

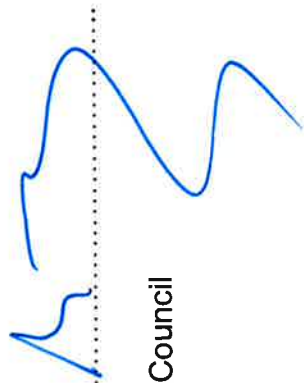
NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I Marcus Hart, as Strong Leader, approve the amendments to the Private Sector Housing and NWWM enforcement policies detailed in the Forward Plan.

13th May, 2011

Dated:



Signed:

Leader of the Council

FORM 2

NOTICE OF DECISION OF OFFICER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Revision of Enforcement Policies for Private Sector Housing and Water Management services	To approve the two enforcement policy that enables the Council to undertake enforcement action against individuals and businesses.	To comply with the requirement to have a policy agreed by Local Authorities in light of the recent changes to the Regulators Code	8/5/2015

Dated: 13th May 2015
Signed: 
Member: Cllr Marcus Hart, Leader of the Council

WYRE FOREST DISTRICT COUNCIL

Strong Leader Report

Enforcement Policies – Private Sector Housing and North Worcestershire Water Management

OPEN	
SUSTAINABLE COMMUNITY STRATEGY THEME:	Improved Health and Wellbeing
CORPORATE PLAN PRIORITY:	A Better Quality of Life
DIRECTOR:	Mike Parker
CONTACT OFFICER:	Richard Osborne
APPENDICES:	1. North Worcestershire Water Management Enforcement Policy 2. Housing Enforcement Policy

1. PURPOSE OF REPORT

- 1.1 To inform the Leader of the proposed revised North Worcestershire Water Management Enforcement Policy and the proposed revised Housing Enforcement Policy and to seek approval or amendments to the same. Amendments proposed are in response to new national guidance and legislative changes.

2. RECOMMENDATION

The Leader is asked to approve the two documents for adoption by the Council:

- 2.1 The North Worcestershire Water Management Enforcement Policy 2015 and the Housing Enforcement Policy 2015 as set out in Appendices to this report.**

3. BACKGROUND

- 3.1 Enforcement of water management related issues includes reducing flood risk, keeping watercourses free of obstruction and obtaining consents to carry out works. Private Sector Housing enforcement includes dealing with disrepair to tenanted and empty properties and also dealing with caravan site licensing.
- 3.2 The Regulators' Compliance Code (RCC) was a statutory code that covered how the Council should approach enforcement with businesses. This has been replaced with the Better Regulation Delivery Office (BDRO) Regulators' Code 2014 (RC).
- 3.3 Wyre Forest District Council is the host for the shared service and has been delegated enforcement functions in relation to water management by Redditch Borough Council and Bromsgrove District Council and by Worcestershire County Council.

4. KEY ISSUES

- 4.1 For any enforcement action to be credible and successful, it is essential that the Council has a policy that is clear, proportionate and meets the requirements of the Regulators' Code (RC).
- 4.2 Although the RC is intended as a framework for dealing with business compliance, it can also be applied to dealing with private individuals.
- 4.3 Although ignorance may be no excuse in the eyes of the law, it is fair and reasonable for formal action normally to be taken following a failure to follow advice or guidance.
- 4.4 The proposed policies will be an essential tool to enable officers to consistently deal with responsible persons and businesses and reduce risk.
- 4.5 Changes in Caravan Site legislation are reflected in the revised Housing Enforcement Policy that now includes reference to ability to charge for the costs of enforcement and an annual inspection and report fee.

5. FINANCIAL IMPLICATIONS

- 5.1 None

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 Enforcement action may be jeopardised if there is not a suitable enforcement policy and procedures in place.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 Not applicable.

8. RISK MANAGEMENT

- 8.1 None

9. CONCLUSION

- 9.1 Robust enforcement policies that follow national guidelines are required for effective enforcement and also to ensure that businesses and individuals are treated fairly and consistently when the Council uses the powers it has been given.

10. CONSULTTEES

- 10.1 None..

