

Sixteenth Report of Session 2021-22

Department for Business, Energy & Industrial Strategy

Principles of effective regulation

Introduction from the Committee

Regulation is used by government to set rules and expectations that people and organisations should follow to meet a wide variety of different policy aims. Often these objectives aim to keep us safe (for example, in the regulation of water quality and food safety), to ensure we are treated fairly (for example, in consumer protection regulation), or to ensure businesses can compete on a level playing field (for example, through competition regulation). Effective regulation can achieve these objectives, but when it fails, it can have serious consequences for people, the economy and the environment.

The UK's regulatory landscape is complex, with a wide range of regulators and other bodies responsible for the regulation of different sectors. The Department for Business, Energy & Industrial Strategy (the Department) has over-arching responsibility for regulatory policy across government and aims to ensure the UK has the right regulatory frameworks to help meet business and consumer needs; and to reform regulatory approaches to support innovation and productivity.

Based on a report by the National Audit Office, the Committee took evidence on 14 June 2021 from the Department for Business, Energy & Industrial Strategy. The Committee published its report on 15 September 2021. This is the government's response to the Committee's report.

Relevant reports

- NAO report: [Good Practice Guidance – Principles of Effective Regulation](#) – May 2021
- PAC report: [Principles of Effective Regulation](#) – Session 2021-22 (HC 176)

Government responses to the Committee

1: PAC conclusion: The response to the COVID-19 pandemic has shown what can be achieved when regulatory bodies work effectively together with a clear focus on outcomes.

1: PAC recommendation: The Department should identify what has facilitated effective regulatory cooperation during the COVID-19 pandemic and disseminate findings to the regulatory community to ensure good practice is embedded and learning is not lost. It should also consider the risks of the changes in process as a result of the pandemic and how these were appropriately balanced.

1.1 The government agrees with the Committee's recommendation.

Target implementation date: Winter 2021

1.2 Bodies such as the Medicines and Healthcare products Regulatory Agency, Health and Safety Executive and Office for Product Safety and Standards demonstrated the importance of an agile and cooperative approach to respond to the COVID-19 pandemic, and the Department for Business, Energy and Industrial Strategy (BEIS or the department) has already worked with them to learn about their experiences. This will be further built upon at a meeting of the Regulators' Forum to be arranged in early 2022.

1.3 Alongside ongoing engagement with regulators, Ministers have held a number of roundtables with regulators to share best practice from the COVID-19 pandemic response. This learning will also be embedded into the government's current reform of the regulatory framework: the current consultation considers the role of regulators and how agile regulation can best be supported.

2: PAC conclusion: The Department and regulators have been slow to follow best practice in facilitating innovation.

2: PAC recommendation: Government should require regulators to engage meaningfully with businesses to explore potential new ideas and innovations and adopt regulatory sandbox type approaches, in a way that does not hinder regulatory objectives or create undue risk.

2.1 The government agrees with the Committee's recommendation.

Target implementation date: Winter 2021

2.2 As noted in the Committee's report, the government already encourages innovation friendly regulation, including sandboxes, through work such as the Regulatory Horizons Council and the Regulators' Pioneer Fund.

2.3 The government also encourages regulators to adopt more innovative approaches in their delivery of regulation and are considering how this could be built upon. The department's current consultation is seeking views on the effectiveness of creating statutory duties for regulators to promote innovation and competition. The consultation ended on 1 October 2021 and the government will respond in due course.

3: PAC conclusion: Regulators may fail to protect citizens, businesses and the environment if they do not successfully adapt to major changes in their sectors.

3: PAC recommendation: Government and regulators should work together to ensure that regulatory frameworks are responsive, and that regulators themselves are well equipped, to be able to match the challenges and opportunities provided by the UK's departure from the EU.

3.1 The government agrees with the Committee's recommendation.

Target implementation date: Winter 2021

3.2 As outlined in the consultation on Better Regulation that closed on 1 October 2021, the government has set out five principles that will underpin the approach to regulation to ensure it benefits the British people and takes advantages of the new opportunities from leaving the EU:

- regulation will have a sovereign approach that tailors how rules are set to boost growth for the UK;
- the UK will lead from the front by acting flexibly and supporting the development of new technologies;
- the way regulation is developed will be proportional and responsive;
- by analysing regulations to ensure they work effectively in practice, the government will ensure regulation works; and
- high standards will be set at home and globally.

- the responses to the consultation are currently being considered and the government’s response will be published in due course.

4: PAC conclusion: Regulatory bodies do not have a good enough understanding of the costs and benefits of regulation, risking value for money.

4: PAC recommendation: In its review of the Business Impact Target, the Department should consult with regulatory bodies and wider stakeholders on how to ensure robust analysis of regulatory costs and benefits is built into regulatory policy design and evaluation. Furthermore it should include proposals to better reflect the impact of regulation in promoting competition and innovation.

4.1 The government agrees with the Committee’s recommendation.

Target implementation date: Winter 2021

4.2 This work is already underway and reforming the Business Impact Target to accurately capture the impacts of regulation is a fundamental part of the “Reforming the framework for better regulation” consultation, which was open to the public to provide responses from 22 July 2021 until 1 October 2021.

4.3 The current BIT framework allows for the financial impacts of regulation to be captured accurately. It does not lend itself, though, to capturing the wider impacts of regulation, such as its impact on innovation. The consultation therefore invites views on how to capture better the regulatory costs and benefits. The consultation provides four options with regard to the metric – adjust the current system, change it, replace it or remove it. The choice of metrics used (and which of the four options of adjust the current system, change it, replace it or remove it is chosen) will impact upon the ability to measure less clearly defined concepts such as innovation, competition, wellbeing, and security.

4.4 The government’s proposals to improve the analysis of regulatory costs and benefits will be set out in the consultation response. The response will also consider regulators’ role in the promotion of competition and innovation and whether to revise existing guidance and statutory objectives.

5: PAC conclusion: Outcomes-based regulation comes with benefits, but also presents challenges for regulators in measuring their influence and compliance by industry.

5: PAC recommendation: Government and regulators should work together to build in proper consideration of the right balance between outcomes-based and rules-based regulation in their sectors, to ensure regulatory objectives are not compromised and non-compliance by regulated entities does not go undetected.

5.1 The government agrees with the Committee’s recommendation.

Target implementation date: Winter 2021

5.2 Key to ensuring a proportional approach is recognising what is necessary in each instance. There will be sectors and circumstances where market freedom and an outcomes-based regulatory approach is preferable, and others when a more prescriptive rules-based approach is required. The government will use non-regulatory options to deliver the desired outcomes where it can, while acting decisively to put in place strong rules where they are needed.

5.3 The consultation on “Reforming the framework for better regulation” considers a number of proposals to address achieving this balance, including moving to a common law approach to regulation and the adoption of a proportionality principle. The government will review all of the consultation responses received and use them to inform decisions about what actions will be taken next. A government response to the consultation will be published in late 2021 detailing which proposals the government has decided to take forward, and why.