



Better Regulation Executive

# **A Code of Practice for Regulators – A Consultation**

Consultation on the Regulators' Compliance Code and the scope of the Code and the Principles of Good Regulation

May 2007

## Foreword by Hilary Armstrong, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office



Effective and well-targeted regulation plays a key role in the protection and prosperity of the UK's citizens. It protects the vulnerable and the environment, promotes equality, and helps raise the standards of our services. Furthermore, regulation is an important part of the context within which businesses operate. It provides the platform for fair competition, giving reassurance to consumers and firms wishing to do business. As such, regulation is a key enabler to economic activity.

The better regulation agenda is about finding more effective ways of designing and enforcing regulation, without placing unnecessary burdens on those who are regulated. It is about streamlining bureaucracy in order to support increased productivity and prosperity.

This document proposes a new code of practice for regulators which supports the Government's policy and is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to the enforcement of regulation, in order to maximize regulatory outcomes while minimizing burdens on businesses and other regulated entities.

The Legislative and Regulatory Reform Act 2006 places the five principles of good regulation on a statutory footing, stating that regulators should be proportionate, accountable, consistent, transparent and targeted in carrying out their regulatory activities. This document proposes a Listing Order, specifying the regulatory functions to which these five principles should apply.

I am confident that the proposals in this document will strengthen the effectiveness of regulatory enforcement in this country. But if we are to succeed, we need to listen carefully to the views of others, which is why this consultation will be crucial in providing us with the information we need to get this right.

I would strongly urge you to share your views on the proposals in this document.

A handwritten signature in black ink that reads "Hilary Armstrong". The signature is written in a cursive, flowing style.

Hilary Armstrong

Chancellor of the Duchy of Lancaster

## Basic information about this consultation

Who we would like to hear from: We would welcome comments and views from all regulators, (including local authorities) that are proposed to be subject to the Code and the principles of good regulation. We would also like to hear from all regulated entities, including businesses, charities and voluntary sector organizations, as well as other interested parties, such as consumers. Please see Annex E for the list of consultees.

Closing date: The consultation lasts 12 weeks, beginning from 15 May. So, please ensure that your responses reach us by 15 August 2007

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Additional ways to feed in your views: The Cabinet Office will also organise events where the Code and this consultation will be discussed. If you are interested in participating in such events, please contact **Olu Fasan** via the address, e-mail or phone number above.

Government response: The Government will publish a response to this consultation exercise in the autumn.

Further information on this consultation, can be found on page 13, under section 5.

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## SUMMARY

1. The purpose of this consultation document is to seek comments on a draft Regulators' Compliance Code ("the Compliance Code") and the proposed content of the Listing Order, specifying the regulatory functions to which both the Code and the principles of good regulation should apply. We are interested to see if anything more, or anything different, should be included before laying the Code and the Order before Parliament for approval.
2. Section 21 of the Legislative and Regulatory Reform Act 2006 ("the Act") places a duty on regulators to have regard to five Principles of Good Regulation<sup>1</sup> ("the Principles") in the exercise of regulatory functions. Section 22 of the Act provides a power for a Minister to issue a code of practice about the exercise of regulatory functions, and places duties on regulators to have regard to the Compliance Code in the circumstances set out in sub-sections (2 and 3) of the Act.
3. The duties to have regard to the Principles and to the Compliance Code, however, only apply to regulatory functions that are specified by an order made in accordance with the procedures set out in sections 23 and 24 of the Act ("the Listing Order") Before making a Listing Order, the Minister is required to consult relevant stakeholders (section 24(6)).
4. The Government plans to:
  - issue the Compliance Code; and
  - make an order specifying the regulatory functions to which both the Code and the duty in section 21 of the Act should apply.
5. We are seeking, through this consultation paper, your views on the contents and scope of the draft Compliance Code and the proposed content of the Listing Order. The Government welcomes any comments you may have.
6. This consultation document covers two main areas. Section 1 gives the policy justification for the Compliance Code and provides commentary on the draft Code and the proposed content of the Listing Order to accompany it. Section 2 focuses on the section 21 duty and particularly the regulatory functions that should be subject to this duty. There are also sections on the impact assessment (which is also annexed), devolved administrations, and the consultation process.

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<sup>1</sup> *Regulation – Less is More: Reducing Burdens, Improving Outcomes*, March 2005

# 1. THE REGULATORS' COMPLIANCE CODE

## 1.1. INTRODUCTION

7. The purpose of the Compliance Code is to promote efficient and effective approaches to regulatory inspection and enforcement. The enforcement of a regulation can be as important as its design in the first place. Where regulations are over-implemented or enforced in a heavy-handed way, they can stifle innovation and economic growth, and produce other unintended consequences.
8. Thus, not only should legislation be fit for purpose, its enforcement needs to be proportionate, flexible and risk-based, with resources focused on areas where risks to society are greatest.

### *The Enforcement Concordat*

9. The first major instrument that the Government introduced to tackle weaknesses in the UK regulatory enforcement regime was the Enforcement Concordat, which the Cabinet Office published in 1998. The Enforcement Concordat sets out principles of good enforcement policy, comprising: standard setting; openness; helpfulness; well-publicised effective and timely complaints procedures; proportionality, and consistency.
10. The Enforcement Concordat is a voluntary code of practice. Even so, it has, to date, been adopted by 96% of all central and local government bodies with enforcement functions.
11. However, while the Enforcement Concordat brought some clarity into the UK regulatory enforcement regime, it was only partially successful in its aims of changing regulatory culture and practice. This was due to two main factors:
  - First, although the Enforcement Concordat was adopted by virtually all regulatory bodies with enforcement functions, its implementation was patchy and inconsistent across the country, which caused difficulties for those regulated, and
  - Secondly, the Enforcement Concordat did not place sufficient weight on risk-based enforcement, a key necessity to ensure that enforcement activities are proportionate and targeted.

## ***The Hampton Review***

12. The weaknesses both in the voluntary Enforcement Concordat and the existing regulatory enforcement regime prompted the Government to ask Philip Hampton, in 2004, to consider “the scope for promoting more efficient approaches to regulatory inspection and enforcement while continuing to deliver excellent regulatory outcomes”.
13. In 2005, Philip Hampton published his report, *Reducing administrative burdens: effective inspection and enforcement*. In it, he noted that although the current regulatory system in the UK contained much that was good, there were still problems with regulatory burden, particularly in terms of costs both in time and money of regulators’ inspections and enforcement activities.
14. In particular, Hampton argued that the use of risk assessment is patchy and, where it has been used, this has not been as thorough and as comprehensive as it should have been. The lack of comprehensive risk assessment has created over-inspection and has led to too many, often overlapping, forms and data requirements. He also noted that little emphasis was being given to providing advice in order to secure compliance.
15. Hampton followed his analysis of the problems with the following policy recommendations (“the Hampton Principles”) directly targeted at inspection and enforcement activities:
  - I. 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;
  - II. Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most;
  - III. Regulators should provide authoritative, accessible advice easily and cheaply;
  - IV. No inspection should take place without a reason;
  - V. Businesses should not have to give unnecessary information or give the same piece of information twice;
  - VI. The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions; and,
  - VII. Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

16. The Government accepted all the recommendations in the Hampton Report and published a detailed response in July 2005.

### ***Delivering the Hampton vision of effective inspection and enforcement***

17. In a consultation launched by the Better Regulation Executive (BRE) in December 2005, following the publication of the Hampton Report, there was an overwhelming support for updating the Enforcement Concordat. Many consultees argued that there was no logic in maintaining an unchanged Enforcement Concordat alongside the Hampton Principles, as this would only serve to undermine the effectiveness of these principles.
18. The Chancellor later announced the Government's intention to issue a statutory code of practice – the Regulators' Compliance Code – to give the Hampton Principles some statutory basis. The experience of the Enforcement Concordat suggested that a voluntary arrangement would not have the necessary weight to effect a real change in regulatory behaviour. So, the Government sees benefits in placing the Hampton Principles on a statutory footing.
19. The Legislative and Regulatory Reform Act provides a power for a Minister to issue a code of practice relating to the exercise of regulatory functions. This power is being used to issue the statutory Regulators' Compliance Code.
20. An initial draft of the Compliance Code was produced in March 2006. The draft Code was placed on the BRE website for informal consultation and comments. In February 2007 we produced another version taking into account comments on the March 2006 draft. Since the end of March this year, we have consulted informally with regulators and other interested parties to solicit their comments and views on the new draft.
21. The current draft on which we are now consulting is, therefore, a revision of earlier versions taking into account, so far as possible, the extensive comments received.
22. The Government intends that the Compliance Code will be laid before Parliament during the autumn of 2007, coming into force on 1 April 2008.



## **1.2. COMMENTARY ON THE COMPLIANCE CODE:**

### ***Part 1: General Introduction***

23. The Compliance Code is set out in two parts. Part 1 is an introductory section, which describes the purpose of the Code and its background and scope. Part 2 covers the specific obligations of the Code.
24. Regulators, whose regulatory functions are specified by an order, are required to have regard to the Compliance Code when determining policies, setting standards or giving guidance in relation to the exercise of these functions. As such, the Code only applies to the general level functions of, for example, policy making and standard-setting and not *directly* to individual level functions of carrying out inspections, investigations, prosecution and other enforcement activities.
25. Although regulators are required to consider the Compliance Code's provisions and give them due weight in coming to their decision, they are not bound to follow the Code if they properly conclude that the provisions of the Code are, in a particular case, either not relevant or are outweighed by other relevant considerations.
26. The Compliance Code is also subject to other legal requirements that regulators may be required to follow, such as EC law obligations.

### ***Part 2– Specific Obligations of the Compliance Code***

#### ***Section 3: Supporting Economic Progress***

27. The Compliance Code requires regulators to give consideration to how their regulatory activities can support economic progress. Specifically, they should ensure that the benefits of any regulatory tool they adopt justify the costs of such a tool both to the regulators and to regulated entities. Any regulatory tool should entail the minimum burden compatible with achieving desired regulatory outcomes.

#### ***Section 4: Risk Assessment***

28. This section states that an assessment of risk should precede all activities that regulators undertake. Risk assessment is described as an explicit consideration of the potential impact on regulatory outcomes of non-compliance with regulation, and the likelihood that non-compliance will occur. Regulators should then focus their activity on those regulated entities which are higher-risk.

### ***Section 5: Information and Advice***

29. This section seeks to have regulators provide advice promptly and clearly, and in a way that enables businesses to understand what the law requires of them.

### ***Section 6: Inspections***

30. This section sets out the principle that inspections should only occur as a result of the regulator's risk assessment (with some exceptions). Greatest effort should be focused on those who pose serious risks and on those who are most likely to fail to comply.

### ***Section 7: Data Requirements***

31. This section requires that regulators consider how data requests (including through forms) impact upon business and whether more can be done to collaborate with other regulators, for example, through data-sharing to reduce unnecessary collection of data.

### ***Section 8: Compliance and Enforcement actions***

32. This section looks at how formal enforcement actions, including sanctions and penalties, should be applied. Following a recommendation in the Hampton report, the Government asked Richard Macrory to examine the penalties and sanctions regime in the UK.

33. Macrory reported in 2006, setting out some Penalties Principles and Characteristics, and the Government accepted all the recommendations. This section incorporates the Macrory Principles and Characteristics, and provides that regulators should ensure that their enforcement policies are consistent with these principles and take account of the characteristics.

### ***Section 9: Accountability***

34. This section seeks to increase the transparency of regulatory organizations. In particular, it provides that regulators should articulate and measure their regulatory outcomes, the costs they impose and how their enforcement approach is perceived. It also states that they should set up independent complaints procedures.

35. However, we are keen that local authorities do not have to undertake unnecessary additional reporting requirements to meet sections 9.2 and 9.3 of the Compliance Code. Local authorities are likely to meet these requirements through their existing service and enforcement plans, and through their reporting of the Hampton performance indicators announced in the 2006 pre-Budget report that are currently being developed. Because of this, section 9.4 exempts local authorities from the need to comply with the provisions of sections 9.2 and 9.3.

## **1.3. THE LISTING ORDER FOR THE COMPLIANCE CODE**

36. As mentioned above, the duties to have regard to the Principles and to the Compliance Code will only apply to regulatory functions that are specified by an order made in accordance with the procedures set out in section 24 of the Act.
37. Annex C sets out, in broad terms, the regulatory functions that we intend to bring within the scope of the Compliance Code. We believe the duty to have regard to the Code should cover national regulators that were included in the Hampton Review, as well as others, which, following consultation with relevant government departments, it is agreed should be included.
38. This “Hampton-plus” approach means that some regulators not covered by the Hampton Review may nevertheless be made subject to the duty to have regard to the Compliance Code. The Code will also apply to local authority enforcement of trading standards, environmental health and licensing, as well as to the regulatory functions of fire authorities.
39. The future status of certain regulators, however, raises specific questions about whether or not to bring them within the scope of the Compliance Code. For example, there are outstanding issues arising from the Hampton Report concerning the future of the Hearing Aid Council (HAC). A related issue is about the nature of the regulatory functions to be included. For example, certain functions of the Insolvency Service Agency may not be considered within scope. We are considering whether or not to exclude these regulators or regulatory functions, and have put this as a broad consultation question on the scope of the Listing Order (see Annex A).

## **2. THE PRINCIPLES OF GOOD REGULATION**

### **2.1. INTRODUCTION**

40. As mentioned earlier, the Legislative and Regulatory Reform Act 2006 provides that regulatory functions should be: transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed. These are high-level principles that, however, serve as a baseline standard for all regulatory work.
41. Section 21 of the Act provides that any person exercising specified regulatory functions must have regard to the five Principles in the exercise of any of those functions.

## 2.2. APPLICATION TO INDIVIDUAL LEVEL REGULATORY FUNCTIONS OF REGULATORS

42. However, unlike section 22 of the Act, which makes the duty to have regard to the Compliance Code applicable only at the general level of policy making, there is no such limitation in the case of the section 21 duty. This leaves it open to Government, through the Listing Order, to extend the section 21 duty to both general<sup>2</sup> and individual<sup>3</sup> level regulatory functions.
43. The Government's preferred position is that the duty in section 21 of the Act should apply to both general and individual level regulatory functions of regulators. The key reasons for this are:
- Section 21 only imposes a duty to have regard to the five Principles. It does not require the Principles to be followed in the exercise of every individual level regulatory function, regardless of other relevant circumstances;
  - To some extent, there is an overlap between the five Principles and public law principles such as the duty to act rationally and fairly. For example, the duty to have regard to the principle of consistency overlaps with the public law duty to act rationally, requiring similar cases to be treated in a similar fashion. This means regulators are already exposed to the risks of challenge by way of judicial review as a consequence of the exercise of individual level regulatory functions;
  - The Principles are not new in UK legislation. Some regulators, such as Ofcom and the Human Tissue Agency, already have the five Principles entrenched in their founding statutes, with their scope being both at general and individual levels.
44. However, there was much discussion during the passage of the Legislative and Regulatory Reform Bill about the adverse effects that the application of the duty to individual level regulatory activities of certain regulators might have on their capacity to achieve the desired regulatory outcomes.
45. The Government will consider specific exemptions from the section 21 duty at the individual level, where regulators can provide sufficient justification for exemption. In particular, regulators seeking exemption from application of the five Principles to their individual level functions should provide evidence showing that:
- I. practices or policies which were otherwise sensible or reasonable are likely to conflict with the Principles if applied at the individual level or

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<sup>2</sup> That is, functions at the level at which regulators make their policies, procedures, rules and guidance.

