revenue from fines. However, if the recommendation in section 7.13 were not considered acceptable an alternative might be to take some account of revenue from fines in determining what grant-in-aid might be appropriate for enforcement action.

7.15. There are other aspects of HM Treasury rules which can also cause issues for regulators. The following are a couple of examples:

- the Information Commissioner's Office (ICO) undertake audits of data protection processes at organisations (either because of a serious breach or because they are invited by that organisation). This is currently not charged for, but if it were then the

money raised would go into the Consolidated Fund. It is therefore not considered to be an organisational priority, as it would be of no benefit to the ICO;

- there are other more technical issues concerning the setting of fee levels, the extent to which an agency is permitted to run a surplus, and the consequences of annuality which are frustrations for regulators, but we recognise that these are broader issues affecting many parts of the public sector rather than being specific to regulators.

7.16. Other benefits from a move to a presumption of full-cost recovery would include:

- a benefit to the Exchequer which we estimate in Section 12 to be in excess of £500 million per annum; and

- increased accountability of regulators due to the need to consult on fees and charges.

7.17. Whilst we consider that there should be a default presumption of full-cost recovery for regulatory activities where a move to regulated self-assurance is feasible, we recognise that it may not be possible or desirable in all cases. Reasons why it may be judged not to be appropriate include:

- that it would be undesirable to charge for provision of information and awareness-raising to encourage compliance. For example, the HSE has developed a number of Safety Health and Awareness Days over many years. These are free events, dedicated to raising awareness and understanding of important health and safety issues specific to a particular industry. However in many circumstances it is and will be appropriate to charge for advice;

- when the costs of administration and recovery would exceed the cost. While this may apply currently in some cases where there are paper-based systems (e.g. Forestry Commission felling licences), as regulators move to online-based application and payment systems, charging should become more practical; and

- when charging would just involve cost-shifting within the public sector. For example if Ofsted were to charge for its regulation of schools. However even here there could be a case for doing so as Ofsted currently charges in some sectors and not in others, even when they serve children of the same ages (e.g. regulation of private schools vs state schools or state nursery schools vs private nurseries/childminders) and this could be seen as leading to an uneven playing field. Or it may be to ensure appropriate incentives are in place to achieve regulatory outcomes, for example Ofqual charging for qualifications to remain registered to avoid the situation of having many non-active qualifications on their registration database.

The structure of charges

7.18. A second issue concerning charging is the principles which should be used to structure charges for regulated services. In particular how charges can be used to provide the right incentives to drive achievement of key regulatory objectives.

7.19. There are, sometimes countervailing, pressures which need to be taken into account:

- the wish to encourage compliance and high performance through provision of advice and education in preference to an approach of inspection and enforcement;
- the desire to encourage self-reporting of incidents to the regulator and hence a 'no blame' culture; and
- a desire to incentivise regulated entities to be compliant and hence for those who are not compliant and/or who impose the greatest costs on the regulators to bear those costs themselves.

7.20. The third of these approaches has gained increased traction with regulators over the past few years. Different variants of the principle of charges being determined by the cost placed on the regulator are illustrated by the case studies of the approaches used by the Environment Agency, the Health and Safety Executive and the Drinking Water Inspectorate.

Case study: Environment Agency

The Environmental Agency's risk-based approach is reflected in their charging scheme: applications which take more resource to determine attract a higher charge than those which can be dealt with simply. Similarly, they undertake more compliance assessment and inspection work on activities and sites which pose the greatest risk, and this differential is also reflected in charges.

In parts of the Environmental Permitting Regulations they therefore apply a multiplier to their annual fees, ranging from x0.95 for the best performing to x3.0 for the worst performing.

Case study: Health and Safety Executive (HSE)

HSE introduced a Fee for Intervention where they would charge a company in material breach of health and safety regulations for the initial inspection and investigation required to identify the breach and any inspection and advice required in order to remedy the breach.

Case study: Drinking Water Inspectorate (DWI)

The DWI charges water companies a basic fee determined by the number of customers they serve. Water companies are legally obliged to report incidents where there are breaches in drinking water regulations which the DWI then investigates and reports on. The DWI charges a supplement to companies dependent on the costs which they impose on the DWI for subsequent investigation.

7.21. Such approaches could be extended more widely. We set out below some illustrative examples of areas where such an approach might be considered. These are not specific recommendations as the regulators concerned would need to consider carefully the costs and benefits (including potential changes to legislation):

- a food retailing establishment which has a very low food hygiene rating requiring more frequent inspection could bear the additional cost of more frequent inspection (this would of course require there to be the ability to charge for food hygiene regulation in the first place);
- a care home which requires more frequent inspection based on a risk-based approach to inspection;
- early years providers or childminders who require more frequent inspection due to a low rating; and
- charging driving instructors more for subsequent standards checks within a registration period.

7.22. Such approaches also need to be considered alongside whether an establishment should be able to request re-inspection if they wish to see whether their rating should improve. Whilst in most cases the rating itself is not the primary objective of the inspection, the fact that it is then published could significantly affect the entity concerned. In such cases should there be a right to request a re-inspection within a specified period, with an associated charge for this re-inspection?

7.23. In the case of publicly-funded services such as schools, it is understandable why re-inspection (and an associated charge) is not permitted. However in the case of a food retailer or childminder there is a stronger case for permitting such re-inspection (with an associated charge) particularly where display of the rating is mandatory (in Wales where display of food hygiene ratings is mandatory the retailer can request re-inspection). However where an entity receives a very low score the entity is likely to be re-inspected quickly in any case (usually within six months) so this may allay some of the concerns about not permitting re-inspection.

7.24. Cost-reflective charging may not be appropriate if it serves to discourage an open and honest relationship between the regulated and the regulator. Our proposal to encourage greater regulated self-assessment is designed both to encourage greater self-assessment and open reporting of incidents by the regulated to the regulator in a ‘no blame’ culture.

