

1	Regulators should carry out the their activities in a way that supports those they regulate to comply and grow	
Ref	Requirements	How we meet the requirements
1.1	Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities 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, business size and capacity.	ICO's DP Regulatory Action Policy details the guiding principles supporting decisions on enforcement. Recent work on self assessment for small and medium sized enterprises, the change in approach to the handling of DP concerns (Project Eagle) and audit visits for charities, voluntary organisations and the third sector evidence this.
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 entities, eg by considering how they can best: <ul style="list-style-type: none"> • 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; and • encourage and promote compliance. 	We regularly consult on how we regulate, including recently on online notification, the 2020 vision and the changes in the approach to the handling of DP concerns. In addition Strategic Liaison regularly engages with major stakeholders; our regional offices engage with local stakeholders and in particular the devolved administrations and we have a comprehensive suite of guidance and codes of practice available on our website.
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.	Many staff have DP BCS qualifications and/or the audit qualification. Strategic Liaison, audit teams and other parts of the office are arranged sectorally and hence build knowledge their sector. We are also planning sectoral reference panels to explore changes in ICO regulation

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		<p>and “know about” sessions with representatives from SMEs and the Better Regulation Delivery Office.</p> <p>Our regional offices provide intelligence on their stakeholders which feeds into enforcement decisions.</p> <p>Visits to organisations (such as when undertaking audits) allow staff to become familiar with sectors.</p>
1.4	Regulators should ensure that staff understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.	Good regulatory practice is built into the work of the ICO and is supported by policies and procedures, for example the “know about” sessions referred to above.

2	Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views	
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2.1	Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to development of policies and service standards.	The ICO has a consultation policy and advertises consultations on Twitter, its home page and by enews letter. It also undertakes research to track both organisations' understanding of their obligations and individuals' understandings of their rights.
2.2	Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.	The ICO does this; evidenced by consultations on changes to online notification, the 2020 vision and on the approach to the handling of DP concerns.
2.3	In responding to non-compliance, regulators should explain what the non-compliance is, the advice being given, actions required/ decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue with a view to ensuring that they are acting in a proportionate and consistent way ¹ .	It is standard procedure that we discuss issues with data controllers before deciding on enforcement action. The audit process itself includes several opportunities for data controllers to input views and opinions.
2.4	Regulators should provide an impartial and clear route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers who took the decision against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised.	There are clear statutory rights of appeal against enforcement decisions which all data controllers are advised of when we decide to take action. There is also a complaints process for individuals and organisations; and the PHSO will consider complaints of mal-administration against the ICO. Finally the Code is referenced in the ICO Complaints Procedure.
2.5	Regulators should provide a timely explanation in writing of any right to representation or right to	Formal appeals against ICO decisions are dealt with by the Tribunal Service. However enforcement

¹ 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.

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	appeal. This explanation should be in plain language and include practical information on the process involved.	notices go out with clear guidance in appeal rights.
2.6	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.	See 2.4 above. Details on service complaints can be found on our website.
2.7	Regulators should have mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.	We have a rolling series of customer satisfaction surveys and the issuing and collection of a feedback questionnaire is a formal part of the audit process.

3 Regulators should base their regulatory activities on risk		
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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 risks.	IRC annually assesses the information rights risks and monitors progress in tackling them. Resources are allocated as part of business planning.
3.2	Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate intervention; targeting checks on compliance; and when taking enforcement action.	The ICO does take a risk based approach to its enforcement activity. In particular when assessing data controller suitability for an audit we only seek consent from those data controllers which we believe demonstrate the highest risks.
3.3	Regulators designing a risk assessment framework, 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.	The ICO will provide a self assessment toolkit for SMEs and has published information on privacy impact assessments for use by others. These were consulted upon.
3.4	In an assessment of risk, regulators should recognise the compliance record of those they regulate, and should consider all available relevant compliance data, including evidence of relevant external verification.	The ICO does this as evidenced in the Project Eagle work and decisions on how enforcement action is decided upon. In addition Risk assessments to determine suitability for audit include consideration of complaints, enforcement action, policies published by the data controller, external audit reports and other publicly available information.
3.5	Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.	The ICO Plan 2014-2017 details that a review will take place, and that we will be researching the effectiveness of civil monetary penalties.