<sup>3</sup> For example, decisions about whether or not to inspect or take enforcement action against a particular regulated entity.

- II. the regulator is likely to face greater vexatious litigation than other regulators in relation to the individual level functions if the Principles were to apply to them.

### **3. APPLICATION TO SCOTLAND, NORTHERN IRELAND AND WALES**

46. As mentioned earlier, under section 24 of the Act, the duty to have regard to the Compliance Code and the Principles only applies to regulatory functions specified in a Listing Order made by a Minister. However, the Act places restrictions on the extent to which the Listing Order can specify regulatory functions exercisable in Scotland, Northern Ireland and Wales:
  - in relation to Scotland, the Code and Principles can only apply to regulatory functions which relate to reserved matters;
  - in relation to Northern Ireland, the Code and Principles cannot apply to regulatory functions which relate to transferred matters; and
  - in relation to Wales, the Code and Principles will not apply to regulatory functions exercisable only in or as regards Wales. The Welsh Ministers have the power to make an Order specifying functions exercisable only in or as regards Wales.
47. Therefore, the Listing Order will not specify any regulatory functions relating to matters that have been devolved to Scotland; transferred to Northern Ireland; or which are carried out only in or as regards Wales.
48. The Listing Order will also not specify the following regulatory functions of local authorities in Scotland, Northern Ireland, and Wales, even if they are not devolved: the determination of general policies or principles or the setting of standards or giving of guidance on matters relating to trading standards, environmental health and licensing.
49. In some cases, local authorities in the devolved administrations carry out regulatory functions for which a national regulator has overall responsibility for general policies and guidance. In these cases, the Compliance Code and the Principles will apply to the national regulator itself in relation to the exercise of their regulatory functions of producing policy and guidance. The Code and Principles will not, however, apply to local authorities in the devolved administrations carrying out these functions.
50. So, for example, in the case of health and safety regulation, the national body, the Health and Safety Executive, will have a duty to have regard to the Compliance Code and the Principles in relation to its regulatory work across the UK, including in setting standards or giving guidance about how local authorities should carry out inspection and enforcement activities. However, local authorities in Scotland, Northern Ireland and Wales will not themselves need to have regard to the Code and

Principles in the exercise of their regulatory functions in relation to health and safety matters.

## 4. IMPACT ASSESSMENT

51. This Consultation Document is accompanied by an Impact Assessment. An Impact Assessment is both:

- a continuous process to help the policymaker fully think through and understand the consequences of possible and actual Government interventions in the public, private and third sectors; and
- a tool to enable the Government to weigh and present the relevant evidence on the positive and negative effects of such interventions, including by reviewing the impact of policies after they have been implemented.

52. Impact assessments are generally applicable to all Government interventions affecting the private sector, the third sector and public services, regardless of source: domestic or international. Their preparation and publication ensure that those with an interest understand and can challenge:

- why the Government is proposing to intervene;
- how and to what extent new policies may impact on them; and
- the estimated costs and benefits of proposed and actual measures.

53. They also give affected parties an opportunity to identify potential unintended consequences. As the Government aims to intervene only when necessary and since most policy objectives can be achieved through a range of options, the Government's aim is to identify proposals that best achieve its objectives while minimising costs and burdens.

54. Consultees are invited to offer views on the treatment of costs and benefits in the accompanying Impact Assessment, and the results will feed into the final assessment which will be published alongside the final Statutory Instrument.

55. For the purposes of the Assessment, the costs and benefits cover the impact of both the Compliance Code and the Principles in the exercise of regulatory functions.

## 5. THE CONSULTATION PROCESS

56. The Government wishes to consult individuals and organizations about the draft Compliance Code and the proposed content of the Listing Order during the 12 weeks from 15 May to 15 August 2007.

57. This document and the consultation process adhere with the Code of Practice on Consultation issued by the Cabinet Office and are in line with the six consultation criteria, which are:

- I. consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
- II. be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses;
- III. ensure that your consultation is clear, concise and widely accessible;
- IV. give feedback regarding the responses received and how the consultation process influenced the policy;
- V. monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator; and
- VI. ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

58. Electronic versions of this document and the questionnaire for responses can be found at [www.cabinetoffice.gov.uk/regulation](http://www.cabinetoffice.gov.uk/regulation)

59. You can also contact us via email at:  
[compliancecode.consultation@cabinet-office.x.gsi.gov.uk](mailto:compliancecode.consultation@cabinet-office.x.gsi.gov.uk)

60. We are able to supply copies of this consultation document in alternative formats (such as larger print or Braille) on request.

61. Following consultation, the Government intends to consider responses and make final proposals in autumn 2007. A summary of responses to the consultation will also be published.

62. Please send your responses to this consultation by 15 August 2007 to:

**Email:** [compliancecode.consultation@cabinet-office.x.gsi.gov.uk](mailto:compliancecode.consultation@cabinet-office.x.gsi.gov.uk)

**Address:** Compliance Code Consultation, Better Regulation Executive, 5th Floor, 22 Whitehall, London, SW1A 2WH

63. Representative groups are asked to give, when they respond, a summary of the people and organisations they represent, and, where relevant, who else they have consulted in reaching their conclusions.

64. The information you send us may need to be passed to colleagues within the Cabinet Office or other government departments and may be published in full or in a summary of responses received in response to this consultation.

65. All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

66. If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in all the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. Contributions made to the review will be anonymised if they are quoted.

67. Individual contributions will not be acknowledged unless specifically requested.

68. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

69. If you have comments or complaints about the consultation process itself, please contact Ian Ascough in the Better Regulation Executive: [ian.ascough@cabinet-office.x.gsi.gov.uk](mailto:ian.ascough@cabinet-office.x.gsi.gov.uk).



## **ANNEX A: CONSULTATION QUESTIONS**

### **CONSULTATION QUESTIONS ON THE COMPLIANCE CODE**

**Your comments and views are invited on the following questions:**

1. Is there anything that should be added to or removed from the draft Compliance Code?
2. Is the Code clearly written and easy to understand? If not, please indicate where it might be made clearer.
3. Our intention is that regulators use risk assessment to prioritise their work more systematically. Do you think the Code will achieve that?
4. The Code seeks to strike the right balance between regulators achieving their regulatory outcomes and eliminating unnecessary burdens on regulated entities. We would welcome your views on whether the Code strikes this balance.
5. Our intention is to ensure that regulators place emphasis on providing information, advice and guidance to help encourage compliance, within relevant constraints, such as resources. We would welcome your views on whether the section on advice is likely to achieve this objective.
6. Our intention is to ensure that regulators base their data requests on risk assessment and share data to reduce burdens on regulated entities, within relevant constraints, such as resources and legal requirements. We would welcome your views on whether the sections on risk assessment and data requirements can achieve this policy intention.
7. We would welcome your views on the proposal to exempt local authorities from sections 9.2 and 9.3 regarding measurement of performance standards on the grounds that they meet the requirements under the existing reporting framework for local authorities.
8. Are there any other comments you would like the Government to consider in relation to the draft Code?

### **CONSULTATION QUESTIONS ON THE LISTING ORDER FOR THE COMPLIANCE CODE**

**Your comments and views are invited on the following questions:**

1. We would welcome your comments on the coverage of the Compliance Code, i.e. the regulatory functions that it applies to. Are there regulators or regulatory functions carried out by any regulator that should be included in or excluded from the scope of the Code? (please see paragraph 39 of the Consultation Document for background explanation).
2. If you think certain regulators or functions should be excluded from the scope of the Code or brought within it, please give reasons for your view.

## CONSULTATION QUESTIONS ON THE APPLICATION OF THE FIVE PRINCIPLES

**Your comments and views are invited on the following questions:**

1. Do you agree that the five Principles should apply to the same regulators as the Compliance Code? Please support your answer with reasons
2. Do you think the five Principles should apply at the general and individual levels or at the general level only?
3. If you think the Principles should apply at the general level only, should this be in respect of all or some of the regulators listed; if to some, please tell us which and why.
4. If any regulator seeks an exemption from the duty to have regard to the section 21 duty in respect of any individual level function, we would welcome evidence that supports the case for making that exemption (please see paragraphs 40 to 45 of the Consultation Document).

## CONSULTATION QUESTIONS ON IMPACT ASSESSMENT

**Your comments and views are invited on the following questions:**

1. Do you think that the assumptions made in the Impact assessment are realistic? If not, please be specific about why you think they are not.
2. Does it reflect a reasonable estimate of the costs and benefits of complying with the Compliance Code and the five Principles? If not, please set out the specific data that you feel we should consider in developing our final analysis.

If you have any suggestions that will help ensure that the Compliance Code can deliver these outcomes or comments on the proposed Code, then we are keen to hear from you.

Please send your responses to this consultation by **15 August 2007** to:

**Email:** [compliancecode.consultation@cabinet-office.x.gsi.gov.uk](mailto:compliancecode.consultation@cabinet-office.x.gsi.gov.uk)

**Address:** Compliance Code Consultation, Better Regulation Executive, 5th Floor, 22 Whitehall, London, SW1A 2WH

# ANNEX B: THE DRAFT REGULATORS' COMPLIANCE CODE

## PART I: GENERAL INTRODUCTION

### 1. Purpose of the Code

1.1 Effective and well-targeted regulation is essential, whether in supporting economic progress and promoting fairness or protecting from harm. The Government believes that, in addition to achieving other legitimate objectives, regulation and its enforcement should be proportionate and flexible enough to boost the growth and competitiveness of regulated entities, particularly small firms.

1.2 This Code supports the Government's policy and is based on the recommendations in the Hampton Report<sup>4</sup>. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business, the Third Sector<sup>5</sup> and other regulated entities<sup>6</sup>.

1.3 The Code stresses the need for regulators<sup>7</sup>, in carrying out their regulatory activities, to adopt a constructive and preventative approach towards ensuring compliance by:

- helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
- responding proportionately to regulatory breaches.

1.4 The Code does not detract from regulators' responsibility to deliver the desired regulatory outcomes<sup>8</sup> nor relieve regulated entities of their responsibility to comply with their obligations under the law.

### 2. Background and Scope

2.1 This Code has been prepared and laid before Parliament by [minister's title....] and has been approved by both Houses of Parliament in accordance with section 23(4) of the Legislative and Regulatory Reform Act 2006 ("the Act"), after having consulted persons appearing to him/her to be representative of persons exercising regulatory functions and such other persons as s/he considered appropriate.

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<sup>4</sup> *Reducing Administrative Burdens: Effective Inspection and Enforcement*, Philip Hampton, March 2005.

<sup>5</sup> This term defines non-governmental organizations that include voluntary and community organizations, charities, social enterprises, cooperatives and mutuals.

<sup>6</sup> Throughout this Code, the term 'regulated entities' includes businesses, public sector bodies, charities and voluntary sector organisations that are subject to regulation.

<sup>7</sup> The term 'regulator' is used in this code to refer to any person who exercises a regulatory function.

<sup>8</sup> That is, the 'end purpose' of regulatory activity (for example, reduction in accidents/disease, less pollution etc).

2.2 The Minister issues the Code under section 22(1) of the Act on [x date]. The Code builds on the Better Regulation Commission's Principles of Good Regulation<sup>9</sup> and the principles set out in the Hampton Report ("the Hampton principles").

2.3 The Code only applies to those regulatory functions specified by order under section 24(2) of the Act. Any regulator whose functions are so specified **must have regard** to this Code:

- when determining general policies or principles about the exercise of those specified functions (section 22(2)); or
- when exercising a specified regulatory function which is itself a function of setting standards or giving general guidance about other regulatory functions (whether their own functions or someone else's functions)(section 22(3)).

2.4 The duties to have regard to the Code under section 22(2) and (3) of the Act **do not** apply to the exercise by a regulator or its staff of any specified regulatory function in individual cases. This means that while an inspector or investigator should operate in accordance with a regulator's general policy or guidance on, for example, inspections, investigations and enforcement activities, the Code does not apply directly to the work of that inspector or investigator in carrying out any of these activities in individual cases.

2.5 The duty on a regulator to "have regard to" the Code means that the regulator must take into account the Code's provisions and give them due weight in developing their policies or principles or in setting standards or giving guidance. The regulator is not bound to follow the Code if they *properly* conclude that the provisions of the Code are, in a particular case, either not relevant or are outweighed by other relevant considerations. But if there are no such relevant considerations, the regulator should follow the Code.

2.6 Section 22(4) of the Act provides that the duty to have regard to the Code is subject to any other legal requirement affecting the exercise of the regulatory function, including EC law obligations.

2.7 In accordance with section 24(3) of the Act, which places restrictions on the extent to which the duties to have regard to the Code may apply to regulatory functions exercisable in Scotland, Northern Ireland and Wales, this Code does not apply to:

- regulatory functions in Scotland to the extent that the functions relates to matters which are not reserved;
- regulatory functions in Northern Ireland to the extent that the functions relates to transferred matters; and
- regulatory functions exercisable only in or as regards Wales.

2.8 This Code supersedes the 1998 Enforcement Concordat for all the regulatory functions to which the Code applies.

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<sup>9</sup> *Regulation – Less is More: Reducing Burdens, Improving Outcomes*, March 2005

## PART II: SPECIFIC OBLIGATIONS OF THE CODE

This section outlines the underlying Hampton principles on which this Code is based, and sets out the specific provisions that elaborate these principles. The Hampton principles and the paragraphs in italics do not form part of the Code's requirements, but set the context in which the specific obligations set out below should be interpreted.

### 3. Supporting economic progress

**Hampton Principle:** 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.

*Good regulation and its enforcement act as an enabler to economic activity. However, regulation that imposes unnecessary burdens can stifle enterprise and undermine economic progress. To allow or encourage economic progress, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance about the exercise of regulatory functions.*

3.1 Regulators should consider the impact that their regulatory interventions may have on economic progress, as well as on perceptions of fairness, effectiveness and costs of regulation. They should only adopt a particular approach or tool if the benefits justify the costs and it entails the minimum burden compatible with achieving desired regulatory objectives.