11. BACKGROUND PAPERS

- 11.1 Regulators' Code can be viewed at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

Wyre Forest District Council Enforcement Policy for Housing 2015

1. General

- 1.1 The content of this policy will be revised as necessary to meet changing circumstances and the Policy shall be reviewed by Officers at least every five years and proposed amendments shall be approved through appropriate mechanism.
- 1.2 All relevant officers of the Housing Section within the Economic Prosperity and Place Directorate are required to support and comply with the Enforcement Policy for Housing.
- 1.3 The Enforcement Policy takes into account and complies with the provisions of The Regulators' Code 2014.
- 1.4 This Enforcement Policy takes into account the guidance set out in the 'Code for Crown Prosecutors'.
- 1.5 The Council recognises that there are many situations where there is a shared or complementary role with other agencies. All relevant officers of the Housing Section will work together with other agencies to ensure that the best possible outcome is achieved within the terms of this Policy. This will require actively seeking collaboration with agencies such as the Police, Fire Authority, Magistrates Courts, Trading Standards, Health and Safety Executive as well as internal colleagues of the Council such as Development Control, Building Control and the Community Assets and Localism Directorate. This list of agencies is indicative but it is by no means exhaustive.
- 1.6 This Policy is available to the public on request and is also available on the Council's website www.wyreforestdc.go.uk
- 1.7 The Council agrees that effective and well targeted regulation is essential in promoting fairness and protection from harm. However, the Council agrees that, in achieving these and other legitimate objectives, regulation and enforcement should be proportionate and flexible enough to allow, or even encourage, economic progress.
- 1.8 This Policy is monitored for compliance by the Strategic Housing Services Team.
- 1.9 Areas of enforcement where this Enforcement Policy applies are:
- Housing Law
 - Caravan Sites Licensing
 - Public Health
 - Household Drainage

And all further activities related to the above

2. Purpose

2.1 To ensure that enforcement decisions will be fair, consistent and undertaken in an open manner appropriate to the risk posed by non-compliance. In particular in responding to non-compliance that officers identify, we will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Where the risk is not significant and imminent and therefore requiring immediate formal action, we will provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

3. Principles of Enforcement

3.1 The Council's approach to Enforcement of the law will be informed by the principles of;

- Proportionality in applying the law and securing compliance
- Consistency of approach
- Transparency about how the Council, as a regulator operates, and what those regulated may expect
- Targeting, using risk assessment to channel resources into high risk areas
- Helpfulness, as the Council believe that prevention is better than cure and will attempt to alter the behaviour of the offenders
- Standards to be drawn up in consultation with interested parties, setting out our service levels and expected performance
- Procedures to deal with complaints of poor, inappropriate or nonexistent service; the procedure will be well publicised, effective and readily accessible to all
- It must be in the public interest to prosecute

3.2 Proportionality

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties can expect that action taken by the Council to achieve compliance will be proportionate to any risks to public health or the environment and to the seriousness of that risk.

3.3 Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar aims. The Council will also work closely with other enforcement agencies in its efforts to achieve consistency.

3.4 Transparency

Transparency means that the Council undertakes to help those regulated to understand what is expected of them and what they in turn can expect from the Council. It also means making clear to those regulated not only what they have to do but where this is relevant, what they don't have to do. In other words, the Council will distinguish clearly between statutory requirements and advice or guidance what is desirable but not compulsory.

General information and advice will be provided in clear and concise language using a range of appropriate formats and media.

3.5 Targeting

Targeting means making sure that inspections are targeted primarily towards those activities where they would be most effective by assessing the risks to their regulatory outcomes. The Council will ensure that the risk assessment proceeds and informs all aspects of its approach and regulatory activity, including:

- Data collection and other information requirements
- Inspection programmes
- Advice and support programmes
- Enforcement and sanctions

Risk assessments will be carried out according to the principles contained within 'The Regulators Compliance Code'.

3.6 Helpfulness

The Council believes that part of its role is working actively with any person affected by its services to advise on and assist with compliance. The Council will provide a friendly, courteous, easily contactable, effective service which will deal promptly with service requests whilst minimising unnecessary overlaps and time delays.

3.7 Standards

In consultation with interested parties, the Council will draw up clear standards setting out the level of service and performance which the public and business proprietors can expect to receive.

3.8 Procedure

The Council has published details of its Corporate Complaints Procedure and all staff have been trained in its application. The procedure is aimed at dealing effectively with complaints of poor, inappropriate or non-existent service. This means making the procedure readily accessible to all services users including those regulated. The Corporate Complaints Procedure forms part of the Council's performance monitoring systems to assist in continuous improvements of the services which the Council provides. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

3.9 Public Interest

When formal action is necessary the person responsible for creating the risk must be held to account for it. However, it must still be in the wider public interest that enforcement action is taken.