7.25. If a consequence of introducing charging for the burden placed on the regulator were to discourage such reporting, the costs could well outweigh the benefits, for example this may be a risk in care where past failures have been linked to closed cultures that discourage open reporting. Clearly the Drinking Water Inspectorate and the Health and Safety Executive have judged, perhaps because of the legal reporting responsibilities on regulated entities, that the benefits of such an approach outweighed the costs. Others

such as the Medicines and Healthcare Products Regulatory Agency have taken a different view and currently judge that such charges could discourage reporting.

Ensuring that the regulator is efficient

7.26. One of the concerns that the regulated would understandably have with a proposal for full-cost recovery for charging is whether this would diminish the pressure on the regulator to be efficient. While regulators are at least part-funded by the Exchequer this might be seen as less of a direct concern for the regulated, due to spending constraints. We consider that there are 2 mechanisms whereby with charging, pressure on the regulator to be efficient could in fact increase rather than decrease.

7.27. Firstly, the increased ability to self-assure, or use one of a number of competing certification bodies to assure (as occurs with the Red Tractor scheme), will mean that there will be a competitive pressure on some of the regulators costs in a way that there has not been in the past (as long as there is a move towards greater cost reflectivity in charging).

7.28. Secondly, the need for the regulator to consult on fees and charges will also provide a mechanism for the regulated to exert influence on the charge levied.

Recommendations

7.29. **We recommend** that a default presumption of full cost recovery (including enforcement costs) should be adopted by regulators for regulated activities where regulated self-assurance is feasible. This would facilitate an approach to regulation which emphasises the need for the regulated to ensure compliance and for the regulator to make use of other mechanisms (e.g. purchasers) to encourage compliance and improvement.

7.30. While there will be instances where the presumption of full cost recovery will not make sense it should be the responsibility of the regulator concerned to make the case why it is not appropriate to have full-cost recovery for all their activities.

7.31. We recognise that such a presumption will in some cases require legislative change and/or a greater willingness to adopt a non-standard charging model in line with HM Treasury guidance on ‘Managing Public Money’.

7.32. We further **recommend** that all regulators look at the structure of their charges as to whether there should be greater differentiation of charges to reflect the burden which regulators place upon the regulated.

8. Intelligence and data sharing

Introduction

8.1. An important feature of the Review has been a desire from regulators for increased co-operation and collaboration.

8.2. When the Review held its introductory workshop on objectives, there was a strong view that a specific area the Review should consider was how inspection activity could be more targeted via information and intelligence sharing. This is also one of the major principles set out in the Regulators' Code.

8.3. It was also considered that there was an additional distinct opportunity for greater data sharing so that regulated entities do not have to provide the same information more than once. At its simplest level the opportunity around data/information sharing can be defined as the 'Tell us once' principle being applied to the relationship between the regulated and regulators. This was explored through an information sharing work-stream.

8.4. The distinction between information and intelligence sharing is relatively permeable and is a function of the nature of information which can be considered to exist on a spectrum: that which is (relatively) static, objective and clerical in nature through to that which may contain additional qualities that allow the user to draw out conclusions pertaining to risk.

8.5. A significant part of our investigation work looked at the scope for greater intelligence and data sharing. Health and Safety Executive led the intelligence sharing stream of work and this section of the main report draws heavily on their work.

The potential benefits of intelligence and information sharing

8.6. In 2014, the Department for Business, Innovation and Skills (BIS) launched a consultation on data sharing for non-economic regulators. The initial consultation noted that: "Businesses have told us that data collection remains a significant burden for them. Regulators have told us that data sharing is the biggest challenge they face in meeting the provisions of the new Regulators' Code."

8.7. The government's response to the consultation, released in 2015, concluded that "significant benefits can result from regulatory data sharing, both in terms of enabling regulators to fulfil their statutory functions more efficiently and effectively, and in reducing burden and delivering earned recognition for compliant businesses".

8.8. This message is consistent with the views of regulators in the course of our investigations who saw the expected benefits of greater data and intelligence sharing as:

- **better understanding of the business landscape.** If regulators had access to intelligence across sectors there would be an opportunity to identify and understand

emerging risks and trends. It may be the case that greater sharing of intelligence of simple things such as rogue landlords, banned food providers or banned business owners would provide insight into how certain risks are displaced into different localities or business sectors;

- **fewer wasted resources.** Through the sharing of both intelligence and administrative data there would be less waste of resources. In some instances regulators have out of date information which can lead to visits to sites that are either an exemplar of good practice, have diversified or closed;

- **improved speed in the identification of risk.** In some instances sites that are high risk may not be visible to the regulator either because they are in what is determined as a low risk sector or the business is not known to the regulator. A benefit of intelligence sharing would be that businesses which are currently slower to be identified as high risk could be identified through intelligence from other government regulators reducing the risk to the public through more efficient and effective targeted intervention;

- **a level playing field for business.** If intelligence sharing were implemented effectively there would be a greater focus on poor performers whilst having more appropriate interactions with compliant businesses. This would mean that sites that may cut corners in order to achieve a competitive advantage will be under greater scrutiny from regulators;

- **earned recognition.** If data containing performance indicators was shared efficiently there would be the ability to identify sites and companies that require less government intervention. This may mean that a company that has had a number of compliant inspections across different departments may warrant earned autonomy for a certain duration; and

- **joint working.** If a company is consistently non-compliant the regulators could work collaboratively to try to ensure that sustainable measures are put in place across multiple areas of regulation to safeguard the public and employees.

8.9. From the BIS consultation, it was clear that the full benefits of data sharing had not been realised, and this finding is also clear from the investigation work in this review. When asked what was preventing regulators from sharing data, the responses cited a number of reasons, including:

- a need (whether real or perceived) to have data sharing agreements or memoranda of understanding in place before data can be shared means that establishing data sharing practices can be time consuming and resource intensive;

- cleansing data received from other regulators can be resource intensive and can increase burden. There needs to be an appropriate balance between this burden and the benefits resulting from data sharing;

- the Data Protection Act (DPA) is commonly cited as a reason why data cannot be shared. There is confusion as to the exemptions under the DPA and when these apply. This confusion is often perceived by regulators as either genuine misunderstanding or an excuse not to share data;

- some regulators are restricted by their enabling statutes, which limit the type of data they can share and who it can be shared with;

- cultural barriers can prevent or discourage data sharing. Some regulators do not consider data sharing to be useful in meeting their own priorities and therefore consider data sharing to be a low priority; and

- a reluctance to 'trust' that data will be safeguarded appropriately once it has been given to another regulator.