3.2 When regulators set standards or give guidance in relation to the exercise of their own or other regulatory functions (including the functions of local authorities), they should allow for reasonable variations to meet local government priorities, as well as those of the devolved administrations.

### 4. Risk Assessment

**Hampton Principle:** Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most.

*Risk assessment involves the identification and measurement of capacity to harm and, if such capacity exists, an evaluation of the likelihood of the occurrence of the harm. By basing their regulatory work on an assessment of the risks to regulatory outcomes, regulators are able to target their resources where they will be most effective and where risk is highest. As such, in order*

*to carry out comprehensive and effective risk assessment, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance about the exercise of regulatory functions.*

4.1 Regulators should ensure that the allocation of their regulatory efforts and resources is targeted towards where they would be most effective by assessing the risks to their regulatory outcomes. They should also ensure that risk assessment precedes and informs all aspects of their approaches to regulatory activity, including:

- data collection and other information requirements;
- inspection programmes;
- advice and support programmes; and
- enforcement and sanctions.

4.2 Risk assessment should be based on all relevant, good-quality data available<sup>10</sup>. It should include explicit consideration of the combined effect of:

- the potential impact of non-compliance, i.e. its adverse effects on regulatory outcomes; and
- the likelihood of non-compliance.

4.3 In evaluating the likelihood of non-compliance, regulators should give consideration to all relevant factors, including:

- past compliance records and potential future risks;
- the existence of good systems for managing risks, in particular within regulated entities or sites;
- evidence of recognised external accreditation; and
- management competence and willingness to comply.

4.4 Regulators should consult and involve regulated entities and other interested parties in designing their risk methodologies, and publish details of the methodologies.

4.5 Regulators should regularly review and improve their risk methodologies. In doing so, they should take into account feedback and other information from regulated entities and other interested parties.

## 5. Information and Advice

**Hampton Principle:** Regulators should provide authoritative, accessible advice easily and cheaply.

<sup>10</sup> An example of risk methodology, which the Hampton Review recognised as “best practice” (see *Hampton Report*, at page 32) is the Environmental Protection – Operator & Pollution Risk Appraisal scheme (EP OPRA).

*Without knowing or understanding what regulations require of them, regulated entities will find it difficult to comply. Regulators can, however, improve compliance through greater focus on support and advice. Regulators must, therefore, have regard to the following requirements when determining general policies or principles or when setting standards or giving general guidance on advice and information services.*

5.1 Regulators should ensure that all legal requirements relating to their regulatory activities, as well as changes to those legal requirements<sup>11</sup>, are promptly communicated or otherwise made available to relevant regulated entities.

5.2 Regulators should provide general information, advice and guidance to make it easier for regulated entities to understand and meet their regulatory obligations. Such guidance, advice and information should be provided in plain, accessible language and in a range of appropriate formats and media<sup>12</sup>.

5.3 Regulators should involve regulated entities in developing both the content and style of regulatory guidance. They should assess the effectiveness of their information and support services by monitoring regulated entities' awareness and understanding of regulations, including the extent to which they incur additional costs obtaining external advice in order to understand and comply with regulatory requirements.

5.4 Regulators should provide targeted and practical advice that meets the specific needs of regulated entities. Such advice may be provided in a range of formats, such as through face-to-face interactions, telephone helpline and online guidance. In determining the appropriate formats, regulators should seek to maximise the reach, accessibility and effectiveness of advice while ensuring efficient use of resources. There may remain a need for regulated entities with particularly complex practices to use specialist or professional advisors as appropriate.

5.5 When offering compliance advice, regulators should distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice should be confirmed in writing, if requested.

5.6 Regulators should ensure that regulated entities can reasonably seek and access advice from the regulator without directly triggering an enforcement action. In responding to such an approach, the regulator should seek primarily to provide the necessary advice and guidance to help ensure compliance.

5.7 Advice services should generally be provided free of charge, but regulators may charge a fee for services in appropriate circumstances, i.e. to cover relevant costs. Regulators should, however, take account of the needs and circumstances of smaller regulated entities and others in need of help and support.

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<sup>11</sup> This includes when a regulatory requirement has been removed and considered no longer relevant or applicable.

<sup>12</sup> A good example of online advice is the Environment Agency's NetRegs ([www.netregs.gov.uk](http://www.netregs.gov.uk)) an internet based plain language guidance system for business



## 6. Inspections

**Hampton Principle:** No inspection should take place without a reason.

*Inspections can be an effective approach to achieving compliance, but are likely to be most effective when they are justified and targeted on the basis of an assessment of risk. So, in order to ensure the effectiveness of their inspection programmes, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance on inspections.*

6.1 Regulators should ensure that inspections and other visits to regulated entities only occur in accordance with a risk assessment methodology (see paras 4.2. and 4.3), except in circumstances where visits are requested by regulated entities, or where a regulator acts on specific intelligence. Regulators should use only a small element of random inspection in their programme to test their risk methodologies.

6.2 Regulators need to focus their **greatest** inspection effort on regulated entities where risks assessment shows that both:

- a compliance breach or breaches pose serious risk to regulatory outcomes; and
- there is high likelihood of non-compliance by regulated entities.

6.3 Where two or more inspectors, whether from the same or different regulators, undertake planned inspections of the same regulated entity, regulators should have arrangements for collaboration to minimise burdens on the regulated entity, for example, through joint or coordinated inspections and data sharing<sup>13</sup>.

## 7. Data Requirements

**Hampton Principle:** Businesses should not have to give unnecessary information or give the same piece of information twice.

*Effective regulatory work, including risk assessment, requires accurate information. However, there are costs to its collection both to the regulator and to regulated entities. It is important to balance the need for information with the burdens that entails for regulated entities. As such, regulators must have regard to the following provisions when determining general policies or*

<sup>13</sup> The Retail Enforcement Pilot provides a good example of how inspectors can coordinate with each other over inspection visits and reduce overlaps in their requirements.



*principles or when setting standards or giving general guidance on data requirements.*

7.1 When determining the data they may require, regulators should undertake an analysis of the costs and benefits of data requests to regulated entities. Regulators should give explicit consideration to reducing costs to regulated entities through:

- varying data requests according to risk, as set out in section 4.3;
- limiting collection to specific regulated entities sectors/sub-sectors;
- reducing the frequency of data collection;
- obtaining data from other sources;
- allowing electronic submission;
- requesting only data that is legally required.

7.2 If two or more regulators require the same information from the same regulated entities, they should seek to share data to avoid duplication of collection. Regulators should note the content of the Information Commissioner's letter<sup>14</sup> when applying the Data Protection Act in order to avoid unnecessarily restricting the sharing of data.

7.3 Regulators should involve regulated entities in vetting data requirements and form design for clarity and simplification. They should seek to collect data in a way that is compatible with the processes of regulated entities and those of other regulators who collect similar data.

7.4 Regulators should keep their policies and guidance under review with a view to ensuring that their data collection and other information requirements in relation to regulated entities do not involve:

- the imposition of burdens which are unnecessary; or
- the maintenance of burdens which have become unnecessary.

## 8. Compliance and Enforcement actions

**Hampton Principle:** The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions.

*By facilitating compliance through a positive and proactive approach, regulators can achieve higher compliance rates and reduce the need for reactive enforcement actions. However, regulators should be able to target those who deliberately or persistently breach the law. To ensure that they*

<sup>14</sup> A letter from the Information Commissioner (22/01/2007) giving advice on “data protection and the sharing of regulatory data on businesses” is available at:  
<http://www.cabinetoffice.gov.uk/regulation/documents/data/pdf/letter.pdf>

*respond proportionately to regulatory breaches, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance on the exercise of compliance and enforcement functions.*

8.1 Regulators should seek to reward those regulated entities that have consistently achieved good levels of compliance through positive incentives, including lighter inspections and less onerous reporting requirements, where risk assessment justifies this. Regulators should also take account of the circumstances of small regulated entities, including any difficulties they may have in achieving compliance.

8.2 When considering formal enforcement action, regulators should, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. This paragraph does not apply where immediate action is required to prevent or respond to a serious breach or where to do so is likely to defeat the purpose of the proposed enforcement action.

8.3 Regulators should ensure that their sanctions and penalties policies are consistent with the principles set out in the Macrory Review<sup>15</sup>. This means that their sanctions and penalties regime should:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- aim to deter future non-compliance.

8.4 Regulators should also act in accordance with the following Macrory characteristics:

- publish an enforcement policy;
- measure outcomes not just outputs;
- justify their choice of enforcement actions year on year to interested parties;
- follow-up enforcement actions where appropriate;
- enforce in a transparent manner;
- be transparent in the way in which they apply and determine penalties; and

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<sup>15</sup>The report of the Macrory Review, which the Government has accepted, is available at: [http://www.cabinetoffice.gov.uk/REGULATION/reviewing\\_regulation/penalties/index.asp](http://www.cabinetoffice.gov.uk/REGULATION/reviewing_regulation/penalties/index.asp).

- avoid perverse incentives that might influence the choice of sanctioning response.

8.5 Regulators should ensure that clear reasons for any formal enforcement action are given to the person or entity against whom any enforcement action is being taken at the time the action is taken. These reasons should be confirmed in writing at the earliest opportunity. Complaints and relevant appeals procedures for redress should also be explained at the same time.

8.6 Regulators should enable inspectors and enforcement officers to interpret and apply their regulations and enforcement policies fairly and consistently between like-regulated entities in similar situations, and where appropriate, ensure that they do.

## 9. Accountability

**Hampton Principle:** Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

*By establishing effective accountability and transparency structures regulators will make their activities accessible and open to scrutiny. This should increase the legitimacy of regulatory activities and enable regulators and regulated entities to work together to achieve regulatory compliance. So, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance on the exercise of regulatory functions.*

9.1 Regulators should create effective consultation and feedback opportunities to enable continuing cooperative relationships with regulated entities and other interested parties.

9.2 Regulators should identify and explain the principal risks against which they are acting. They should, in consultation with regulated entities and other interested parties, set and publish clear standards and targets for the regulator's service and performance. These standards should include:

- regulatory outcomes (capturing the principal risks)
- costs to regulated entities of regulatory interventions; and
- perceptions of regulated entities and other interested parties about the proportionality and effectiveness of regulatory approach and costs.

9.3 Regulators should measure their performance against the standards in paragraph 9.2 and regularly publish the results. To aid understanding, regulators should also explain how they measure these outcomes.

9.4 Local authorities are exempt from the provisions of paragraphs 9.2 and 9.3.

9.5 Regulators should ensure that their employees provide courteous and efficient services to regulated entities and others. They should take account of comments from regulated entities and other interested parties regarding the behaviour and activity of inspectors and other enforcement staff.

9.6 Regulators should provide effective and timely complaints procedures (including for matters in this Code) that are easily accessible to regulated entities and other interested parties. They should publicise their complaints procedures, with details of the process and likely timescale for resolution.

9.7 Complaints procedures should include a final stage to an independent, external person. Where there is a relevant Ombudsman or Tribunal with powers to decide on matters in this Code, the final stage should allow referral to that body. However, where no such person exists, a regulator should, in consultation with interested parties, provide for further complaint or appeal to another independent person, for example, an independent professional body.

## **ANNEX C: PROPOSED LISTING ORDER FOR THE COMPLIANCE CODE AND THE PRINCIPLES OF GOOD REGULATION**

The following is an indicative list of regulatory functions to be subject to the Compliance Code and section 21 of the LRRRA. "Regulation-making" functions, it is proposed, will be exempted.

### **GOVERNMENT DEPARTMENTS AND AGENCIES**

#### **Department for Food and Rural Affairs (Defra)**

##### **Animal Health**

All regulatory functions of Animal Health

##### **Centre for Environment, Fisheries and Aquaculture Science (CEFAS)**

All regulatory functions of CEFAS

##### **Natural England**

All regulatory functions of Natural England

##### **Drinking Water Inspectors**

All regulatory functions of Drinking Water Inspectors

##### **Rural Payments Agency**

All regulatory functions of the Rural Payments Agency

##### **Plant Health and Seeds Inspectorates (PHSI)**

All regulatory functions of PHSI

##### **Plant Varieties and Seeds Inspectorate (PVS)**

All regulatory functions of PVS

##### **Marine Fisheries Agency (MFA)**

All regulatory functions of MFA

##### **Fish Health Inspectorate (FHI)**

All regulatory functions of FHI

##### **Environment Agency (EA)**

All regulatory functions of the EA

##### **Gangmaster Licensing Authority (GLA)**

All regulatory functions of the GLA

##### **National Bee Unit of the Central Science Laboratory**

All regulatory functions of the National Bee Unit

**Pesticides Safety Directorate (PSD)**

All regulatory functions of PSD

**Veterinary Medicines Directorate (VMD)**

All regulatory functions of VMD

**Department of Health (DH)****Pharmaceutical Price Regulation Scheme (PPRS)**

All regulatory functions of PPRS

**Human Fertilisation and Embryology Authority (HFEA)**

All regulatory functions of HFEA

**Human Tissues Authority (HTA)**

All regulatory functions of HTA

**Medicines and Healthcare Products Regulatory Agency (MHRA)**

All regulatory functions of MHRA

**Department for Trade and Industry (DTI)****Employment Agency Standards Inspectorate (EASI)**

All regulatory functions of EASI

**Financial Reporting Council (FRC)**

All regulatory functions of FRC

**Hearing Aid Council (HAC)**

All regulatory functions of HAC

**Insolvency Service Agency (ISA)**

All regulatory functions of ISA, with the exclusion of other activities for instance its Companies Investigations Branch

**Companies House (CH)**

All regulatory functions of CH

**National Weights and Measures Laboratory (NWML)**

All regulatory functions of NWML

**Patent Office (PO)**

All regulatory functions of the Patent Office

## **Home Office**

### **Animals (Scientific Procedures) Inspectorate (ASPI)**

All regulatory functions of ASPI

### **Assets Recovery Agency (ARA – later Serious & Organised Crime Agency - SOCA)**

All regulatory functions of ARA

### **Security Industry Authority (SIA)**

All regulatory functions of SIA

### **National Counter Terrorism Security Office (NaCTSO)**

All regulatory functions of the NaCTSO

## **Department for Work and Pensions (DWP)**

### **Health and Safety Commission/Executive (HSC/E)**

All regulatory functions of HSC/E

### **Pensions Regulator (PR)**

All regulatory functions of PR

## **Department for Culture, Media and Sport (DCMS)**

### **English Heritage (EH)**

All regulatory functions of EH

### **Football Licensing Authority (FLA)**

All regulatory functions of FLA

### **Gambling Commission (GC)**

All regulatory functions of GC

### **UK Sport**

All regulatory functions of UK Sport

## **Ministry of Justice**

### **Information Commissioner's Office (ICO)**

All regulatory functions of the ICO

### **Legal Services Board (LSB)**

All regulatory functions of the LSB)

### **Department for Transport (DfT)**

#### **Driver and Vehicle Licensing Agency (DVLA)**

All regulatory functions of DVLA

#### **Driving Standards Agency (DSA)**

All regulatory functions of DSA

#### **Maritime and Coastguard Agency (MCA)**

All regulatory functions of MCA

#### **Vehicle and Operator Services Agency (VOSA)**

All regulatory functions of VOSA

#### **Vehicle Certification Agency (VCA)**

All regulatory functions of VCA

#### **Civil Aviation Authority (CAA)**

All regulatory functions of CAA relating to safety regulation and consumer protection

### **Communities and Local Government (CLG)**

#### **Housing Corporation (HC)**

All regulatory functions of HC

#### **Commission for Equality and Human Rights (CEHR)**

All regulatory functions of CEHR

#### **Equal Opportunities Commission (EOC)**

All regulatory functions of EOC

#### **Fire and Rescue Authorities**

All regulatory functions of fire and rescue authorities

### **Non-Ministerial Departments considered within scope**

#### **Charity Commission for England and Wales (CC)**

All regulatory functions of the CC

#### **Food Standards Agency (FdSA)**



All regulatory functions of FdSA

**Forestry Commission (FC)**

All regulatory functions of FC

**Office of Fair Trading (OFT)**

All regulatory functions of OFT, except those relating to the Competition Act 1998 and to the competition functions under the Enterprise Act 2002 (Parts 3, 4, 6 and 7).