4. Enforcement Options

4.1 Advice and Assistance

Advice from an Enforcement Officer will be clear, readily understandable and confirmed in writing upon request. Before formal action is taken, an opportunity will be given to discuss the circumstances of the case unless there is need for immediate action due to the severity of the

situation or to prevent evidence being destroyed. Where immediate action is considered necessary an explanation will be given as soon as possible and, confirmed in writing. Any written documentation issued will contain all the information needed to understand what work is required, why it is needed and shall state the legislation contravened and measures to enable compliance with the legal requirements. Financial assistance is available in certain circumstances under the Council's Private Sector Housing Assistance Policy. Details will be given of all rights of appeal, whether to Wyre Forest District Council or to external bodies.

When conducting formal investigations, Officers will adhere to Police and Criminal Evidence (P.A.C.E), Code of Practice on Disclosure of Information.

4.2 Informal Action

Informal action to secure compliance with legislation includes advice, verbal warnings and requests for action, the use of letters and inspection reports. The circumstances when it is appropriate to consider using formal action are as follows;

- The act was not sufficiently serious to require formal action
- From past history, it can be reasonable expected that informal action will achieve compliance
- The result of non compliance will not cause a significant risk to public health, safety, wellbeing or the environment
- Where informal action will be more effective than formal action

4.3 Statutory Notices

Enforcement Officer's will only consider the use of statutory notices, where one or more of the following apply;

- There is/are significant contraventions of legislation
- There is a lack of confidence in response to an informal approach
- There is a history of noncompliance with informal action
- There is evidence of little knowledge of statutory requirements
- The result on noncompliance could be potentially serious to public health, safety wellbeing or the environment

Statutory notices will only be issued by Officer's who have been authorised by Wyre Forest District Council and are considered competent. The failure to comply with a Statutory Notice served under e.g. The Housing Act 2004 is likely to result in court proceedings where the circumstances fulfil the criteria in the Enforcement Policy. If a right of appeal exists, details will be included with the notice.

It should be noted that some notices are served in order to obtain specific information and, as such, do not represent enforcement action.

The carrying out of any works in default does not prevent the consideration of other formal action such as Formal Caution or prosecution.

4.4 Formal Cautions

Formal Cautions, where appropriate, will be issued in accordance with Home Office Guidelines. A Formal Caution may be issued where there is sufficient evidence to provide a realistic

prospect of conviction but because of the attitude, history and willingness to co-operate, it is considered inappropriate to prosecute. To issue a Formal Caution the Council must be satisfied that the offender has admitted to the offence in writing and has agreed to be cautioned. Formal cautions issued may be cited when considering any similar offences within three subsequent years.

4.5 Prosecution

Circumstances likely to warrant prosecution may be characterised by one or more of the following;

- Where the offence involves a significant breach of the law such that public health, safety, wellbeing or the environment is or has been put at risk
- Where the alleged offence involves a failure by the suspected offender to correct an identified potential risk having been given the opportunity to comply with the lawful requirements of an authorised Officer
- Where the offence involves a failure to comply in full or in part with the requirements of a Statutory Notice
- Where there is a history of similar offences related to risk to public health, safety, wellbeing or the environment

Before a prosecution goes ahead, the officer responsible for deciding on the enforcement action and the Director of Economic Prosperity and Place / Solicitor to the Council will be satisfied that there is relevant, substantial and reliable evidence that an offence has been committed.

The alleged offender will be given the opportunity to state their case and circumstances around any alleged offence prior to formal consideration of prosecution.

4.6 Accountability

The Private Sector Housing Section will regularly consult on the service it provides and comments received will be used to change procedures where appropriate.

4.7 Costs of Enforcement, licensing and other activities

The reasonable costs associated with enforcement, licensing and other activities will be charged to the responsible persons. For example, the costs of inspection and notice being served under the Housing Act 2004 and officer time costs associated with any works in default carried out. Caravan site annual inspection and report costs will be charged to the site owner.

4.8 Action Against Owner Occupiers

Although technically available as an option, enforcement action will only be taken against owner occupiers where their action, or lack of, significantly adversely affects neighbouring properties or there is a clear existent or imminent potential risk to public health, safety or the environment.