8.10. Despite these barriers, many regulators have managed to find solutions which are delivering benefits. In line with the findings of this Review, the consultation noted that many regulators are using data sharing agreements and memoranda of understanding to facilitate data sharing. Most respondents indicated that they share data on request, with some noting the use of shared databases or compatible systems. However, regulators saw there being considerable, as yet untapped, potential.

Case study: Intelligent Regulatory Information System

This was a pilot project led by the Better Regulation Delivery Office (BRDO), which commissioned the Health and Safety Executive to develop an extended version of a tool called 'Find it' that the HSE had developed previously. The 'Find it' tool helped HSE transform the effectiveness of its inspection activities by helping identify businesses and premises that are likely to be high risk in terms of their likelihood to be in breach of health and safety legislation.

The pilot involved four regulators (three local authorities and a fire and rescue service) in the Leicestershire area sharing data using the Intelligent Regulatory Information System (IRIS). Data from the four regulators, plus data from other sources, was imported into IRIS so that all the regulators could access it. Findings from the evaluation of the pilot indicates that IRIS helped regulators locate previously unknown premises and take a proactive approach to providing businesses with advice on compliance issues and enhance public protection.

8.11. Whilst the IRIS pilot showed some potential benefits there was difficulty in quantifying these benefits and hence in presenting a convincing business case for taking this forward. Beyond such examples of work led by the BRDO, we are aware of a number of other initiatives that are ongoing in the area of data and intelligence sharing.

Potential intelligence sharing pathfinder projects

8.12. In this review we sought to identify potential pathfinder projects which would help in making the business case for the investment needed in greater intelligence sharing. Whilst progress has been made and there is a high degree of interest and enthusiasm

amongst regulators it has not been possible to carry out full-scale feasibility studies during this review. This work is therefore ongoing and HSE in their report identify four potential pathfinder projects. We summarise the two most developed of these below.

- **Farming Regulation, Defra.** There are several agencies and public bodies which provide oversight of farming activity within Defra. A pathfinder project in this area would look into how, using data science techniques and a range of key Defra datasets, sharing data for improving risk-based inspection across Defra can yield benefits. Anecdotal information suggests that in some areas of inspection a significant proportion of visits do not find the farming activity expected and hence the visit is nugatory. It is proposed that the study would use a predictive analytic process to demonstrate the practical application and benefit of sharing data to improve inspection targeting beyond the current regimes. The larger farm inspections project of which this would form a part has estimated that cost savings of the order of £6 million over a five year period might be attained. The savings from this pathfinder project would therefore be somewhat less.

- **Employment Agency Standards Inspectorate.** A system for data and intelligence sharing between the Employment Agency Standards (EAS) part of BEIS and other bodies involved in labour market enforcement is being explored. Discussions have started on how the Health and Safety Executive 'Find it' approach and tools can add to this. An immediate requirement identified is to examine and link a number of EAS datasets to provide greater insight. It is estimated that this could yield savings for the Inspectorate of £50,000 per annum.

8.13. While there has been work with individual departments and regulators on the pathfinder projects, there was also a view that there needed to be greater central coordination. This ranged from storing and maintaining data catalogues and centrally-procured intelligence through to best practice and intelligence sharing research. The idea of a Regulatory Intelligence Hub, with a combined, cross-department, role for government, was seen as being a priority for a large number of the regulators.

8.14. Outline estimates suggest that savings in the order of £7.5 million per annum are achievable from such a concept assuming that a group of 30 regulators spending on average £1 million on intelligence can make savings of 25% in line with previous pilots.

8.15. We consider that this has potential but in our view the focus in the short term should be on the pathfinder projects to prove the value of intelligence sharing, while a working group should be established to consider further the scope and feasibility of an intelligence hub.

Output of the information sharing work-stream

8.16. This work-stream involved a data collection questionnaire (DCQ) which was sent to regulators in advance of a workshop. The responses to the DCQ, provide a high-level overview of the type of information collected and shared within the regulatory sector and can now be used as a starting point to drill down into these data sets to understand further the cross-sector value of the information collected. There was appetite to hold more

focused discussions with regulatory partners who share common regulatory objectives or where there is a clear overlap in regulatory duties.

8.17. The need for a set of clear and robust data-sharing principles was often cited by those regulators who participated. The existence of a standardised approach to maintaining datasets will help foster confidence in the data held by 'other regulators' and facilitate collaborative working. The Register Design Authority has published a number of blogs on the topic of information governance and canonical datasets which should assist regulators.

8.18. The discussions during the workshop indicated a preference for a more targeted approach to sharing data where application programming interfaces (APIs) facilitate access to information of specific interest. APIs provide a set of routines, protocols and tools for interaction between two different software. For example, this allows one regulator's software to interrogate another regulator's data as opposed to a transfer of the entire dataset. Aside from the legal and technical complications, this approach would place unrealistic expectations on 'data rich' bodies responsible for maintaining sizeable and complex data sets. A federated model, in which specific datasets are held by individual regulators, was considered favourable to pooling information into a single data repository or opening up entire data catalogues to third parties.

8.19. Generic data sets were considered to hold the most identifiable 'cross-sector' value. The Office for National Statistics, Companies House and HMRC were often cited as the most authoritative sources of generic datasets (e.g. company turnover, number of staff). The Business Index beta, expected to be launched later this year, may provide a useful opportunity for regulators to reference their own data sets against that held in the index.

8.20. The feedback during this work-stream suggested that the sharing of intelligence appears to deliver more tangible outcomes for regulators than a narrower focus on data. The intelligence sharing work-stream highlighted the value of a Regulatory Intelligence Hub; many of the matters raised in the information sharing work-stream could also be explored through such a hub.