**Financial Services Authority (FSA)**

All regulatory functions of FSA

## **LOCAL GOVERNMENT AUTHORITIES**

The regulatory functions of local authorities under the following legislation, except where the functions are exercisable in Scotland, Northern Ireland and Wales are to be listed by order. "Regulation-making" functions, it is proposed, will be exempted.

***Legislation enforced by local authority regulatory services:***

***Environmental Health***

Agriculture Act 1970

Agriculture (Miscellaneous Provisions) Act 1968

Agricultural Produce (Grading and Marking) Act 1928

Agricultural Produce (Grading and Marking) Amendment Act 1931

Animal Boarding Establishments Act 1963

Animal Health Act 1981 (also 2002)

Animal Welfare Act 2006

Breeding of Dogs Act 1973

Breeding of Dogs Act 1991

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

Business Names Act 1985

Caravan Sites and Control of Development Act 1960

Caravan Sites Act 1968

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Chronically Sick and Disabled Persons Act 1970

Chronically Sick and Disabled Persons (Amendment) Act 1976

Cinemas Act 1985

Control of Pollution Act 1974 (as amended by the Noise and Statutory Nuisance Act 1993).

Control of Pollution (Amendment) Act 1989

Crime and Disorder Act 1998

Criminal Justice and Public Order Act 1994

Dangerous Dogs Act 1991

Dangerous Wild Animals Act 1976

Disabled Persons Act 1981

Dogs Act 1906 (as amended)

Dogs (Fouling of Land) Act 1996

Environment Act 1995 (Powers of Entry)

Environment and Safety Information Act 1988

Environmental Protection Act 1990

Factories Act 1961

Food and Environment Protection Act 1985

Food Safety Act 1990

Food Standards Act 1999

Game Act 1831

Health and Safety at Work Act 1974

Sections 20, 21, 22, 25 and the provisions of Acts specified in the third column of Schedule 1

Health Services and Public Health Act 1968

Highways Act 1980

Housing Act 1985

Housing Act 1996

Housing Grants, Construction and Regeneration Act 1996

Land Compensation Act 1973

Litter Act 1983

Local Government and Housing Act 1989

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982

Medicines Act 1968

Mines and Quarries Act 1954 - Section 151

Mines and Quarries (Tips) Act 1969

National Assistance Act 1947  
National Assistance Act 1948  
National Assistance Act (Amendment) 1951  
National Health Service Amendment Act 1986  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Office, Shops and Railway Premises Act 1963  
Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951  
Pet Animals Amendment Act 1983  
Petroleum (Consolidation) Act 1928  
Planning (Hazardous Substances) Act 1990  
Police and Criminal Evidence Act 1984  
Pollution Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Protection of Animals Act 1911  
Protection of Animals Act 1934  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Disease) Act 1984  
Radioactive Substances Act 1993 (as amended by the Environment Act 1995)  
Refuse Disposal (Amenity) Act 1978  
Riding Establishments Act 1964  
Riding Establishments Act 1970  
Safety of Sports Grounds Act 1975  
Scrap Metal Dealers Act 1964  
Sunday Trading Act 1994  
Theatres Act 1968  
Theft Act 1968  
Theft Act 1978  
Trade Descriptions Act 1968  
Water Act 1989  
Water Industry Act 1991  
Water Resources Act 1991

Wildlife and Countryside Act 1981  
Wildlife and Countryside (Amendment) Act 1985  
Wildlife and Countryside (Amendment) Act 1991  
Young Persons (Employment) Act 1938  
Zoo Licensing Act 1981

### ***Trading Standards***

Access to Health Records Act 1990  
Accessories and Abettors Act 1861  
Accommodation Agencies Act 1953  
Abandonment of Animals Act 1960  
Administration of Justice Act 1970  
Administration of Justice (Miscellaneous Provisions) Act 1933  
Agriculture Act 1967  
Agriculture Act 1970  
Agriculture and Horticulture Act 1964  
Agriculture (Miscellaneous Provisions) Act 1968  
Agricultural Produce (Grading and Marking) Act 1928  
Agricultural Produce (Grading and Marking) Act 1931  
Airports Act 1986  
Animal Health Act 1981  
Animal Health Act 2002  
Animal Health and Welfare Act 1984  
Animal Welfare Act 2006  
Antisocial Behaviour Act 2003 (As amended by CNEA 2005)  
Bankers' Books Evidence Act 1879  
Broadcasting Act 1990  
Broadcasting Act 1996  
Business Names Act 1985  
Cancer Act 1939  
Clean Air Act 1993  
Charities Act 1992  
Charities Act 1993  
Charities Act 2006

Cheques Act 1992

Children and Young Persons Act 1933.

(As amended by the Children and Young Persons (Protection from Tobacco) Act 1991)

Children and Young Persons Act 1963

Children & Young Persons (Protection From Tobacco) Act 1991

Christmas Day (Trading) Act 2004

Civil Aviation Act 1980

Civil Aviation Act 1982

Civil Aviation Act 1992

Civil Aviation Act 2006

Communications Act 2003

Companies Act 1985

Companies Consolidation (Consequential Provisions) Act 1985

Company Directors Disqualification Act 1986

Consumer Credit Act 1974

Consumer Credit Act 2006

Consumer Protection Act 1987, Part iii, Misleading Price Indications

Contracts (Rights of Third Parties) Act 1999

Control of Pollution Act 1974

Copyright, Designs and Patents Act 1988

Copyright etc and Trade Marks (Offences and Enforcement) Act 2002

Courts and Legal Services Act 1990

County Courts Act 1984

Customs and Excise Management Act 1979

Crime and Disorder Act 1998

Criminal Appeal At 1968

Criminal Attempts Act 1981

Criminal Justice Act 1925

Criminal Justice Act 1982

Criminal Justice Act 1987

Criminal Justice Act 1988

Criminal Justice Act 1991

Criminal Justice Act 1993

Criminal Justice Act 2003

Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994 (Touting)  
Criminal Justice (Terrorism and Conspiracy) Act 1998  
Criminal Law Act 1977  
Criminal Procedure and Investigations Act 1996  
Dangerous Dogs Act 1989  
Dangerous Dogs Act 1991  
Development of Tourism Act 1969  
Dogs Act 1906  
Dogs (Amendment) Act 1928  
Drug Trafficking Act 1994  
Education Reform Act 1988  
Electricity Act 1989  
Employment Act 1989  
Employment Agencies Act 1973  
Energy Act 1976  
Energy Conservation Act 1981  
Energy Conservation Act 1996  
Enterprise Act 2002  
Environmental Protection Act 1990  
Estate Agents Act 1979  
Explosives Act 1875 (Manufacture and Storage of Explosives Regulations 2005)  
Explosives Act 1923  
Explosives (Age of Purchase etc) Act 1976  
Explosive Substances Act 1883  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Fatal Accidents Act 1976  
Firearms Act 1968 (also 1982)  
Fireworks Act 1875  
Fireworks Act 1923  
Fireworks Act 1951  
Fireworks Act 2003  
Food and Environment Protection Act 1985

Food Safety Act 1990  
Forgery and Counterfeiting Act 1981  
Gambling Act 2005  
Hallmarking Act 1973  
Health and Safety at Work, etc Act 1974  
Housing Act 1996  
Housing Act 2004  
Indictable Offences Act 1848  
Industrial and Provident Societies Act 1893  
Industrial and Provident Societies Act 1965  
Industrial and Provident Societies Act 1967  
Industrial and Provident Societies Act 1975  
Industrial and Provident Societies Act 1978  
Industrial and Provident Societies Act 2002  
Insolvency Act 1986  
Insurance Companies Act 1982  
Interpretation Act 1978  
Intoxicating Substances (Supply) Act 1985  
Knives Act 1997  
Law of Property (Miscellaneous Provisions) Act 1989  
Licensing Act 1964  
Licensing Act 2003  
Licensing (Young Persons) Act 2000  
Local Government (Financial Provisions) Act 1963  
Local Government Act 1972 (also 1966, 1988, and 1999)  
Local Government Act 1987  
Local Government Act 2000  
Local Government Act 2003  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government (Miscellaneous Provisions) Act 1976  
Magistrates' Courts Act 1980  
Magistrates' Court Procedure Act 1998  
Malicious Communications Act 1988  
Medical Act 1983

Medicines Act 1968 (also 1971)  
Merchant Shipping Act 1979  
Merchant Shipping Act 1988  
Mines and Quarries (Tips) Act 1969  
Misuse of Drugs Act 1971  
Mock Auctions Act 1961  
Motorcycle Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991 (amends Road Traffic Act 1988)  
National Lottery Act 1993  
Nurses Agencies Act 1957  
Nurse, Midwives and Health Visitors Act 1997  
Offensive Weapons Act 1996  
Offshore Safety Act 1992  
Oil and Gas (Enterprise) Act 1982  
Olympic Symbol (Protection) Act 1995  
Patents, Designs and Marks Act 1986  
Pet Animals Act 1951  
Pesticides Act 1998  
Pesticides (Fees and Enforcement) Act 1989  
Petroleum (Consolidation) Act 1928  
Petroleum (Transfer of Licences) Act 1936  
Plant Varieties Act 1997  
Plant Varieties and Seeds Act 1964  
Poisons Act 1972  
Police (Property) Act 1897  
Powers of Criminal Courts (Sentencing) Act 2000  
Prevention of Crime Act 1953  
Prices Act 1974  
Prices Act 1975  
Private Places of Entertainment (Licensing) Act 1967  
Proceeds of Crime Act 1995  
Proceeds of Crime Act 2002  
Property Misdemeanors Act 1991  
Prosecution of Offences Act 1985



Protection Against Cruel Tethering Act 1988  
Protection from Harassment Act 1997  
Protection of Animals Act 1911  
    as amended by the Protection of Animals (Amendment) Act 1954  
    and the Agriculture (Miscellaneous Provisions) Act 1968  
Protection of Animals (Anaesthetics) Act 1954  
Protection of Animals (Penalties) Act 1987  
Protection of Animals (Amendment) Act 1988  
Protection of Children (Tobacco) Act 1986  
Public Passenger Vehicles Act 1981  
Registered Designs Act 1949  
Restriction of Offensive Weapons Act 1961  
Road Traffic Act 1988  
Road Traffic Act 1991  
Road Traffic Act (Consequential Provisions) Act 1988  
Road Traffic Offenders Act 1988  
Road Traffic (Foreign Vehicles) Act 1972  
Sale and Supply of Goods Act 1994  
Sale of Goods Act 1979  
Sale of Goods (Amendment) Act 1994  
Sale of Goods (Amendment) Act 1995  
Scotch Whisky Act 1988  
Scrap Metal Dealers Act 1964  
Serious Organised Crime and Police Act 2005  
Social Security Administration Act 1992  
Solicitors Act 1974  
Supply of Goods (Implied Terms) Act 1973  
Supply of Goods and Services Act 1982  
Sunday Trading Act 1994  
Telecommunications Act 1984  
Timeshare Act 1992  
Theft Act 1968  
Theft Act 1978  
Tobacco Advertising and Promotion Act 2002

Torts (Interference with Goods) Act 1977  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Trading Schemes Act 1996  
Trading Stamps Act 1964  
Trading Representations (Disabled Persons) Act 1958  
Trading Representations (Disabled Persons) Amendment Act 1972  
Transport Act 2000  
Unfair Contract Terms Act 1977  
Unsolicited Goods and Services Act 1971  
Unsolicited Goods and Services (Amendment) Act 1975  
Video Recordings Act 1984  
Video Recordings Act 1993  
Weights and Measures Act etc 1976  
Weights and Measures Act 1985  
Welfare of Animals at Slaughter Act 1991  
Wildlife and Countryside Act 1981  
Wildlife and Countryside (Amendment) Act 1985  
Wildlife and Countryside (Amendment) Act 1991  
Youth and Criminal Evidence Act 1999

## **ANNEX D: DESCRIPTIONS OF LISTED REGULATORS**

### **Department for Food and Rural Affairs (Defra)**

#### **Animal Health (AH)**

AH is responsible for ensuring that farmed animals in Great Britain are healthy, disease-free and well looked after. It aims to prevent - or manage - outbreaks of serious animal diseases and, in England and Wales, ensures that dairy hygiene and egg production standards are met. It also regulates the trade in endangered species.

#### **Centre for Environment, Fisheries & Aquaculture Science (Cefas)**

Cefas is a scientific research and advisory centre working in fisheries management, environmental protection and aquaculture. It enhances the aquatic environment, promotes sustainable management of its natural resources, and protects the public from aquatic contaminants.

#### **Natural England (NE)**

Natural England works for people, places and nature to conserve and enhance biodiversity, landscapes and wildlife in rural, urban, coastal and marine areas, promoting access, recreation and public well-being and contributing to the way natural resources are managed.

#### **Drinking Water Inspectorate (DWI)**

The DWI regulates public water supplies in England and Wales. It is responsible for assessing the quality of drinking water in England and Wales, taking enforcement action if standards are not being met, and taking appropriate action when water is unfit for human consumption.