If you have any comments about the contents of this policy, please contact the Strategic Housing Services Manager

North Worcestershire Water Management Enforcement Policy 2015

1. General

- 1.1** North Worcestershire Water Management Service is a shared service of Bromsgrove District, Redditch Borough and Wyre Forest District Councils that includes the enforcement of land drainage and related issues. The service is delivered through Wyre Forest District Council with Redditch Borough and Bromsgrove District having delegated their relevant enforcement functions to Wyre Forest District Council.
- 1.2** The content of this policy will be revised as necessary to meet changing circumstances and the Policy shall be reviewed by Officers at least every three years and proposed amendments shall be agreed with the North Worcestershire Water Management Board that oversees the service and Wyre Forest District Council.
- 1.3** All relevant officers of the North Worcestershire Water Management Service (NWWM) are required to support and comply with the Policy.
- 1.4** The Enforcement Policy takes into account and complies with the provisions of The Regulators' Code 2014.
- 1.5** This Enforcement Policy takes into account the guidance set out in the 'Code for Crown Prosecutors'.
- 1.6** The Council recognises that there are many situations where there is a shared or complementary role with other agencies. All relevant officers will work together with other agencies to ensure that the best possible outcome is achieved within the terms of this Policy. This will require actively seeking collaboration with agencies such as the Environment Agency, Police, Health and Safety Executive as well as internal colleagues of the Councils such as Environmental Health, Housing, Development Control and Building Control. This list of agencies is indicative but it is by no means exhaustive. Enforcement activities will normally be notified to the Environment Agency and the Lead Local Flood Authority (Worcestershire County Council).
- 1.7** This Policy is available to the public on request and is also available on the Councils' websites.
- 1.8** NWWM agrees that effective and well targeted regulation is essential in promoting fairness and protection from harm. However, NWWM agrees that, in achieving these and other legitimate objectives, regulation and enforcement should be proportionate and flexible enough to allow, or even encourage, economic progress.
- 1.9** This Policy is monitored for compliance by the Strategic Housing Services team.
- 1.10** Areas of enforcement where this Enforcement Policy applies are:
- Drainage, including Land Drainage
 - Consenting of works to ordinary watercourses

- Reduction / management of flood risk
- Provision of sustainable drainage for development

And all further activities related to the above

2. Purpose

2.1 To ensure that enforcement decisions will be fair, consistent and undertaken in an open manner appropriate to the risk posed by non-compliance. In particular in responding to non-compliance that officers identify, we will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Where the risk is not significant and imminent and therefore requiring immediate formal action, we will provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

3. Principles of Enforcement

3.1 The Service's approach to Enforcement of the law will be informed by the principles of;

- Proportionality in applying the law and securing compliance
- Consistency of approach
- Transparency about how the Service, as a regulator, operates and what those regulated may expect
- Targeting, using risk assessment to channel resources into high risk areas
- Helpfulness, as the Service believes that prevention is better than cure and will attempt to alter the behaviour of the apparent offenders
- Standards to be drawn up where relevant in consultation with interested parties, setting out our service levels and expected performance
- Procedures to deal with complaints of poor, inappropriate or nonexistent service; the procedure will be well publicised, effective and readily accessible to all
- It must be in the public interest to prosecute

3.2 Proportionality

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties can expect that action taken to achieve compliance will be proportionate to any risks to public health or the environment and to the seriousness of that risk.

3.3 Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar aims. The Service will also work closely with other enforcement agencies in its efforts to achieve consistency.

3.4 Transparency

Transparency means that the Service undertakes to help those regulated to understand what is expected of them and what they in turn can expect from the Service. It also means making clear to those regulated not only what they have to do but where this is relevant, what they don't

have to do. In other words, distinguish clearly between statutory requirements and advice or guidance what is desirable but not compulsory. General information and advice will be provided in clear and concise language.

3.5 Targeting

Targeting means making sure that inspections are targeted primarily towards those activities or areas where they would be most effective by assessing the risks, for example of flooding to properties. The Service will ensure that the risk assessment proceeds and informs all aspects of its approach and regulatory activity, including:

- Data collection and other information requirements
- Inspection programmes
- Advice and support programmes
- Enforcement and sanctions

Risk assessments will not necessarily be written but will be carried out according to the principles contained within 'The Regulators Compliance Code'.

3.6 Helpfulness

The Service believes that part of its role is working actively with any person affected by its services to advise on and assist with compliance. The Service will provide a friendly, courteous, easily contactable, effective service which will deal promptly with service requests whilst minimising unnecessary overlaps and time delays.

3.7 Standards

The Service will maintain or adopt clear standards setting out the level of service and performance which the public and business proprietors can expect to receive.

3.8 Procedure

Wyre Forest District Council has published details of its Corporate Complaints Procedure and all staff have been trained in its application. The procedure is aimed at dealing effectively with complaints of poor, inappropriate or non-existent service. This means making the procedure readily accessible to all services users including those regulated. The Corporate Complaints Procedure forms part of the Council's performance monitoring systems to assist in continuous improvements of the services which the Council provides. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

3.9 Public Interest

When formal action is necessary the person responsible for creating the risk must be held to account for it. However, it must still be in the wider public interest that enforcement action is taken.