Conclusions and recommendations

8.21. We **recommend** that interested regulators work together to give further consideration to the feasibility of establishing a Regulatory Intelligence Hub. While in our view the focus in the short term should be on the pathfinder projects, matters identified such as the need for standard data sharing principles suggest that regulators could benefit from creating a working group. Such a working group could then also consider further the scope and feasibility of an intelligence hub.

9. Developing expertise within regulators

The case for greater co-operation, co-ordination and career development

9.1. The initial workshop held in December 2015 and subsequent data collection exercise identified that regulators were all facing similar challenges when it came to recruiting and retaining staff, and identified a need to improve training and career development.

9.2. Responses included:

- "An important factor is ability for staff to build a career in regulation with the ability to move between organisations."; and
- "A clearer career pathway … would facilitate movement between regulators."

9.3. Further evidence which arose during the investigations phase highlighted challenges in arranging secondments between regulators even between those that were co-located and sponsored by the same department.

9.4. Regulators also fed back that they valued the Regulatory Futures Review for providing a forum for regulators to meet and share experience with others who they might not ordinarily encounter in their normal networks. Such benefits are not easily quantified but are nonetheless real. Examples of benefits and contacts which we are aware of, arising from this review, include:

- Ofsted learning of a scheduling tool which is used by the CQC for scheduling inspection visits which enables substantial self-service by inspectors;
- CQC discussing with Ofsted approaches to regulation of groups of schools or care homes, GP practices etc. rather than just the entity itself, as well as comparing their respective roles in improvement and ratings, and reviewing performance of services in an area; and
- regulators expressing interest in the 3-day course run for Ofqual by the Centre for Regulation at London School of Economics (LSE).

9.5. While a small number of networks of regulators exist there have traditionally been limited opportunities for all regulators to come together and develop through peer-led learning.

9.6. Making use of existing talent within the regulatory community and developing mechanisms to provide opportunities for this talent within the community would serve a dual purpose of not only retaining talent but also allowing it to develop expertise and thereby strengthen the institution.

Models for greater career development and collaboration between regulators enabling greater cross-fertilisation of ideas and experience

9.7. There are several approaches which might be used to address these issues and these were tested with regulators during a workshop. The options range from the tactical to the strategic.

9.8. One initiative would involve developing a simple process for sharing staff between regulators. While regulators could employ tactical measures such as development of a Memorandum of Understanding with those partners with whom there was greatest potential, a multi-lateral initiative would clearly be more beneficial. Introducing such mechanisms which raise awareness of (secondment) opportunities would then create a mini-market for regulatory staff.

9.9. There are challenges to using existing portals such as Civil Service Jobs for this, as not all regulatory staff are classified as civil servants (notably those in non-departmental public bodies (with the exception of the Health and Safety Executive) and government companies). When advertising jobs the Civil Service Jobs website is restricted to civil service posts and posts in bodies that have been accredited by the Civil Service Commission.

9.10. Another initiative could involve having a consistent approach to training and assessing the performance of regulatory staff. This would help ensure that if and when staff were seconded or moved permanently to other regulators they could perform in line with the expectations of the role.

9.11. Developing a consistent framework that applied to each and every aspect of regulatory activity – for instance from those that specialise in risk analysis through to those that inspect and enforce - would clearly be the aim but this would not be possible without a significant level of effort. While this would take some time to develop, a consistent methodology for assessing staff would make it easier for staff to understand how their skills could be applied elsewhere.

9.12. Both of these ideas would clearly take some effort and it may be appropriate to deliver smaller-scale initiatives by considering clusters of regulators to get these initiatives operational. This could be through existing networks or by creating new networks (e.g. using the classification exercise performed within this review to inform membership of such networks).

9.13. A more strategic measure would involve the creation of a strategic Human Resources (HR) function. Such a function would take the lead in developing a talent management and leadership development strategy rather than focusing on the transactional aspects of HR.

9.14. An even more strategic solution would be to reimagine the population of regulators as being somewhat akin to a profession as with the Government Economic Service or Government Statistical Service. The number of staff at regulatory bodies is in excess of 20,000, although some of these may be members of other professions. This number exceeds those within the Government Statistical Service (c. 6,000), Government Economic Service (c. 1,900) and the total potential number of people who may form part of the nascent Commercial function (4,000). This suggests that there is sufficient scale within the regulatory community in principle to justify such an initiative.

9.15. Within the Civil Service, the words function and profession tend to be used interchangeably but are in fact intended to refer to different things. At its simplest, a function delivers services through roles, standards and processes whereas a profession is a collection of individuals with similar expertise. This means that a function may have a profession that links directly to it or it may use a range of professions to deliver its services.

9.16. The Civil Service has outlined the design principles for functions and these are instructive for the types of challenge that regulators may face if they pursue this route.[13] The guidance elaborates on how most functions have converged towards a similar model: departmental functional leads have 'dotted line' reporting to a central functional leader and 'solid line' reporting to their overall department or agency head. Such a model can also be adopted by professions and is the model adopted for the Government Economic Service where there is a dotted line relationship from the Chief Economist in departments to the Head of the Government Economic Service.

9.17. Such a model retains the existing Ministerial and Accounting Officer accountability arrangements but provides the central functional lead with the responsibility for their overall function. While this approach seems a logical approach for many of the functions identified, it is worth noting that many of these functions are in effect corporate services that enable government to deliver its policy initiatives, whereas regulators have a more active role in policy. In this context, a dotted line approach could be perceived by regulators as a challenge to the independence of regulators.

9.18. Regulators considered there to be value in pursuing common training and greater co-ordination between regulators to enable better talent management potentially building on existing networks to pursue these aims.

9.19. Regulators on the whole did not feel that there was a strong case currently for a move towards a regulatory profession, partly because there was some scepticism as to whether there was sufficient commonality between regulators but also because several felt that their sectoral or professional expertise was more relevant to the tasks they carried out than regulatory expertise. Instead they felt that there is a need to introduce greater collaboration initially and assess how that worked before investing in greater integration.

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13 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418869/The_Functional_Model.pdf

Others also pointed out some staff at regulators are already members of other professions (e.g. economists, statisticians, legal).

Conclusions and recommendations

9.20. There is in our view sufficient commonality between regulators that there would be merit in greater co-ordination between them and sharing of best practice.