#### **Environment Agency (EA)**

The Environment Agency (EA) is the leading public body for protecting and improving the environment in England and Wales. Its aim is to make sure that air, land and water are looked after by everyone in today's society, so that tomorrow's generations inherit a cleaner, healthier world.

#### **Fish Health Inspectorate (FHI)**

The FHI is responsible for fish and shellfish health in England and Wales. It undertakes inspection duties and also licenses and monitors imports of fish and shellfish from other countries, running an enforcement programme aimed at preventing the illegal importation of these animals.

**Plant Health and Seeds Inspectorates (PHSI)**

The PHSI aims to prevent the entry or spread of serious plant pests and diseases in England and Wales. It also carries out duties in relation to plant and seed certification schemes, the export certification of plant material to meet third country plant health requirements, technical auditing and the enforcement of seeds legislation.

**Plant Varieties and Seeds Inspectorate (PVS)**

The PVS regulates plant breeders' rights, national listing and seed certification services to plant breeders and the seeds industry.

**Marine Fisheries Agency (MFA)**

The MFA has responsibility for enforcing sea fisheries regulations within English and Welsh waters, in accordance with the Common Fisheries Policy and its associated regulations.

**Gangmasters Licensing Authority (GLA)**

The GLA aims to curb the exploitation of workers in the agriculture, horticulture, shellfish gathering and associated processing and packaging industries.

**National Bee Unit of the Central Science Laboratory (NBU)**

The NBU's function is to protect the honeybee from serious disease and environmental damage by utilising an integrated programme of apiary inspections, diagnosis, research and development. It also provides specialist advice to government departments, beekeepers and industry.

**Pesticides Safety Directorate (PSD)**

The PSD aims to ensure the safe use of pesticides and detergents for people and the environment, to harmonise pesticide regulation within the European Community and provide a level playing field for crop protection and, as part of the strategy for sustainable food and farming, to reduce negative impacts of pesticides on the environment.

**Rural Payments Agency (RPA)**

RPA is responsible for the CAP payment functions formerly delivered by the Defra Paying Agency and the Intervention Board. The key services it provides are making rural payments, carrying out rural inspections, and livestock tracing.

**Veterinary Medicines Directorate (VMD)**

The VMD aims to protect public health, animal health, the environment and promote animal welfare by assuring the safety, quality and efficacy of veterinary medicines.

**Department of Health (DH)****Pharmaceutical Price Regulation Scheme (PPRS)**

The PPRS ensures the NHS has access to good quality branded medicines at reasonable prices, and promotes a healthy, competitive pharmaceutical industry.

**Human Fertilisation and Embryology Authority (HFEA)**

The HFEA is the UK's independent regulator overseeing safe and appropriate practice in fertility treatment and embryo research. It licenses and monitors centres carrying out IVF, donor insemination and human embryo research. It provides a range of detailed information for patients, professionals and Government.

**Human Tissue Authority (HTA)**

The HTA regulates the removal, storage, use and disposal of human bodies, organs and tissue from the living and deceased.

**Medicines and Healthcare Products Regulatory Agency (MHRA)**

The MHRA is responsible for ensuring that medicines and medical equipment works and is acceptably safe. It regulates a wide range of materials from medicines and treatment devices to blood and therapeutic products/services that are derived from tissue engineering.

**Department of Trade and Industry (DTI)****Employment Agency Standards Inspectorate (EASI)**

EASI carries out routine inspections of employment agencies and investigates complaints about agency conduct.

**Financial Reporting Council (FRC)**

The FRC regulates and promotes high quality corporate reporting, auditing, actuarial practice and standards of corporate governance. It also promotes the integrity, competence and transparency of the accountancy and actuarial professions.

**Hearing Aid Council (HAC)**

The HAC is the government body that is responsible for setting standards of professional training, performance and conduct for individuals and companies involved in the assessment of hearing loss and subsequent sale of hearing aids.

**Insolvency Service Agency (ISA)**

The ISA's mission is to deal fairly and effectively with financial failure. It investigates the affairs of bankrupts, companies, and partnerships wound up by the court, and establishes why they became insolvent. It also authorises and regulates the insolvency profession.

**Companies House (CH)**

CH's main functions are to incorporate and dissolve limited companies, to examine and store company information delivered under the Companies Act and related legislation, and to make this information available to the public.

**National Weights and Measures Laboratory (NWML)**

NWML is responsible for ensuring that all trade measurements are accurate, legal, and fair to buyer and seller. It has responsibility for policy on measuring instruments in use for trade and for the implementation of European Directives on measuring instruments, thereby providing the focus for legal metrology in the UK.

**Patent Office (PO)**

The PO is the official government body responsible for granting Intellectual Property (IP) rights in the United Kingdom. These rights include patents, designs, trade marks and copyright. The IP rights it grants provide protection which encourages people to spend time and money developing inventions.

**Home Office****Animals (Scientific Procedures) Inspectorate (ASPI)**

ASPI provides scientific advice to the Home Secretary and to the Animals in Scientific Procedures Division (ASPD) officials who operate the licensing system and provide policy advice to Ministers. The inspectors maintain a programme of inspections of facilities where work under the Act is carried out.

**Assets Recovery Agency (ARA)**

The ARA disrupts organised criminal enterprises through the recovery of criminal assets, and also aims to promote the use of financial investigation as an integral part of criminal investigation. Its teams of financial investigators and lawyers work to stop people benefiting from the proceeds of crime.

**Security Industry Authority (SIA)**

The SIA is the organisation responsible for regulating the private security industry. It licenses individuals working in specific sectors of the private security industry and manages the Approved Contractor Scheme, which measures private security suppliers against a set of independently assessed criteria.

**National Counter Terrorism Security Office (NaCTSO)**

The NaCTSO contributes to the government's counter terrorism strategy by offering specialist advice regarding the security of explosives and pre-cursor chemicals, pathogens and toxins, radiological sources and other toxic chemicals. NaCTSO advisers provide help, advice and guidance on all aspects of counter terrorism protection across a variety of sectors.

**Department for Work and Pensions (DWP)****Health and Safety Commission/Executive (HSC/E)**

The HSC is responsible for health and safety regulation in Great Britain. The HSE and local government are the enforcing authorities who work in support of the Commission. Its mission is to protect people's health and safety by ensuring risks in the changing workplace are properly controlled.

**The Pensions Regulator (PR)**

The PR is the UK regulator of work-based pension schemes. Objectives are: to protect the benefits of members of work-based pension schemes; to promote good administration of work-based pension schemes; and to reduce the risk of situations arising that may lead to claims for compensation from the Pension Protection Fund.

**Department for Culture, Media and Sport (DCMS)****English Heritage (EH)**

EH exists to protect and promote England's spectacular historic environment and ensure that its past is researched and understood. Although sponsored

by the DCMS, English Heritage works with a range of Government Departments, notably the ODPM and DEFRA, to help realise the potential of the historic environment.

#### **Football Licensing Authority (FLA)**

The FLAs mission is to ensure that all spectators regardless of age, gender, ethnic origin, disability, or the team that they support are able to attend sports grounds in safety, comfort and security.

#### **Gambling Commission (GC)**

The Gambling Commission regulates gambling in the public interest. It keeps crime out of gambling, ensures that gambling is conducted fairly and openly, and protects children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.

#### **UK Sport**

UK Sport works in partnership with the home country sports councils and other agencies to lead sport in the UK to world-class success. UK Sport is responsible for managing and distributing public investment and is a statutory distributor of funds raised by the National Lottery.

#### **Ministry of Justice**

##### **Information Commissioner's Office (ICO)**

The ICO promotes access to official information and protects personal information by promoting good practice, ruling on eligible complaints, providing information to individuals and organisations, and taking appropriate action when the law is broken.

##### **Legal Services Board (LSB)**

A new Legal Services Board will act as a single, independent and publicly accountable oversight regulator for the legal services sector. It will work with the existing front-line regulators (such as the Law Society) but will replace the sector's current overlapping regulatory framework. It will have the power to set and enforce high standards for legal services

#### **Department for Transport (DfT)**

##### **Driver and Vehicle Licensing Authority (DVLA)**



The DVLA registers drivers and vehicles. Its primary aims are to facilitate road safety and general law enforcement by maintaining registers of drivers and vehicles, and to collect vehicle excise duty (car tax).

#### **Driving Standards Agency (DSA)**

The DSA's promotes road safety in Great Britain by improving driving standards and in particular by testing drivers (including motorcycle riders) and driving instructors fairly and efficiently.

#### **Maritime and Coastguard Agency (MCA)**

The MCA is responsible throughout the UK for implementing the Government's maritime safety policy. It works to prevent the loss of lives at the coast and at sea, to ensure that ships are safe, and to prevent coastal pollution.

#### **Vehicle and Operator Services Agency (VOSA)**

VOSA provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles, ensuring the compliance of operators and drivers, and supporting the independent Traffic Commissioners.

#### **Vehicle Certification Agency (VCA)**

VCA supports industry by providing internationally recognised Type Approval testing and certification for vehicles, their systems and components.

#### **Civil Aviation Authority (CAA)**

The CAA is the UK's independent aviation regulator, with all civil aviation regulatory functions (economic regulation, airspace policy, safety regulation and consumer protection) integrated within a single specialist body.

### **Communities and Local Government (CLG)**

#### **Housing Corporation (HC)**

The HC funds new affordable housing and regulates housing associations in England.

#### **Commission for Equality and Human Rights (CEHR)**

The CEHR will come into being in October 2007, having being established in the Equality Act 2006. The new Commission will be a Non-Departmental Public Body and independent influential champion whose purpose is to reduce inequality, eliminate discrimination, strengthen good relations between people and protect human rights.

**Equal Opportunities Commission (EOC)**

The EOC deals with sex discrimination and inequality related to gender, including good practice in the fair and equal treatment of men and women.

**Non-Ministerial Departments considered within scope****Charity Commission for England and Wales (CC)**

The CC is the regulator and registrar for charities in England and Wales. Its aim is to provide the best possible regulation of charities in order to increase their effectiveness and public confidence and trust.

**Food Standards Agency (FoodSA)**

The FoodSA is an independent Government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food.

**Forestry Commission (FC)**

The FC is the government department responsible for the protection and expansion of Britain's forests and woodlands. Responsibilities span research, commercial timber production, sustainability programmes and policy, as well as learning and leisure.

**Office of Fair Trading (OFT)**

The OFT is the UK's consumer and competition authority. Its mission is to make markets work well for consumers. It encourages businesses to comply with competition and consumer law; stops hardcore or flagrant offenders; studies markets and recommends action where required; and helps consumers resolve problems with suppliers through Consumer Direct.

**Financial Services Authority (FSA)**

The FSA is an independent body that regulates the financial services industry in the UK. It has been given a wide range of rule-making, investigatory and enforcement powers by government in order to meet statutory objectives. Its overall aim is to promote efficient, orderly and fair markets and to help retail consumers achieve a fair deal.

## **ANNEX E: LIST OF ORGANISATIONS TO BE CONSULTED**

Accounts Commission  
Advertising Standards Agency  
Agricultural Wages Inspectorate  
Amicus  
Animal Health  
Animals (Scientific Procedures) Inspectorate  
Assets Recovery Agency  
Association of British Insurers  
Association of the British Pharmaceutical Industry  
Association of Convenience Stores  
Audit Commission  
Audit Scotland  
Bar Council  
Bar Standards Board  
Better Regulation Commission  
Boat Safety Scheme  
British Beer and Pub Association  
British Chambers of Commerce (BCC)  
British Insurers Brokers Association  
British Hallmarking Council  
British Potato Council  
British Retail Consortium  
Centre for Environment, Fisheries and Aquaculture Science  
Charity Commission for England and Wales  
Chartered Institute of Environmental Health  
Chartered Institute of Personnel and Development  
Chemical Industries Association  
Citizens Advice Bureau  
Civil Aviation Authority  
Coal Authority  
Commission for Equality and Human Rights

Companies House  
Competition Commission  
Confederation of British Industry (CBI)  
Consumer Council for Water  
Convention of Scottish Local Authorities (COSLA)  
Co-Op Group  
Disability Rights Commission  
Drinking Water Inspectorate  
Driver and Vehicle Licensing Authority  
Driving Standards Agency  
Employment Agency Standards Inspectorate  
Energy Networks  
Engineering Employers Federation (EEF)  
English Partnerships  
Environment Agency  
Environmental Health Institute  
Environment and Heritage Service  
Environmental Industries Commission (EIC)  
Environmental Services Agency  
Equal Opportunities Commission  
Federation of Small Businesses  
Food and Drink Federation  
Financial Reporting Council  
Financial Services Authority  
Fire and rescue authorities  
Fish Health Inspectorate  
Food and Drinks Federation  
Food Standards Agency  
Foodaware  
Football Licensing Authority  
Forestry Commission  
Forum of Private Business  
Friends of the Earth  
Gambling Commission

Gangmasters Licensing Authority  
General Medical Council  
GlaxoSmithKline  
Greenpeace  
Healthcare Commission  
Health and Safety Commission  
Health and Safety Executive (HSE)  
Hearing Aid Council  
Historic Buildings and Monuments Commission for England ("English Heritage")  
Home-Grown Cereals Authority  
Homebuilders Federation  
Housing Corporation  
Human Fertilization and Embryology Authority  
Human Tissue Authority  
Improvement and Development Agency (IDeA)  
Improvement Service, Scotland  
Information Commissioner's Office  
Insolvency Service Agency  
International Capital Market Association  
Institute of Chartered Accountants in England and Wales  
Institute of Directors (IoD)  
Institute for Economic Affairs  
Institute of Occupational Safety and Health  
Kings College  
Law Society  
Legal Services Board  
Liberty  
Local Authorities  
Local Authority Co-ordinators of Regulatory Services (LACORS)  
Local Government Association  
Local Government Employers  
London Hazards Centre  
London Investment Banking Association  
London School of Economics

Marine Fisheries Agency  
Maritime and Coastguard Agency  
Masterfoods  
Medicines & Healthcare products Regulatory Agency (MHRA)  
National Audit Office  
National Bee Unit of the Central Science Laboratory  
National Consumer Council  
National Council for Voluntary Organisations  
National Counter Terrorism Security Office  
National Union of Farmers  
National Weights and Measures Laboratory  
Natural England  
NHS Counter Fraud and Security Management Service (CFSMS)  
Northern Ireland Audit Office  
Northern Ireland Executive  
Northern Ireland Local Government Association  
Northern Ireland Trading Standards Service  
New Local Government Network  
Office of Communications (Ofcom)  
Office of Fair Trading (OFT)  
Office of Gas and Electricity Markets (Ofgem)  
Patent Office  
Pesticides Safety Directorate  
Petcare Trust  
Pharmaceutical Price Regulation Scheme  
Plant Health and Seeds Inspectorates  
Plant Varieties and Seeds Inspectorate  
Policy Exchange  
Professional Contractors Group  
Proprietary Association of Great Britain  
Royal Environmental Health Institute of Scotland  
Royal Institute of British Architects  
Royal Institute of Chartered Surveyors  
Royal Society of Arts