4. Enforcement Options

4.1 Advice and Assistance

Advice from an Officer will be clear, readily understandable and confirmed in writing upon request. Before formal action is taken, an opportunity will be given to discuss the circumstances of the case unless there is need for immediate action due to the severity of the situation or to prevent evidence being destroyed. Where immediate action is considered necessary an explanation will be given as soon as possible and, confirmed in writing. Any written documentation issued will contain all the information needed to understand what work is required, why it is needed and shall state the legislation contravened and measures to enable compliance with the legal requirements. Details will be given of all rights of appeal, whether to Wyre Forest District Council or to external bodies.

When conducting formal investigations, Officers will adhere to Police and Criminal Evidence (P.A.C.E), Code of Practice on Disclosure of Information.

4.2 Informal Action

Informal action to secure compliance with legislation includes advice, verbal warnings and requests for action, the use of letters and inspection reports. The circumstances when it is appropriate to consider using formal action are as follows;

- The act was not sufficiently serious to require formal action
- From past history, it can be reasonable expected that informal action will achieve compliance
- The result of non compliance will not cause a significant risk to public health, safety, wellbeing or the environment
- Where informal action will be more effective than formal action

4.3 Statutory Notices

Officer's will only consider the use of statutory notices, where one or more of the following apply;

- There is/are significant contraventions of legislation
- There is a lack of confidence in response to an informal approach
- There is a history of noncompliance with informal action
- There is evidence of little knowledge of statutory requirements
- The result on noncompliance could be potentially serious to public health, safety wellbeing or the environment

Statutory notices will only be issued by Officer's who have been authorised and are considered competent.

The failure to comply with a Statutory Notice served is likely to result in court proceedings where the circumstances fulfil the criteria in the Enforcement Policy.

If a right of appeal exists, details will be included with the notice.

It should be noted that some notices are served in order to obtain specific information and, as such, do not represent enforcement action.

The carrying out of any works in default does not prevent the consideration of other formal action such as Formal Caution or prosecution.

4.4 Formal Cautions

Formal Cautions, where appropriate, will be issued in accordance with Home Office Guidelines. A Formal Caution may be issued where there is sufficient evidence to provide a realistic prospect of conviction but because of the attitude, history and willingness to co-operate, it is considered inappropriate to prosecute.

To issue a Formal Caution the Service must be satisfied that the offender has admitted to the offence in writing and has agreed to be cautioned.

Formal cautions issued may be cited when considering any similar offences within three subsequent years.

4.5 Prosecution

Circumstances likely to warrant prosecution may be characterised by one or more of the following;

- Where the offence involves a significant breach of the law such that public health, safety, wellbeing or the environment is or has been put at risk
- Where the alleged offence involves a failure by the suspected offender to correct an identified potential risk having been given the opportunity to comply with the lawful requirements of an authorised Officer
- Where the offence involves a failure to comply in full or in part with the requirements of a Statutory Notice
- Where there is a history of similar offences related to risk to public health, safety, wellbeing or the environment

Before a prosecution goes ahead, the officer responsible for deciding on the enforcement action and the lead legal officer for the Council will be satisfied that there is relevant, substantial and reliable evidence that an offence has been committed.

The alleged offender will be given the opportunity to state their case and circumstances around any alleged offence prior to formal consideration of prosecution.

4.6 Accountability

Where appropriate the NWWM Client Management Board will review the service it provides and comments received will be used to change procedures if required.

4.7 Costs of Enforcement

Where possible, the reasonable costs associated with enforcement will be charged to the responsible persons. For example any officer time costs associated with any works in default carried out.

If you have any comments about the contents of this policy, please contact the service through enquiries@nwwm.org.uk



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Regulators' Code

April 2014

Foreword



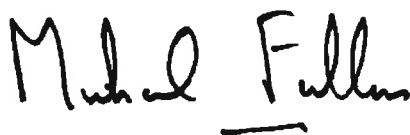
In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line under the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

Regulators' Code

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

Regulators' Code

- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at:
<https://www.gov.uk/government/publications/regulators-code>

Any enquiries regarding this publication should be sent to:

Better Regulation Delivery Office
Department for Business, Innovation and Skills
Lower Ground Floor
Victoria Square House
Victoria Square
Birmingham B2 4AJ

Tel: 0121 345 1200

If you require this publication in an alternative format, email brdo.enquiries@bis.gsi.gov.uk or call 0121 345 1200.

URN: BRDO/14/705