9.21. While there are existing networks of economic and safety regulators, we consider that there would be value in a broader network. There is a good case for a small central unit (perhaps 2 to 3 full-time equivalent), reporting to a steering group of regulators, which would:

- hold and develop knowledge and expertise around regulation, which is currently mostly developed in isolation. A particular focus would be thinking around non-business regulation;
- be responsible for organising the development of a series of core training courses for regulators;
- serve as the secretariat for the regulators' network;
- co-ordinate action on initiatives such as the Regulatory Intelligence Hub; and
- possibly provide co-ordination of career development.

We do not consider that at this stage there is sufficient case for development of a regulatory profession, along the lines of, for example, the Government Economic Service or Government Finance Profession.

9.22. Consideration should also be given to whether this central unit might be 'hosted' by some external body such as the Institute for Government or the Centre for Regulation at the LSE - although in such circumstances it would not be appropriate for it to have a role in co-ordination of career development.

10. Burdens on regulators

Background to the issue

10.1. One of the objectives of the review was to 'identify the sources of burden on regulators themselves, the opportunities to reduce those burdens and hence to reduce cost, complexity and delays in regulation'.

10.2. As regulators can both make (in some cases) and enforce rules, the Government has sought to introduce mechanisms which seek to ensure that their powers are used properly and that an undue burden is not placed upon those who are regulated.

10.3. As a result a series of duties have been imposed on regulators such as a duty to take into account the impact of regulation on growth and (through an obligation on departments) to produce innovation plans to ensure that the scope for innovation within regulatory activity is optimised. These mechanisms can require changes to be consulted on and plans to be published. More recently regulators have been required to carry out regulatory impact assessments of certain changes in their activities which are then reported to the BEIS-sponsored Regulatory Policy Committee and will be taken into account within their sponsor department's budget for reducing regulatory impact on business.

Response from regulators

10.4. It was clear from the analysis of the initial data returns from regulators that in-scope regulators perceive burdens as a problem, albeit of varying size. There was a particular focus upon the requirements set down in the Enterprise Act for them to conduct Regulatory Impact Assessments which will then count towards their sponsor department's regulation budget. With the exception of the Business Impact Target (BIT) (and some regulators recognised that this may be a product of the timing of the review), the view of regulators is that no single initiative is necessarily to blame across the board, but a 'drip-feed' of burdens has built up over time which is presenting them with a number of resourcing challenges.

10.5. A small number of regulators were able to provide a very detailed breakdown of the scale of these burdens whilst a larger number were even unwilling to provide a ball-park percentage estimate. Where provided, some of the smaller regulators estimated that burdens equated to somewhere between 1% and 5% of either full-time equivalent staff or their regulatory budget. With one or two notable exceptions this is not based on a particularly robust methodology and did not give consideration to all aspects of the burdens (e.g. full-costing across all activities). In general, larger regulators did not feel they added more than 1 to 2% to their costs. However, most of these estimates were impressionistic rather than based on detailed estimates. Overall these burdens are seen to affect regulators on a basis that is inversely proportional to their size

10.6. In all cases regulators were keen to emphasise that they had (despite struggles in some cases) incorporated burdens into their workload. In the case of some larger regulators, responsibility for the extra work has often been slotted into an existing function (for example evidence and analysis teams) or in some cases piggy-backed with other outsourced work to third parties.

10.7. In some specific cases the burdens were highlighted as having some potential benefits to the regulator, although it is doubtful that these benefits outweigh the additional cost. On other occasions some of the burdens were downplayed as largely 'business as usual', for example through ongoing engagement with regulated organisations to understand the impact of regulatory interventions and an adherence to the Hampton principles.

Case study: The Pensions Regulator

The Pensions Regulator was able to provide a very detailed breakdown of burdens they face, although they did provide some positive messages that these were in effect 'business as usual'. In line with Hampton principles and as part of ongoing dialogue with those they regulate, the Pensions Regulator indicated that many parts of the Accounting for Regulatory Impact (now superseded by the extension of the Business Impact Target) burdens they face were in fact actions they would have already been expected to undertake in any case. In this case some parts of the perceived burden were marginal, or merely focused around where and how that information is captured and presented.

Types of burdens

10.8. The surveys and interviews sought to find out the types of burdens faced and what changed as a result of them. As described above, most of the responses were qualitative in nature and have been grouped together into the table below.

Resulted in additional effort / financial cost	This was the most popular of the answers given, in terms of slotting into existing roles or regulators, reflecting that the burdens meant that it takes longer to get the same output achieved (e.g. waiting for RPC clearance).
Resulted in changes in behaviour of regulated parties	This was raised by one respondent, who pointed to the increased 'survey burden' on those they regulate, although they did reflect this was a small price to pay for increased accountability.
Resulted in additional cost to regulated parties	This was only articulated by a very small number of respondents, for example the Gambling Commission identified that under a full-cost recovery model consultation costs ultimately have to be collected through increases to operator fees.

10.9. There was broad consensus that a solution was required to avoid government from utilising a 'one-size fits all' approach to interacting with regulators.

10.10. It was considered that the principle which government should abide by in its interactions with regulators is that of proportionality from the Better Regulation Task Force's Principles of Good Regulation. The principle is explained as: "Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised." There was broad agreement that the key area where there would be great benefit was that of introducing a de minimis threshold for impact assessments.

10.11. The general view was that whilst some departments were proportionate in their requirements of regulators, government generally did not get the balance right and could adapt its approach in the same way that regulators have when considering policy interventions.

10.12. Linked to this was recognition by regulators that there was value in performing reviews on a periodic basis but a preference that this was performed by those who are peers as this opened up opportunities to share best practice and learn from each other rather than the exercise being asymmetric in its benefits.

10.13. Other areas where the regulators saw there being some value in helping to reduce burden was consistency and consolidation of reporting. Practical measures that were highlighted included maintenance of a catalogue at department level of information that had been provided by regulators to prevent duplication of effort and focused interactions.