Royal Society for the Prevention of Accidents  
Rural Payments Agency  
Scottish Environment Protection Agency (SEPA)  
Scottish Executive  
Scottish Trades Union Congress (STUC)  
Sea Fish Industry Authority  
Security Industry Authority  
Serco Group Plc  
Small Business Council  
Small Business Service  
Society of Chief Officers of Environmental Health, Scotland  
Society of Chief Trading Standards Officers (SCOTSO)  
Society of Local Authority Chief Executives (SOLACE)  
Sustainable Development Commission  
The Confederation of British Industry (CBI)  
The Office of Legal Services Complaints Commissioner  
The Pensions Regulator  
The Society of Chief Officers of Trading Standards in Scotland (SCOTSS)  
The Water Services Regulation Authority (Ofwat)  
Trades Union Congress (TUC)  
Trading Standards in Scotland (SCOTSS)  
Trading Standards Institute  
UK Sport  
Vehicle Certification Agency  
Vehicle and Operator Services Agency  
Veterinary Medicines Directorate  
Welsh Assembly Government  
Welsh Local Government Association  
Which?  
World Wildlife Fund

## **ANNEX F: DRAFT IMPACT ASSESSMENT**





## SUMMARY: INTERVENTION & OPTIONS

<b>Cabinet Office</b>	<b>Impact Assessment of the Regulators' Compliance Code</b>
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<b>Stage</b>	<b>Version</b>	<b>Related Publications - "Reducing administrative burdens: effective inspection and enforcement" Philip Hampton March 2005</b>
<b>Consultation</b>	<b>15/05/2007</b>	<b>"Implementing Hampton: from enforcement to compliance" – HM Treasury November 2006</b>

Available to view or download at: [www.cabinetoffice.gov.uk/regulation/consultation/current/index.asp](http://www.cabinetoffice.gov.uk/regulation/consultation/current/index.asp)

Contact name for enquiries: Paul Drabwell or Paul Edens

Telephone number: 020 7276 2535 or 020 7276 2184

### What is the problem under consideration? Why is government intervention necessary?

- The 2005 Hampton Report found evidence of inconsistent approaches to enforcement across the country and made a number of recommendations to improve the regulatory system in the UK. These were accepted in full by the Government
- In particular, Hampton identified that comprehensive risk-assessment would enable Government to reduce the administrative burden of regulation on business whilst maintaining, or even improving, regulatory outcomes
- The Regulators' Compliance Code is being introduced to ensure a more widespread application of the Hampton principles of inspection and enforcement in order to reduce the burdens of regulation on business

### What are the policy objectives and the intended effects?

- The Regulators' Compliance Code will oblige all regulators within scope (both national and local) to have regard to the Hampton principles of inspection and enforcement as set out in the Hampton Report. In particular, we are seeking to ensure that regulators consider the well-being of the economy when undertaking their duties. This will reduce the overall administrative burden of regulation on business
- The Code will operate at the 'general' level of determining enforcement policies. Individual cases, such as the enforcement activities of individual inspectors are not captured by the Code. However, we expect the behaviour of inspectors and the approach to individual cases to be influenced by the fact that regulators' policies will be bought in line with Hampton principles

### What policy options have been considered? Please justify any preferred option.

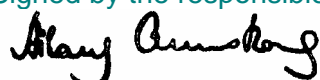
- Do nothing
- Introduce the Regulators' Compliance Code - The Government is confident that the Code will help deliver a risk-based approach to the exercise of regulatory activity. This will mean that high-performing, compliant businesses bear less of a burden, with regulators focusing their efforts on rogue and higher-risk businesses

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? April 2011

**Ministerial Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options*

Signed by the responsible Minister:



Date: 11/05/2007

**Ministerial Sign-off** For final proposal/implementation stage Assessments:

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister:

Date:

## SUMMARY: ANALYSIS & EVIDENCE

Policy Option	Description			
<p><b>ANNUAL COSTS</b></p> <p>One off (Transition) <span style="background-color: yellow; padding: 2px 10px;">£33.2m</span> Yrs <span style="border: 1px solid black; padding: 2px 5px;">1</span></p> <p><b>Average Annual Cost</b> (excluding one-off)</p> <p style="background-color: yellow; padding: 5px; text-align: center;"><b>£37.3million</b></p>	<p>Description and scale of <b>key monetised costs</b> by 'main affected groups'</p> <p>National regulators (one-off): £33.2 million Local Authorities (one-off): £0 Business (one-off): £0 National regulators (annual): £7.3 million Local Authorities (annual): £30 million Business (annual) £0</p> <p style="text-align: right;"><b>Total Cost (PV)</b> <span style="background-color: #e0ffe0; padding: 5px;"><b>£354.2 million</b></span></p>			
<p>Other <b>key non-monetised costs</b> by 'main affected groups'</p>				
<p><b>ANNUAL BENEFITS</b></p> <p>One off <span style="background-color: yellow; padding: 2px 10px;">£0</span> Yrs <span style="border: 1px solid black; padding: 2px 5px;">1</span></p> <p><b>Average Annual Benefit</b> (excluding one-off)</p> <p style="background-color: yellow; padding: 5px; text-align: center;"><b>£37.3-102.3m</b></p>	<p>Description and scale of <b>key monetised benefits</b> by 'main affected groups'</p> <p>National regulators (one-off): £0 Local Authorities (one-off): £0 Business (one-off): £0 National regulators (annual): £7.3 million Local Authorities (annual): £30 million Business (annual): range £0-£65m; mid-point 32.5m</p> <p style="text-align: right;"><b>Total Benefit (PV)</b> <span style="background-color: #e0ffe0; padding: 5px;"><b>£321-811million</b></span></p>			
<p>Other <b>key non-monetised benefits</b> by 'main affected groups'</p> <p>We believe that society will benefit from improved compliance rates, improved regulatory outcomes and associated productivity gains.</p>				
<p><b>Key Assumption/Sensitivities/Risks</b></p> <p>Full benefit of the Code accrues from 2010, all regulators will be Hampton compliant by 2010, ongoing net costs for regulators equal zero after first year transition cost.</p>				
Price Base Year 2005	Time Period Years 10	<b>Net Benefit Range (NPV)</b> <b>£ - 33.2m to £456.8m</b>		<b>NET BENEFIT (NPV Best estimate)</b> <b>£ 212 million</b>
What is the geographic coverage of the policy/option?				England + DAs partially
On what date will the policy be implemented?				1 April 2008
Which organisation(s) will enforce the policy?				N/A
What is the total annual cost of enforcement for these organisations?				N/A
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				N/A
What is the value of the proposed offsetting measure per year?				£0
What is the value of changes in greenhouse gas emissions?				Negligible
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)		Micro £0	Small £0	Med £0
Large		£0		
Are any of these organisations exempt?		N/A	N/A	N/A
<b>Impact on Admin Burdens Baseline</b> (2005 Prices)				<b>£ (Increase - Decrease)</b>
Increase of <span style="border: 1px solid black; padding: 2px 10px;">£ N/A</span>		Decrease of <span style="border: 1px solid black; padding: 2px 10px;">£ N/A</span>		<b>Net Impact</b> N/A
Key: <span style="background-color: yellow; padding: 2px 5px;">Annual Cost: Constant Prices</span>				(Net) Present Value

## Evidence Base for Summary Sheets

### Introduction

1. This impact assessment accompanies the consultation document for the Regulators' Compliance Code (the Code). Consultees are invited to offer views on the treatment of costs and benefits, and the results will feed into the final assessment which will be published alongside the final Statutory Instrument.
2. For the purposes of this Impact Assessment, the cost benefit analysis has been broken up into the following sections:
  - annual benefits for business<sup>1</sup> and others;
  - annual costs for business;
  - start-up costs for business;
  - annual benefits for national regulators and local authorities;
  - annual costs for national regulators and local authorities;
  - start-up costs for national regulators and local authorities.
3. This assessment covers both the impact of the Regulators' Compliance Code (issued under Section 22 of the Legislative and Regulatory Reform Act 2006) and the duty upon regulators under Section 21 of the Legislative and Regulatory Reform Act to have regard to five principles of good regulation ("the Principles") in the exercise of regulatory functions.<sup>2</sup>

### Annual benefits for business

4. Business will be the major beneficiary of the Code.
5. The Code puts 7 of the 10 Hampton principles that relate to regulatory enforcement on a statutory footing. The specific obligations of the Code relate to a variety of themes (such as supporting economic progress, risk-assessment, accountability etc) but for the purposes of this impact assessment it is judged that the fiscal benefits to business will largely be manifested in three areas:
  - reduced administrative burdens as a result of reduced/simplified **data requirements**;
  - reduced administrative burdens as a result of fewer routine **inspections**;

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<sup>1</sup> We acknowledge that the Code will also lead to benefits for others such as charities and the voluntary sector. These costs and benefits are subsumed, for the purposes of this analysis, in the total business costs and benefits

<sup>2</sup> All costs and benefits of the Code are assumed to encompass the cost and benefits of the Principles. References to the Code in this document should be taken to include the Principles

- reduced policy costs from more streamlined sanctioning regime.<sup>3</sup>

### Data requirements and Inspections

6. The starting point for the analysis of business benefits resulting from fewer data requests and inspections has been the data obtained during the Administrative Burdens Measurement Exercise (ABME). This exercise measured the administrative costs imposed on businesses, charities and the voluntary sector as a result of central government, European or other international regulation. It covered the vast majority of regulatory functions that will be in scope of the Code<sup>4</sup>.
7. The ABME was carried out using the Standard Cost Model (SCM) methodology<sup>5</sup>, which provides a simplified but consistent framework for estimating the administrative costs imposed by regulation. These are defined as “the [recurring] costs of administrative activities that businesses are required to conduct in order to comply with the information obligations that are imposed through central government regulation”<sup>6</sup>. Policy costs were not included in the measurement exercise.
8. The ABME covered all regulations in force in May 2005 that contained an obligation to provide information to government (see figure 1).

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<sup>3</sup> These costs and benefits are covered in the Impact Assessment accompanying the Regulatory Enforcement and Sanctions Bill and are not included or quantified here

<sup>4</sup> The scope of the Regulators’ Compliance Code is not finalised, and forms a part of this consultation process. At present, the 63 National regulators who were identified as in scope of the Hampton Review of 2005 (now merged to 56) are in scope for the Code. Any changes to the coverage of the Code will result in changes to the expected costs and benefits. For more information on the proposed scope of the Code see the accompanying Consultation Document

<sup>5</sup> The Standard Cost Model is a pragmatic methodology developed by the Dutch to provide systematic measurement of the administrative costs of regulation. More information on the Model and the methodology can be found on the Cabinet Office website at

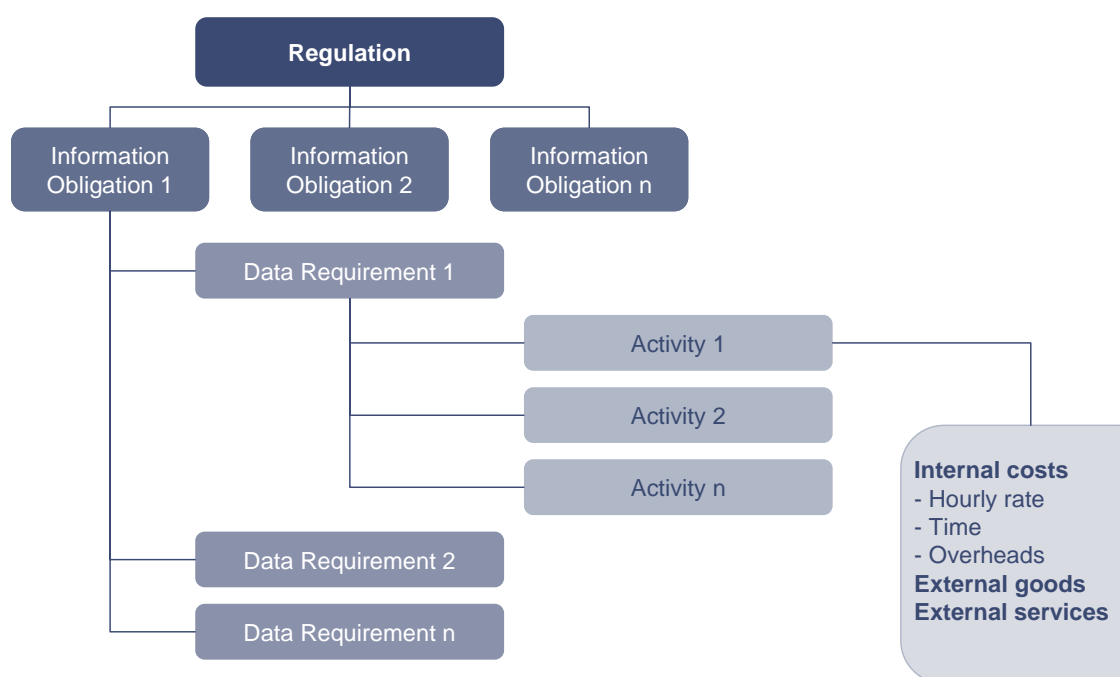
<http://www.cabinetoffice.gov.uk/regulation/reform/simplifying/scm.asp>

<sup>6</sup> “Administrative Burdens – Routes to Reduction” Cabinet Office September 2006

**Figure 1: the Standard Cost Model**

The Standard Cost Model requires that each regulation be broken down into Information Obligations and Data Requirements:

- an **information obligation (IO)** is a duty to procure or prepare information and subsequently make it available to a public authority or a third party, as well as a duty to facilitate the collection or preparation of information by others, e.g. by permitting and cooperating with an audit, visit or inspection. It includes regular requirements to read guidance and updated rules, for example rules which are updated annually. An IO does not necessarily require information to be sent to a public authority: it may also be directed towards third parties, such as consumers or employees. Each regulation may contain several IOs;
- each IO consists of a range of different information or data that a business shall provide in order to be able to comply with the IO – these are the **data requirements (DR)**. Each IO may contain several DRs.



The SCM breaks IOs into three broad categories of obligation:

- Category A – obligations that are exclusively and completely a consequence of EU rules or other international obligations (i.e. the international rules describe which information businesses have to produce);
- Category B – obligations that are a consequence of EU rules and other international obligations where the purpose has been formulated in the international rules but where implementation has been left to individual Member States (i.e. the international rules do not describe which information businesses have to produce); and
- Category C – obligations that are exclusively a consequence of rules formulated at national level.

