

Specific Obligations of the Statutory Code of Practice for Regulators

1. Economic Progress

Regulators should recognize that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

Regulators should consider the impact that their interventions may have on economic progress, as well as 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. When regulators set standards or give guidance in relation to their own or other regulatory functions (including those of local authorities) they should allow for reasonable variations

2. Risk Assessment

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

Regulators should ensure that resources are targeted towards where they would be most effective by assessing the risks to their regulatory outcomes. They should ensure that risk assessment precedes and informs all aspects of their approaches to regulatory activity. Regulators should consult and involve regulated entities and other interested parties in designing their risk methodologies, and publish details of the methodologies. Regulators should regularly review and improve their methodologies and take account of feedback and other information from regulated entities and other interested parties.

3. Advice and Guidance

Regulators should provide authoritative, accessible advice easily and cheaply.

Regulators should ensure that all legal requirements as well as any changes are promptly communicated or otherwise made available to relevant regulated entities. Regulators should provide general information, advice and guidance to regulated entities and involve them in developing both the content and style of regulatory guidance and undertake monitoring of them as regards their awareness and understanding of regulations including any costs they incur getting external advice in order to understand and comply with regulatory requirements. Regulators should provide targeted and practical advice that meets the specific needs of the regulated entities. Regulators should distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards and be confirmed in writing if requested. Advice from the regulator should be accessible without directly triggering an enforcement action and such advice services should generally be provided free of charge.

4. Inspections and Other Visits

No inspection should take place without a reason.

Inspections and other visits should only occur in accordance with a risk assessment methodology except where visits are requested 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. Regulators need to focus their greatest inspection effort where risks assessment shows that both:

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

regulators should have arrangements for collaboration when there are two or more inspectors from the same or different regulators to minimize burdens on the regulated entity, for example, through joint or co-ordinated inspections and data sharing.

5. Information requirements

Businesses should not have to give unnecessary information or give the same information twice.

When requesting data, regulators should undertake an analysis of the costs and benefits of the data requested. If two or more regulators require the same information they should seek to share data to avoid duplication. Regulators should involve regulated entities in vetting data requirements and form design for clarity and simplification. Regulators should keep their policies and guidance for data collection under review.

6. Compliance and Enforcement

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

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. 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 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. 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

7. Accountability

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

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

courteous and efficient services to regulated entities and others and should take account of comments from regulated entities and other interested parties regarding the behaviour and activity of inspectors and other enforcement staff. Regulators should provide a publicised complaints procedure and include an independent external person for the final stage of the procedures. This could be the Ombudsman or tribunal or 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.