Conclusions and recommendations

10.14. We **recommend** that government adopts the same principles expected of regulators when introducing new policy initiatives as stated in the Better Regulation Task Force's Principles of Good Regulation.[14] While these extend beyond proportionality, it is this very principle which if applied in dealings with regulators would result in fewer burdens. Government should also consider a de minimis threshold in relation to impact assessments. At a time where regulators' resources are constrained, it seems appropriate to employ an approach to target the impact of initiatives.

[14] http://webarchive.nationalarchives.gov.uk/20100407162704/http:/archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principlesleaflet.pdf

11. The potential benefits of our proposals

Introduction

11.1. Given the large number of regulators and the varied degree of involvement in the study the ability to provide robust estimates of the financial impact of our proposals is limited. In this section we provide estimates of orders of magnitude of the three proposals in the report with the greatest financial impact:

- the presumption of full-cost charging for regulatory services;
- the move towards greater regulated self-assurance and earned recognition; and
- the move towards increased intelligence sharing.

The impact of full-cost charging

11.2. We were able to derive a split between charges and grant-in-aid for 45 of the 71 regulators potentially in scope. This includes all the most significant regulators in terms of spend and so we consider it gives a broad indication of the size of the potential reduction in grant-in-aid if there were to be full cost recovery for regulatory activities. These figures were presented in Figure 5 and show that currently there is £1.37 billion per annum in grant in aid (which includes £329 million in grant to local authorities for regulatory activities which they carry out on behalf of national regulators).

11.3. As discussed in the section on charging it may not be feasible or desirable to charge for some of the regulatory activities which currently receive grant in aid, for example much of the information, education and awareness-raising activities of the Health and Safety Executive, the Freedom of Information appeal activities of the Information Commissioner's Office and where charging would simply be cross-charging other parts of the public sector.

Figure 7: Potential benefits of moving to full-cost recovery

Total Regulatory budget (£m)	Total government grant funding (£m)	Grant funding analysed (£m)	Estimated value of cross charging (£m)	Potential reduction (£m)
£2,540m	£1,370m	£1,000m	£360m	£640m

All figures rounded to nearest £10 million.

11.4. Some regulators are already consulting on or planning to move to full-cost charging over the next few years. The £1.37 billion per annum identified is therefore a gross potential saving rather than a net saving figure. Our analysis looked at the largest regulators where regulated self-assurance and earned recognition is feasible and/or those where cross-charging of the public sector could be material; this included regulators such as Care Quality Commission, Environment Agency, Food Standards Agency, Health and Safety Executive, NHS Improvement and Ofsted as well as some Local Authority spend on regulation, and amounted to £1 billion. While not prejudging any decisions on how a default presumption of full-cost recovery to underpin a move to greater regulated self-assurance might be implemented, we identify in Figure 7 the total of the £1 billion per annum which is cross-charging within the public sector, and make a judgement as to what proportion of the remainder might be judged inappropriate to be charged for. Nevertheless, after these adjustments there is still a potential saving of at least £500 million (note that these figures do not include some regulators. If the default presumption of full cost-charging were to be applied across all regulators, then the benefit would therefore be greater than this estimate).

11.5. We assume that the impact of any changes to the structure of charges will have a zero net impact as there will be reductions in charges for those who impose less cost on regulators to counterbalance any increase in charges for those who impose a significant costs on regulators.

The benefits of a move to greater regulated self-assurance and earned recognition

11.6. Estimating the potential benefits of a move to greater regulated self-assurance and earned recognition is inevitably more difficult than estimating the benefits from a move to full-cost recovery for regulatory activities for a number of reasons:

- the proposals are for a direction of travel where the pace of movement will differ and the end point will vary depending on the nature and structure of the sector concerned and the judgement of ministers and regulators concerning the degree of risk that they may be prepared to bear as well as the accountability which is required;
- there may be greater caution exercised in industries where there is a higher degree of historical criminality involved;
- company self-assessment and reporting may be more feasible in sectors which are very concentrated (e.g. regulation of drinking water), than in sectors which are more diverse (e.g. catering or childminding); and
- different sectors are at different stages of development of such an approach and hence the scope for savings may differ. For example, the Civil Aviation Authority where such an approach is used compared to the DVSA or the Food Standards Agency where they are relatively less developed in parts of their activities.

11.7. Our analysis looked at those larger regulators where a move to greater regulated self-assurance and earned recognition could be considered to be material. This included regulators such as the CQC, the DVSA, Food Standards Agency, Health and Safety Executive and Ofsted. In the case of the Environment Agency, we consider there is some potential for savings through further self-assurance. However, it is unlikely to be a priority in the short to medium term as the organisation is focused on supporting government in the withdrawal from the European Union and working with Defra on transformational change.

11.8. Discussion with the regulators suggested that the benefits may be variable. Firm estimates can only be derived once detailed feasibility work has been carried out on mechanisms for self-reporting by regulated entities, the extent of sampling to be carried out by the regulator as well as the 'length of the tail' of establishments where there is likely to be a continued need for the statutory regulator still to be involved.

11.9. In a few cases, detailed costing work has already been carried out by the regulator in relation to some of these proposals. In other cases there are regulatory impact assessments which have been carried out of past moves in this direction which can give an indication of the potential benefits from such approaches being applied in other cases. We set out a few of these examples, before providing a **judgement** of the potential benefits overall.

Dairy hygiene inspections

In 2011 the Food Standards Agency consulted on a new approach to inspection of dairy hygiene. It was proposed that if a farm was a member of the "Assured Dairy Farm" (ADF) scheme (95% of cows' milk purchased in England and Wales is from ADF- approved farms) they would be inspected by the Food Standards Agency on average once every 10 years compared to once every 2 years for non-ADF approved farms. The impact assessment showed that this would reduce inspection costs by 75%.

Feed law interventions

In 2014 the Food Standards Agency proposed to use an earned recognition scheme for feed law inspections. The EU had found that the frequency of inspection by local authorities was not sufficient to ensure that the Feed Law Code of Practice was being adhered to. The FSA therefore introduced an earned recognition scheme whereby inspections were less frequent for farms which used an FSA recognised feed assurance scheme. This enabled the FSA to ensure that there was an appropriate level of monitoring to meet the statutory requirements at no increased cost. The impact assessment estimated that if an appropriate number of inspections were carried out to meet the statutory requirements using a non-earned recognition approach, 2.4 times more inspections would be required. Hence the earned recognition approach led to a cost reduction of approximately 60%.