The figures identified by the measurement exercise were then adjusted to take account of activity that business would choose to do even if the regulation did not exist (business as usual or BAU).

9. The ABME determined that the total administrative burden to the UK's businesses, charities and voluntary sector organisations was some **£13.7**

**billion** in May 2005. Data on each of the around 20,000 Information Obligations identified by the ABME are held on the Administrative Burdens Database in the Better Regulation Executive<sup>7</sup>.

10. In order to determine the amount of the total administrative burden that could be affected by the introduction of the Code the following filters were applied to the data:

- all Information Obligations (IOs) that are not either wholly or partially enforced by regulators in scope of the Code were removed from the full dataset;
- all IOs of 'Category A' origin (see figure 1) were removed from the dataset, as regulators are unable to influence directly the administrative burden of these regulations;
- IO types not related to the specific obligations of the Code were removed (see figure 2).

**Figure 2: IO types identified by ABME**

IO type	IO types related to the Code
Keeping records	Keeping records
Providing statutory information for third parties	<del>Providing statutory information for third parties</del>
Updating commercial emergency plans & programmes	<del>Updating commercial emergency plans &amp; programmes</del>
Statutory labelling for the third parties	<del>Statutory labelling for the third parties</del>
Notification of activities	Notification of activities
Carrying out inspections of...	Carrying out inspections of...
Applications for authorisation	Applications for authorisation
Returns and reports	Returns and reports
Cooperating with audits/inspections of...	Cooperating with audits/inspections of...
Applications for permission for or exemption from...	Applications for permission for or exemption from...
Entry in a register	Entry in a register
Carrying documentation	<del>Carrying documentation</del>
Agreeing contracts	<del>Agreeing contracts</del>
Applications for subsidies or grants for...	Applications for subsidies or grants for...
Framing complaints and appeals	Framing complaints and appeals
Requesting information	Requesting information

11. This filtration of the ABME data suggests that the total administrative burden due to regulatory functions in scope of the Code was around **£3.6 billion** in May 2005.

12. The IOs types related to the Code (see figure 2) were then grouped into the broad themes of 'Inspection' and 'Data Requirements' (see figure 3). This allowed the total May 05 administrative burden of £3.6Bn to be analysed by these two categories (see rows A-C in figure 4). The administrative burdens associated with Inspection and Data Requirements were then broken down, as far as is possible, by the type of regulator responsible for enforcement:

<sup>7</sup> Copies of this data are also held by most of the departments and regulators covered by the ABME

- ‘National regulator’ – result from inspection by or data request from organisation with national remit;
- ‘National and Local Regulators’ – result from inspection by or data request from a combination of national regulator and local authorities;
- ‘Local Regulators’ – result from inspection by or data request from local authorities.<sup>8</sup>

**Figure 3: grouping of the IO types related to the Code**

IO type	Hampton theme
Keeping records	Data Requirements
Notification of activities	Data Requirements
Entry in a register	Data Requirements
Applications for authorisation	Data Requirements
Returns and reports	Data Requirements
Applications for subsidies or grants for...	Data Requirements
Requesting information	Data Requirements
Framing complaints and appeals	Data Requirements
Applications for permission for or exemption from...	Data Requirements
Cooperating with audits/inspections of...	Inspections
Carrying out inspections of...	Inspections

13. It is important to note at this point that, following the completion of the ABME exercise, targets for reduction in administrative burdens (25% in most cases) were set for those departments and regulators covered by the measurement exercise, and Simplification Plans<sup>9</sup> have been drawn up showing how these targets would be met<sup>10</sup>. Since that time, there has been movement by regulators to reduce administrative burdens and towards Hampton compliance.

14. Analysis of the predicted administrative burden reduction trajectories from all departments’ and regulators’ Simplification Plans allows us to estimate the average progress of organisations in reducing administrative burdens by the time the Compliance Code is proposed to come into force (April 2008). We estimate an **8%** reduction against the May 2005 administrative burdens baseline. This average administrative burden reduction factor was used to calculate the predicted administrative burden (grouped in the categories described in paragraph 12) imposed by the regulatory functions in scope of the Code by April 2008 (see rows D-F in figure 4).

15. Hampton estimated that full adherence to a risk-based approach to inspection would lead to a 33% reduction in the number of inspections<sup>11</sup> across the regulatory landscape. Evidence from simplification initiatives

<sup>8</sup> These figures are all mutually exclusive

<sup>9</sup> The 19 Departmental, Regulator and Agency Simplification plans can be found at <http://www.cabinetoffice.gov.uk/regulation/reform/simplifying/plans.asp>

<sup>10</sup> For brevity we shall refer to this process as the Simplification Process from here forward

<sup>11</sup> Reducing administrative burdens: effective inspection and enforcement – Philip Hampton March 2005 – pg8 <http://www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf>



across government suggests that this estimate is challenging but achievable:

- preliminary results from the Retail Enforcement Pilot<sup>12</sup> show a 20-30% reduction in routine planned inspections;
- since the Hampton Report, the Environment Agency's risk-based assessments have led to a 20% reduction in the number of inspections. This figure is set to increase as their risk-based system is extended across their regulatory regime<sup>13</sup>.

16. Hampton also estimated that following his principles around forms and paperwork would result in a 25% reduction in the burden of data requirements<sup>14</sup> across the regulatory landscape. Evidence from simplification initiatives across government suggests that this estimate is realistic:

- the Health and Safety Executive (HSE) conducted a fundamental review of its forms and identified 54% to be removed by the end of 2006<sup>15</sup>. Savings to business from the removal of these forms are estimated at £250,000 a year
- the Civil Aviation Authority's (CAA) Safety Regulation Group initiated a project to review all internal and external forms. 25% of forms (100 out of 400) were found to be redundant and were withdrawn<sup>16</sup>
- the Environment Agency has carried out a review of all external forms and associated guidance. An example from the review is the agricultural waste management licensing exemption which was reviewed and a new form developed in consultation with farmers. This reduced the form in length by 93% (75 pages to 5)<sup>17</sup>.

17. These administrative burden reduction factors (33% for inspections and 25% for data requirements) were established as our indicator for full Hampton compliance. The reduction factors were applied to the May 2005 administrative burden baseline figures, giving the total administrative burdens to businesses, charities and voluntary sector organisations at the point where all regulatory functions in scope are fully Hampton compliant (see rows G-I in figure 4 – grouped in the categories described in paragraph 12). For the purposes of this Assessment, we are making a simplifying assumption that all regulators will be fully Hampton compliant by April 2010.

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<sup>12</sup> Interim report on the Retail Enforcement Pilot can be found at <http://www.dti.gov.uk/files/file36218.pdf>.

<sup>13</sup> "Implementing Hampton: from enforcement to compliance" HMT report November 2006 pg 18 [http://www.hm-treasury.gov.uk/media/2DA/8A/hampton\\_compliance281106.pdf](http://www.hm-treasury.gov.uk/media/2DA/8A/hampton_compliance281106.pdf)

<sup>14</sup> Reducing administrative burdens: effective inspection and enforcement – Philip Hampton March 2005 - pg8.

<sup>15</sup> "Implementing Hampton", pg 8

<sup>16</sup> "Implementing Hampton", pg 8

<sup>17</sup> "Implementing Hampton", pg 8

18. The difference between the estimated administrative burdens at full Hampton compliance and the predicted total administrative burdens at April 2008 is some **£650 million per annum** (see row J of figure 4).

Figure 4: Administrative Burden benefit of the Code to business (a more detailed breakdown can be found at Annex A)<sup>18</sup>

		Regulations enforced by National Regulators (£m)	Regulations enforced by National and Local Regulators (£m)	Regulations enforced by Local Regulators (£m)	Grand Totals (£m)
A	Total AB due to Inspections (May 05)	99	20	246	365
B	Total AB due to Data Requests (May 05)	1,654	1,179	432	3,266
<b>C</b>	<b>Grand Total (May 05)</b>	<b>1,753</b>	<b>1,199</b>	<b>678</b>	<b>3,631</b>
D	Total AB due to Inspections (April 08)	91	19	226	336
E	Total AB due to Data Requests (April 08)	1,522	1,085	398	3,005
<b>F</b>	<b>Grand Total April 08</b>	<b>1,613</b>	<b>1,104</b>	<b>624</b>	<b>3,340</b>
G	Total AB due to Inspections at full compliance with Code (66% of May 05 level) (April 2010)	65	14	162	241
H	Total AB due to data requests at full compliance with Code (75% of May 05 level) (April 2010)	1,241	884	324	2,449
<b>I</b>	<b>Grand total at full compliance with Code for Inspections and Data Requirements (April 2010)</b>	<b>1,306</b>	<b>898</b>	<b>487</b>	<b>2,690</b>
<b>J</b>	<b>Administrative Burdens Business savings full Hampton compliance</b>	<b>307</b>	<b>206</b>	<b>137</b>	<b>650</b>
<b>K</b>	<b>Administrative Burdens Business savings due to Code (range)</b>	<b>0-307</b>	<b>0-206</b>	<b>0-137</b>	<b>0-650</b>

19. Although the Hampton principles and recommendations are already Government policy, and many steps have been and continue to be taken by some regulators to move towards a more efficient regulatory system, putting the principles on a statutory basis will accelerate the rate of change and ensure that **all** regulators in scope make progress, leading to further administrative burden reduction than would have occurred in the absence of the Code.

20. As mentioned previously, 19 Government Departments have Administrative Burdens reduction targets of 25% which they are expected to reach by 2010. However, we believe that the Code will **add impetus** to this Simplification Process and will achieve an **additional benefit** in

<sup>18</sup> The AMBE database does not include figures for the Financial Services Authority as the organisation conducted its own measurement exercise. Consequently, the administrative burdens imposed by the FSA have not been included in this analysis. As many of the Financial Services Authority's regulatory functions are in scope of the Code, the omission of this data means that the total annual benefits to business will be an underestimation.

reducing the administrative burden on business above and beyond the Administrative Burden reduction targets.

21. To summarise, **both** the Simplification Process and the Code will contribute to achieving the identified administrative burden reductions. As such, the range of business savings that can be attributed to the Code lie **between £0-650 million** (see row K of figure 4).
22. It is not possible at this point to determine the proportion of the reduction that could be solely attributed to the Code. However, it is expected that the Code will deliver a **minority** of the total benefit of full Hampton compliance. For the purposes of this assessment, a plausible assumption is that the total business benefit of the Code will be **10%** of the figure in paragraph 21 – **£0-65 million**. We have assumed for the purposes of this Impact Assessment that the business benefit of the Code lies at the mid-point of this range. The business benefit is therefore **£32.5 million**.
23. This total business benefit will not be realised immediately as there will be a transitional period whilst regulators make the necessary changes to implement the Code. Taking into account other constraints and priorities<sup>19</sup>, we anticipate that full benefits will not accrue until April 2010. It is assumed that a third (1/3) of the business benefit will be realised in each of the two preceding years (2008 and 2009).

### Sanctions

24. The Code will require regulators to have regard to the Macrory Penalties Principles and Characteristics<sup>20</sup> when producing their enforcement policies. The associated costs and benefits to businesses and regulators are covered in the Impact Assessment accompanying the Regulatory Enforcement and Sanctions Bill<sup>21</sup> and have not been included in this analysis.

### **Annual costs for business**

25. There will be no obligatory annual costs for business associated with the introduction of the Code.

### **Start-up costs for business**

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<sup>19</sup> The Code allows regulators to take other constraints to be taken into account when judging compliance

<sup>20</sup> These principles are set out in the Macrory Review of Regulatory Penalties. The review can be found at [http://www.cabinetoffice.gov.uk/regulation/reviewing\\_regulation/penalties/index.asp](http://www.cabinetoffice.gov.uk/regulation/reviewing_regulation/penalties/index.asp). A parallel consultation exercise was also launched on 15 May for the Regulatory Enforcement and Sanctions Bill

<sup>21</sup> This can be found at the following address

<http://www.cabinetoffice.gov.uk/regulation/consultation/current/index.asp>

26. We do not expect there to be any additional costs to business as a result of the Code. Therefore a plausible assumption is that the start-up costs to business are **zero**. There may be very minimal administrative costs to businesses due to time spent familiarising themselves with new regulatory enforcement processes that result from the Code's introduction. However, a key objective of the Code is to make it easier for businesses to comply with regulation and understand what is required of them, so the net start-up impact should in fact be beneficial.

### **Status Quo: Costs and Benefits**

27. The status quo is used here as a benchmark against which costs and benefits of the Code proposals are measured.

28. Our status quo is taken to start from the total estimated administrative burden imposed on business by regulatory functions in scope of the Code as at April 2008 (see paragraph 14 and figure 4). As stated in paragraphs 19-24, the Government already has an extensive Simplification Process that will deliver a significant amount of the administrative burden reduction. As such, we believe that the majority (90%) of the business benefit identified in paragraph 21 will be achieved through the Simplification Process alone – up to **585m**<sup>22</sup>.

29. It could be argued that some regulators with their own administrative burden reduction targets<sup>23</sup> would have achieved the desired reductions without introduction of a statutory Code. However, we believe that the Code could lead to reductions above and beyond the 25% target that these organisations are working towards. For example, our evidence shows that a 33% reduction could be achieved for inspection burdens on business.

30. The regulators that do not have their own administrative burden reduction targets (the vast majority of those in scope) feed into the Simplification Plans of their sponsor departments. These departments are working with their regulators to achieve burdens reductions. However, we believe that the introduction of the Code will add impetus to the process and will drive individual regulators to achieve reductions by themselves. For example, a sponsoring Department could conceivably achieve their administrative burdens reduction target without driving any 'Hampton' changes in their sponsored regulator(s). The Code will put in place additional incentives to encourage reductions above and beyond the Administrative Burdens target.

31. The Code should be seen as part of a comprehensive package of measures that are designed to implement fully the recommendations of

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<sup>22</sup> It is important to note that this estimated saving is a part of the total estimated administrative burden reduction saving that has already been identified by Government. This is not a new additional saving.

<sup>23</sup> The Food Standards Agency, the Health and Safety Executive, the Charity Commission and the Forestry Commission all have Administrative Burden reduction targets of 25%

the Hampton Report. The Administrative Burdens Reduction Target and the Simplification process are vital, strategic initiatives essential to achieving this vision. However, we believe that these need to be complemented by a 'bottom-up' approach to encourage a fundamental cultural change in regulators, which may not necessarily have occurred through the Simplification Process alone. The Simplification Process will ensure that legislation is less burdensome; the Code will ensure that regulatory functions are in line with Hampton.

