

# REGULATORS' COMPLIANCE CODE

## About this Code

This Code is based on the principles of Philip Hampton's report *Reducing administrative burdens: Effective Inspection and Enforcement*.<sup>1</sup>

[The Code is made under sections [x to y] of the Legislative and Regulatory Reform Act [2006], and interprets the principles in section [z]. Where this Code applies, it supersedes the 1998 Enforcement Concordat.<sup>2</sup>]

### 1. Risk assessment

This section is based on the principle that regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most.

All elements of regulators' compliance work, including advice, data gathering, inspection and enforcement activities, must be based on thorough and open assessments of risk. Risk assessment should be carried out on a sectoral basis where the evidence shows risks are generally low and on a company-specific basis in cases where the evidence shows risks are high.

'Open' risk assessment means that regulators must allow businesses and others to scrutinise and be consulted on risk assessment methodologies. They must work with other relevant regulators in the design of their risk methodologies, to simplify and reduce information requirements and inspection programmes as much as possible. Regulators must seek to maximise consistency of assessment and interpretation within their own organisations, and across the regulatory sector.

Risk assessment methodologies must:

- assess and balance the likelihood of compliance failure, the seriousness of compliance failure, the business's past performance and its current practice;
- Use all relevant, good-quality data that can be readily obtained, including that available from third parties such as independent accreditation schemes
- Not use any irrelevant, inaccurate or unreliable data

Regulators must regularly review their risk assessment methodologies.

### 2. Inspection

This section is based on the principle that no inspection should take place without a reason.

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<sup>1</sup> Listed in box 2.2 of that report

<sup>2</sup> [reference]

Regulators must use risk assessment (see section 1) to programme all inspection activity. There must be no routine inspection.

Regulators must use an element of random inspection in their programme, the extent of which should be based on risk, to test their risk assessment methodologies.

Regulators must focus the greatest inspection effort on businesses where risk assessment shows that:

- A compliance breach would have serious consequences; and
- The individual business is at high risk of a compliance breach.

Regulators must not inspect businesses where hazards are, or the risk of adverse outcomes is, low, except as part of the random element of their inspection programme.

Where possible, regulators must draw up their inspection programmes alongside other regulators, and minimise burdens on business through joint inspections and data sharing.

### **3. Data requirements**

This section is based on the principle that businesses should not have to give unnecessary information, nor give the same piece of information twice.

Regulators must assess the information they require on the basis of risk, working with others to ensure that requested information is not available from any other source. If two regulators require the same information, they must, in so far as possible, share data so that it is only collected once.

Regulators must involve business in vetting data requirements and form design, and must follow relevant guidance from the Better Regulation Executive, including *General Principles for Better Forms*.<sup>3</sup>

### **4. Handling suspected breaches**

This section is based on the principle that the few businesses that persistently break regulations should be identified quickly, and face proportionate and meaningful sanctions.

Regulators must work constructively with businesses that are honestly trying to comply with the law, and help them towards compliance.

When possible breaches are identified, either by the regulator or the business, regulators must act in a way proportionate to the risks as they understand them. Except in cases where immediate action is necessary, regulators must provide an opportunity for the party in suspected breach to discuss the circumstances of the case and try to resolve the breach. Where immediate

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<sup>3</sup> Not yet published

action is considered necessary, reasons for the action must be given at the time and confirmed in writing at the earliest opportunity.

Where possible, regulators must co-ordinate their enforcement services and the sharing of data to prevent delays in enforcement action.

When assessing options for penalising businesses, regulators must ensure that the penalty route they propose is proportionate to the offence, the outcome, and the culpability of the offender.

## **5. Advice**

This section is based on the principle that regulators should provide authoritative, accessible advice easily and cheaply.

Advice services must:

- provide consistent statements about regulatory requirements and good practice on which businesses can rely;
- distinguish clearly between legal requirements and best practice guidance;
- provide confirmation of advice in writing if requested;
- provide advice in a range of formats and media so all businesses can easily access advice that meets their specific needs;
- be provided in a way that takes account of the needs of minority groups and smaller businesses and owner/operators.

Regulators must involve businesses in developing both the content and style of advice and the formats for transmitting it.

## **6. Supporting economic progress**

This section is based on the principle that regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

Regulators must assess their policies to ensure that, as far as possible, they do not:

- create unnecessary administrative burdens
- reduce incentives to innovate
- discriminate between small and large businesses
- discriminate between companies already in particular markets, and companies who might want to enter.

## **7. Accountability**

This section is based on the principle that regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

Regulators must, in consultation with business and other interested parties, draw up and publish clear standards for service and performance. Regulators must measure their performance against the standards each year, and publish their results.

When talking to regulated entities or others, regulators' staff must identify themselves by name, and must provide a telephone number or contact point for further dealings with their organisation.

Regulators must provide complaints procedures that are easily accessible to business, the public, employees and consumer groups. Complaints procedures must have a final stage that allows referral to an external person. They must publicise these procedures, and also any other rights of further complaint or appeal, with details of the process and likely timescale.