DVSA feasibility study of earned recognition approach to heavy goods vehicle and public service vehicle operator roadside checks

DVSA carried out a feasibility study of the benefits of using an earned recognition approach for roadside checks for operators with the lowest risk scores who wished to be part of such a scheme. The resultant savings when extrapolated indicated that savings in inspection costs overall could be of the order of 10%, and could be greater if commercial pressures encouraged more firms to opt to be part of the scheme. There may also be a benefit to operators if their vehicles were not stopped as frequently, raising the potential for improved commercial performance.

Ofsted estimates of savings from changes to inspection approach

Ofsted's core funding is due to drop from £155 million in 2016/17 to £123.5 million in 2019/20. They plan to meet this gap by a combination of fee increases, efficiencies and greater use of earned recognition in their approach to inspections. The greater use of earned recognition is estimated to result in a total costs saving (i.e. not just inspection) of around 8% by 2020. These estimates do not include the benefit of any move to a greater use of inspection at a multi-academy trust level or greater use of current practitioners in inspection which could lead to further savings.

11.10. A few points should be emphasised concerning these estimates. They are not necessarily (and in most cases will not be) net additional savings to what is already planned in terms of expenditure reductions for the regulators. Rather they illustrate the mechanisms which might be used to attain those budget reductions. Secondly, they cannot be added to the income from charges to attain a total reduction in Exchequer costs. If there were to be total cost recovery through charging for regulated activities the benefit of any reduction in costs of regulation would be passed through to the regulated in line with the principles of 'Managing Public Money'.

11.11. In estimating the potential benefits from greater use of regulated self-assurance and earned recognition it is important to recognise that the degree of proactive inspection activity varies considerably between regulators. In most of the 'inspection heavy' regulators (e.g. FSA, Ofsted, CQC) which tend to be the largest of the regulators, inspection and directly related costs can be 50% or more of total costs. In others which are more reactive it will be much less (e.g. Charity Commission and Legal Services Board), typically well below 10% of costs.

11.12. In our judgement, based on the available evidence and the nature of the activities of the larger regulators (CQC, HSE, Ofsted, DVSA and FSA), the potential benefits are likely to be an average of around 10% of their total costs, and hence of the order of £120 million. It should be noted that in the case of individual regulators the scope for savings may be significantly more or less than this average estimate of 10%.

Figure 8: Potential benefits of moving to greater regulated self-assurance and earned recognition

Total Regulatory budget (£m)	Regulatory budget analysed (£m)	Potential benefits (£m)	Potential benefits (%)
£2,540m	£1,080m	£120m	11%

Note: all figures rounded to nearest £10 million or percentage point

The benefits of a move to increased intelligence sharing

11.13. Our work identified the requirement from regulators for a co-ordinated approach to intelligence sharing across different regulatory areas. This led to the formation of the concept of a Regulatory Intelligence Hub which could address a number of intelligence sharing related matters.

11.14. The benefits of such an approach could also extend to cost savings. Outline estimates suggest that savings in the order of £7.5 million per annum are achievable from such a concept, assuming that a group of 30 regulators spending on average £1 million on intelligence can make savings of 25% in line with previous pilots.

11.15. These savings are approximations and a full business case exploring the funding, resourcing and potential savings would need to be undertaken, however this illustrates the scale of the potential savings from a centralised investment in a Regulatory Intelligence Hub.

12. Conclusions and recommendations

12.1. Our examination of effective regulatory delivery models has identified that important attributes of good regulation are that they focus, as far as feasible, on outcomes and make use of a wide range of levers to reduce harm and improve quality. These levers can include using the influence of purchasers/commissioners, professionals involved in the sector and user/consumer pressure. Using such levers, as well as the quality-management systems of regulated entities themselves, ensures that assurance processes, from wherever they come, can be minimised whilst still meeting desired regulatory outcomes.

12.2. We believe that there is considerable scope to extend this approach, which we have termed 'regulated self-assurance', among regulators and 'earned recognition' for publicly funded entities and that among those regulators who currently rely heavily on inspection this can enable greater efficiency in meeting regulatory outcomes and reducing the burden of duplicate assurance processes on businesses. The scale of the potential cost savings which might be attained among inspection-heavy regulators we judge could be of the order of 10% of total costs. More detailed feasibility work by the regulators in assessing how this concept would apply to them would be needed to verify this estimate. There would also be further savings among the regulated through avoiding the direct costs for them of duplicate assurance processes which we have not included in estimates of the benefits.

12.3. It should be stressed that regulated self-assurance and earned recognition is different from self-regulation. Many of the sectors which are highly regulated, for example water companies in respect of drinking water quality, make very substantial use of the internal quality assurance processes of the regulated within a regulatory framework set by, in that case, the Drinking Water Inspectorate.

12.4. The current system of charging for regulation varies considerably between sectors and is often more a function of history and circumstance rather than logic. However the fact that the regulated may not be charged the full economic cost of regulation means that there can be a disincentive for adoption of regulated self-assurance. We therefore propose that there should be a default presumption of full cost recovery for regulatory activities where regulated self-assurance is feasible, and that further attention should be given to ensuring that the structure of charges results in the greatest cost burden falling on those who cause the greatest cost to the regulator - cost-reflective charging.

12.5. We appreciate that this may not be appropriate in all cases (for example, where the regulated entity is publicly funded or where a significant part of the regulator's activity is provision of information and education). Currently, for those regulators for which we had the required data, around half (£1.37 billion per annum) of the cost of regulation came from government grant. We estimate that introducing a default presumption of full-cost

recovery where regulatory self-assurance is feasible, could yield net Exchequer savings of at least £500 million per annum.

12.6. Introducing greater regulated self-assurance for businesses would also introduce a degree of contestability into assurance processes which would provide a pressure for efficiency on the regulator which, along with a requirement to consult on fees and charges, should allay any concerns that a greater reliance on full-cost recovery, rather than government grant, might lead to greater inefficiency.