#### Business impact summary

Code proposals:	Annual costs:	<b>£0</b>
	Annual benefits:	<b>£0-65m</b>
	One-off costs:	<b>£0</b>

### Annual costs and benefits for national regulators<sup>24</sup> and Local Authorities<sup>25</sup>

32. The type of regulatory activity that the Code will encourage, we anticipate, will lead to improved regulatory outcomes and associated productivity gains. However, for the purposes of this Impact Assessment, we have not attempted to quantify these.

33. We believe the Code will realise efficiency savings for regulators. For example, following a risk-based approach will lead to a reduction in the number of inspections conducted. We estimate that a reduction of 33%<sup>26</sup> in the number of inspections could realise savings of nearly **£7.3 million**<sup>27</sup> for national regulators and around **£30 million**<sup>28</sup> for Local Authorities. It is the purpose of the Code that these resources should be redirected to the more cost-effective, outcome-focussed regulatory activities required by the Code, such as advice-provision and awareness-raising. Whilst there are undoubtedly costs to national regulators and local authorities in moving towards a more advice-oriented service, we assume that the resource savings identified above, some **37.3 million**<sup>29</sup> can be re-directed to providing advisory services. Therefore overall, the net burden is **zero**.

<sup>24</sup> 63 National regulators were covered by the Hampton Review in 2005. Since that date, a number of regulators have merged. The total number of national regulators in scope at the point of this Impact Assessment exercise is 56.

<sup>25</sup> 388 local authorities have enforcement responsibilities in England

<sup>26</sup> See paragraph 15

<sup>27</sup> This assumes a wage cost of £18.50 for an inspector, 2 hours per inspection, 600,000 inspections carried out by national regulators (2003-04 figures)

<sup>28</sup> This assumes a wage cost of £18.50 for an inspector (based on 37.5hr/wk and salary of £36,000, including both pension costs and overheads, for LA Trading Standards and Environmental Health Officers), 2 hours per inspection, 2.5 million inspections carried out by Local Authorities (2003-04 figures)

<sup>29</sup> £30 million for Local Authorities and £7.3 million for national regulators. In other words, we are assuming that the costs associated with the new activities have an identical profile over time to that of the benefits.

34. Although we expect that the additional costs for regulators of providing a more advice-orientated service would be covered by a redistribution of resources away from inspection we are aware that there are some concerns among regulators that redistribution alone will not cover the full cost of the advice-provision encouraged by the Code. The Environment Agency, for example, estimate that providing advice visits to just 1% of the businesses it regulates would cost an additional £7.5m<sup>30</sup>. However, the Code requires that advice activity be undertaken **where practicable**, and regulators are required to have regard to the Code subject to budgetary constraints.
35. The purpose of the Code is to affect a shift in resources from routine inspection and other enforcement activity towards advice provision and information campaigns. This means that regulators' existing total resources will be used in a different way. Therefore, the budgets of national regulators and local authorities in scope are **not** expected to change as a result of the introduction of the Code.

### **Start up costs for national regulators and Local Authorities**

36. In order to comply with the Code, a regulator may have to make changes to its practices in the seven key areas of activity covered by the Code's specific obligations: supporting economic progress, risk assessment, information & advice, inspections, data requirements, compliance & enforcement actions and accountability.
37. The figures identified in this section are our current best estimates, but based on a very limited amount of data. More evidence will be gathered on start-up costs to regulators during the public consultation in order to refine the assumptions and estimates presented below.
38. When considering the costs presented in this analysis, it is important to stress that regulators will be expected to **balance** the legal requirement to "have regard" to the Code with budgetary considerations and other priorities.

#### National Regulators

39. In order to estimate the start-up costs for national regulators, this analysis uses indicative data from the Environment Agency and the Food Standards Agency. This data has been broken down by area of activity affected by the Code.
40. **Supporting Economic Progress** – the specific obligations of the Code in this area of activity do not require any significant operational/policy changes in most national regulators. This section simply requires the

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<sup>30</sup> 25,000 visits (1% of approx 2.5m businesses regulated by EA) at estimated cost of £300 per visit

regulators to consider certain principles when carrying out their existing activities.

41. **Risk Assessment/Inspections** – the Environment Agency estimates that rolling out a risk-based approach to compliance assessment (including inspections) in all of their regulatory regimes will cost £4.2m (excluding IT costs). They are on course to do this by 2008. Scaling this up to cover all regulators covered by the Code<sup>31</sup> suggests that rolling out a risk-based approach across all regimes of national regulators could cost some **£21 million**.
42. **Information and Advice** – providing businesses with information and advice, and regularly reviewing and updating this advice, could be regarded as good practice for regulators. It could therefore be argued that the specific obligations of the Code will not result in any start-up costs for national regulators. However, it is likely that Code implementation will lead national regulators to conduct more comprehensive reviews of their guidance materials and processes than would normally be the case under 'business as usual' conditions.
43. Early estimates from one national regulator that has a comparatively small number of pieces of guidance suggest that a review to diagnose the necessary changes could cost around £100,000, with a further cost of around 2 months of staff time (around £6k of resource) to revise each piece of guidance requiring amendment. Figures provided by the Environment Agency, which is responsible for many pieces of guidance, are consistent with these estimates – the Environment Agency is undertaking a full review of both forms and guidance between 2008 and 2011 and estimate that this will cost £1.3m (roughly £430,000 per annum). Scaling up as described in paragraph 41 using the Environment Agency's cost estimates allows an estimate to be made of the total cost to all national regulators of reviewing and updating information and guidance – **£7.2 million**.
44. **Data Requirements** – regularly reviewing and updating forms could be regarded as good practice for regulators, and associated costs could therefore be regarded as 'business as usual' under the Better Regulation Agenda. However, it is likely that Code implementation will lead national regulators to conduct more comprehensive reviews of their forms and data-gathering processes than would normally be the case, leading to start-up costs that must be factored into this analysis.
45. The Food Standards Agency is currently reviewing its forms in-house, at an estimated cost of £50,000 (around £2,000 to review each of the 25 forms directed at businesses). Scaling up using the Food Standard

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<sup>31</sup> This estimate is based on the calculation that the Environment Agency comprises around 18% of the total enforcement activity of all national regulators. In 2003-04, the total number of enforcement staff employed by all national regulators within scope of the Code was some 13,432. The total number of enforcement staff employed by the EA was 2,417, around 18% of the total.

Agency's estimated costs allows us to establish an indicative estimate of the total costs to national regulators of reviewing their forms and data collection, around **£5 million**<sup>32</sup>.

46. The specific obligations of the Code require regulators to give consideration to sharing data with each other to reduce the burdens on business. Changing IT systems and creating new databases for the purposes of data-sharing is undoubtedly very expensive. Making such significant changes across all regulatory regimes in all regulators when the Code comes into force would therefore be impossible. However, it is expected that regulators will balance the legal requirement to "have regard" to the Code against other priorities and budgetary considerations – if the costs of a data-sharing scheme are not practicable for a regulator, the Code would not require the regulator to adopt the scheme.
47. **Compliance and Enforcement actions** – the costs and benefits to regulators of complying with the Macrory Penalties Principles and using an expanded sanctions toolkit are covered in the Impact Assessment for the Regulatory Enforcement and Sanctions Bill<sup>33</sup>. Following the principles and using the expanded toolkit is expected to provide a net benefit to regulators.
48. **Accountability** – the specific obligations of the Code require regulators to have transparent outcome measures. In many cases, national regulators will have these types of measure in place and incur no additional costs. Where a national regulator does not have these types of measure in place, the Code will require the regulator to design such a measure. In practice, these costs may be offset by replacing an existing output-focussed measure, but start-up costs are likely nevertheless. Estimating costs in this area of activity is very difficult, as the extent to which new measures will be required is unclear. We hope to obtain more evidence on these costs throughout the consultation process.
49. The specific obligations of the code require regulators to have appeals procedures. We anticipate that the vast majority of regulators already have such procedures in place and therefore estimate that associated start-up costs will be minimal. A cost benefit analysis of the new appeals procedures associated with the Macrory expanded sanctions tool kit can be found in the Impact Assessment for the Regulatory Enforcement and Sanctions Bill.
50. Paragraphs 40-48 show that the total start up costs to national regulators attributable to the Code are estimated at around **£33.2 million**. However, as emphasised above, these estimates will be reviewed in light of evidence obtained during public consultation on the Code.

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<sup>32</sup> The breakdown of the administrative burdens as detailed in this analysis shows that the Food Standards Agency imposes 0.85% of the total administrative burden imposed by national regulators' data requirements (2005 figures). This can then be multiplied by 99.15 to provide an indicative figure for all regulators in scope of the Code

<sup>33</sup> <http://www.cabinetoffice.gov.uk/regulation/consultation/current/index.asp>



### Local Authorities

51. Overall, we expect the proportionate burden to be lower for Local Authorities compared with national regulators, which have a larger role in determining enforcement procedures. The main start-up costs to local authorities will derive from the need to review their enforcement policies and procedures and make any necessary changes to bring them into line with the Code.
52. Many Local Authorities regularly review their enforcement policies, even in the absence of new legislation such as the Code. However, it is likely that the Code will require a more comprehensive review than is usually the case. Estimates obtained from local authorities<sup>34</sup> during informal consultation suggest that reviewing and updating an enforcement policy to ensure Code compliance will take 10-15 days of staff time. Assuming that all 388 Local Authorities in England have to spend around the same amount of time updating their enforcement policies, the total gross cost (excluding savings) lies between £538,000 and £808,000<sup>35</sup>.
53. Local Authorities will also have to review and amend their operational procedures to ensure they are in line with the Code. While Local Authorities do this regularly anyway to take account of the various changes in regulation at national level, the Code may require more changes than would usually be necessary in the same period.
54. Paragraphs 51 and 52 suggest that Local Authorities will face additional start-up costs in implementing the Code. However, the start-up costs will be offset by benefits that the Code will deliver. These benefits derive mainly from reduced inspection volumes due to more comprehensive use of risk-assessment in inspection planning (these were identified in paragraph 33). In the first year of the Code some of the resource that would, on an ongoing basis, be redirected to advice from inspection will be used to update local authorities' enforcement policies and operational procedures as part of the change to outcome-focused regulatory activities as described in paragraph 33. It is therefore expected that net start-up costs for Local Authorities will be zero.
55. It is important to note that the costs expressed in this section are indicative. We expect to obtain more evidence on the costs and benefits throughout this consultation process. This will help us to refine our estimates and assumptions. Should a revised analysis suggest that Code implementation in fact results in net additional costs for local authorities, these costs will be fully funded in line with the Government's new burdens procedures.

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<sup>34</sup> Estimates in this section are based on informal consultation with Cambridgeshire Trading Standards, Oxfordshire Trading Standards and Wealdon District Council and are indicative

<sup>35</sup> Assumes wage costs of £18.50 across all 388 LAs. Total cost expressed as range because estimated staff time expressed as a range (10-15 days)

## Status quo: Costs and Benefits

56. Again, here the status quo is used as a benchmark against which the costs and benefits of the Code proposals are assessed. Our status quo is the counterfactual of the non-introduction of the Code.

57. Regulator Costs – without the introduction of the Code, regulators would operate as normal under the aegis of the Enforcement Concordat, the Better Regulation Agenda and their existing enforcement policies. There are no additional costs to either national or local regulators.

58. Regulator Benefits – without the introduction of the Code, regulators would operate as normal. There are no benefits to either national or local regulators.

### National Regulators and Local Authority impact: summary

Code proposals:

Annual costs: **£37.3 million**

Annual benefits: **£37.3 million**

One off costs: National regulators: **£33.2 million**  
Local Authorities: **£0**

## **Specific Impact Tests**

Below is a list of the other specific impact tests we have considered.

### **Competition Assessment**

The proposals being taken forward will put the Hampton principles that relate to regulatory activity on a statutory footing. After looking at the four questions on the initial test we do not see any impacts on competition, either directly or indirectly.

### **Small Firms Impact Test**

The proposals are designed to streamline bureaucracy in order to help companies boost their growth and competitiveness. The Code should lead to a more consistent and efficient 'light touch' regulatory environment for businesses generally. As such, it is of significant potential benefit to small firms and will not impact adversely on small firms.

The annual benefits to business from the introduction of the Code have been estimated at £650 million per annum. These figures have been calculated using the data gathered by the Administrative Burdens Measurement Exercise (ABME). The ABME featured a great deal of input from small firm groups. We can therefore state with confidence that the savings represented in this Impact Assessment will very much apply to small firms.

Throughout the informal consultation stage there has been contact with small businesses groups.

### **Legal Aid**

There will no impact on Legal Aid.

### **Sustainable Development, Carbon Assessment, Other Environment**

We do not believe that there will be any impacts on these areas. We have looked at the initial tests and are satisfied that they do not apply.

### **Health Impact Assessment**

Having gone through the initial assessment we do not believe that there is a health impact.

### **Race, Disability, Gender and Other Equality**

We do not believe that there will be an impact on the equality strands as the proposals impact on business and regulators not on individuals. We have, however, looked at each of the equality impact initial tests individually and are confident that there is no impact.

### **Human Rights**

The Compliance Code contains guidance for regulators setting policies or principles about the exercise of regulatory functions. Regulators will be under a legal duty to have regard to the Code, but this duty is subject to any other legal requirement affecting the exercise of the relevant regulatory function. National regulators and local authorities are public authorities for the purposes

of the Human Rights Act 1998, and section 6 of that Act makes it unlawful for them to act in a way that is not compatible with the Convention rights (the human rights protected by the European Convention on Human Rights).

Regulators will also be under a duty to have regard to five principles of good regulation set out in s.21 of the Act. This duty is again subject to any other legal requirements affecting the exercise of the function.

The Code and the five principles of good regulation engage the Convention right under article 1 protocol 1 (protection of property).

This is because the way in which regulatory functions are exercised may affect a right of a person (including a business) to peaceful enjoyment of his possessions. We do not however consider that these proposals raise any issues in relation to this right. As the duty to have regard to the Code and the five principles of good regulation is expressly subject to any other legal requirements, such as the Human Rights Act, the proposals are compatible with the Convention Rights.

### **Rural Proofing**

We have looked at the initial test on rural proofing and are confident that there is no impact on rural communities.

## Specific Impact Tests - Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	Results in Evidence Base? (Y/N)	Results annexed? (Y/N)
Competition Assessment	Y	N
Small Firms Impact Test	Y	N
Legal Aid	Y	N
Sustainable Development	Y	N
Carbon Assessment	Y	N
Other Environment	Y	N
Health Impact Assessment	Y	N
Race Equality	Y	N
Disability Equality	Y	N
Gender Equality	Y	N
Human Rights	Y	N
Rural Proofing	Y	N

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