12.7. In addition to greater use of regulated self-assurance to drive efficiency improvements, we found that there remains untapped scope to improve intelligence and information sharing between regulators. The benefits of information sharing between regulators primarily accrue directly to the regulated through only having to 'tell us once'. Our work here has identified what information is being collected by regulators. As there are a number of initiatives underway on this led by the Government Digital Service and others, we have focused more on the potential of intelligence sharing which can then enable more targeted and efficient inspection activities. Pathfinder projects have been identified in the areas of farm inspection and labour market enforcement and Health and Safety Executive will pursue these projects in the short term with the regulators concerned to test the potential benefits (and costs) of further work in this area. Other longer-term projects have also been identified.

12.8. Regulators also feel that there is considerable potential for a more co-ordinated approach through the establishment of a Regulatory Intelligence Hub. While the pathfinders can help to illustrate the benefits of establishing a hub, developing a standard approach to intelligence sharing can help to avoid the creation of multiple dissimilar bilateral arrangements.

12.9. The Regulatory Futures Review has highlighted the potential benefits of increased sharing of best practice between regulators. Some of these examples are highlighted formally in this report, others have arisen on a more bilateral and informal basis through contacts made during review workshops. We believe that there is value in building on these contacts through a rather more formalised network of regulators, including some common training, events around common issues and problems as well as a repository of best regulatory practice. Whilst this could build on one of the existing more specific networks of regulators, for example. economic or safety regulators, we consider that there would be value in a broader network. This would require a small central team (two to three fixed-term equivalent) funded by the regulators.

12.10. We also considered the extent to which burdens placed by government on regulators are imposing an undue cost. The impact of these burdens are felt most strongly by small regulators and so we consider that a more proportionate approach from government would be merited.

Summary of recommendations

12.11. **We recommend that regulators and their sponsor departments** should respond on how far and how fast they can move on the two changes envisaged here: a presumption of a move to greater regulated self-assurance and earned recognition underpinned by full cost recovery for regulatory activities.

12.12. As some of the above would require legislative change **we recommend** that **government** should reflect on the impact on policy and set out a definite way forward for implementation. Government should also consider further ideas such as companies or sectors having a 'right to challenge' regulators by setting out how they propose they might provide their own assurance model within the broad framework of regulated self-assurance.

12.13. **We recommend** that regulators as a group should take forward the pathfinder projects for intelligence sharing in relation to farm inspections and labour market and establish a working group to report back in six months on the feasibility, scope and funding mechanism of a Regulatory Intelligence Hub. Alongside this a working group of regulators should take forward the idea of establishing a small central hub to encourage development and sharing of regulatory models and good practice.

12.14. **We recommend** that the **Better Regulation Executive** together with regulators should consider and report back within 6 months as to how burdens placed on smaller regulators might be made more proportionate.

12.15. We **recommend** that **regulators** should move as far as practicable towards an outcome-based approach to regulation. Regulators should also consider how such a change should affect the level and nature of their engagement with regulated companies. We further **recommend** that regulators should periodically (around every five years) review their regulatory approach, with a view to stripping back accumulations of excessive standards and process controls. We also **recommend** that all regulators should consider how far they can make use of other agents who can bring influence to bear on minimising harm and improving the quality of services as part of their regulatory strategy.

Glossary

Abbreviation	Definition
ADF	Assured Dairy Farm
AIC	Agricultural Industries Confederation
ARI	Accounting for Regulatory Impact
APHA	Animal and Plant Health Agency
API	Application Programming Interface
BEIS	Department for Business, Energy and Industrial Strategy
BIS	Department for Business, Innovation and Skills
BIT	Business Impact Target
BRC	British Retail Consortium
BRDO	Better Regulation Delivery Office
CQC	Care Quality Commission
CB	Certification Body
CC	Charity Commission for England and Wales
CAA	Civil Aviation Authority
CCG	Clinical Commissioning Group
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
Defra	Department for Environment, Food and Rural Affairs
DfE	Department for Education
DfT	Department for Transport
DH	Department of Health
DPA	Data Protection Act
DWP	Department for Work and Pensions

Abbreviation	Definition
DVSA	Driver and Vehicle Standards Agency
EFA	Education Funding Agency
EAS	Employment Agency Standards Inspectorate
EA	Environment Agency
FCA	Financial Conduct Authority
FRC	Financial Reporting Council
FSA	Food Standards Agency
GC	Gambling Commission
GP	General Practitioner
HEFCE	Higher Education Funding Council for England
HGV	Heavy Goods Vehicle
HSE	Health and Safety Executive
HMI	Her Majesty's Inspector
HMIP	HM Inspectorate of Prisons
HMRC-NMW	Her Majesty's Revenue and Customs – National Minimum Wage
HR	Human Resources
HCA	Homes and Communities Agency
ICO	Information Commissioner's Office
IRIS	Intelligent Regulatory Information System
IS	Insolvency Service
LA	Local Authority
LSB	Legal Services Board
LSE	London School of Economics
MHI	Meat Hygiene Inspector
MHRA	Medicines and Healthcare Products Regulatory Agency
MoJ	Ministry of Justice

Abbreviation	Definition
MPM	Managing Public Money
NHS	National Health Service
NMRO	National Measurement and Regulation Office. NMRO was abolished on 1 April 2016 and brought back into the Department for Business, Innovation and Skills (now BEIS). The Regulatory Delivery Office is the directorate in BEIS that now carries out the regulatory functions of ex-NMRO and ex-BRDO.
NHSI	NHS Improvement
OECD	Organisation for Economic Co-operation and Development
ONR	Office of Nuclear Regulation
ONS	Office for National Statistics
ORR	Office of Rail and Road
Ofqual	Office of Qualifications and Examinations Regulation
Ofsted	Office for Standards in Education, Children's Services and Skills
PPF	Pension Protection Fund
PSA	Professional Standards Agency for Health & Social Care
RPA	Rural Payments Agency
TPR	The Pensions Regulator
VMD	Veterinary Medicines Directorate