4	Regulators should share information about compliance and risk	
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4.1	Regulators should collectively follow the principle of "collect once, use many times" when requesting information from those they regulate.	The ICO is doing this with the simplified notification process and the use of the ICE database.
4.2	When the law allows, regulators should agree secure mechanisms to share information with each other about bodies they regulate, to help target resources.	The ICO shares data as appropriate with organisations such as OFCOM, the Police, Treasury Solicitors, and internationally; when the law allows. Sharing is also governed by MOUs.

5	Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply	
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5.1	Regulators should provide guidance focused on helping organisation understand and meet their responsibilities. When doing so legal requirements should be distinguished from good practice and the impact of the guidance should not impose unnecessary burdens in itself.	We do this in guidance and codes of practice, and audit and audit visit reports clearly distinguish between steps required for compliance and those that represent good practice.
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.	The ICO seeks to do this as evidenced by the plain English certification of the general DP guidance.
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.	The ICO has a consultation policy and advertises consultations on Twitter, its home page and by enews letter. We also form small groups to consult on specific matters, for example the recent Leveson workshops. There is also an ICO Policy Development methodology that we use when developing guidance which ensures rigour in our process.
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.	The ICO does this, for example in not taking formal enforcement action against failures to comply identified by ICO audits. People can also seek anonymous help from our telephone helpline.
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.	The ICO does this already. It receives over 200k enquiries in the course of the year.
5.6	Regulators should have mechanisms to work collaboratively to assist those regulated by more than	The ICO does discuss how best to enforce with other regulators who have an interest in an issue and we

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	one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice, this should be discussed with the other regulator to reach agreement.	<p>have memorandum of understanding with many regulators, copies of which are available on our website. These discussions include devolved regulators.</p> <p>Working with other regulators is also clearly signposted in the recent 2020 consultation and in the Strategic Liaison business plan.</p>

6 Regulators should ensure that their approach to their regulatory activities is transparent		
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6.1	Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.	ICO service standards are published on our website.
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;	Contact details are published on the website.
b)	their approach to providing information, guidance and advice;	The ICO publishes its three year rolling Plan which details what its aims are and how it will meet them.
c)	their approach to checks on compliance, including details of the risk assessment framework used to target those checks and protocols for their conduct, clearly setting out what those they regulate should expect;	We publish "Auditing data protection; a guide to ICO data protection audits", and "A guide to ICO advisory visits". Both provide information relevant to the code requirements. Letters of Engagement for audits set out the clear expectations of the ICO and make clear delivery commitments.
d)	their enforcement policy, explaining how they respond to non-compliance;	The DP regulatory action policy is published on our website. We also publish our "Standard operating procedure; monetary penalty notices".
e)	information on fees and charges, clearly explaining the basis on which these are calculated and an explanation of how compliance will affect fees and charges; and	We do not charge fees other than the statutory notification fee and for some ICO conferences.

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	f) how to comment or complain about service provided and how to appeal.	Details on service complaints and how to appeal can be found on our website.
6.3	Information published to meet the requirements of this Code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted, and is kept up to date.	<p>Information about how the ICO regulates is available across its website. Further information is targeted at organisations the ICO regulates on a day to day basis as and when needed, eg when taking forward issues with the organisation.</p> <p>Because of this targeted approach, and the regular research into how the website is used, it is not thought necessary to pull together the information about the code into one place on the website. However reference to the code and how the ICO has regard for it is available on the "How we work" part of the website.</p>
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.	The available mechanisms are line management, the core competencies, and training.
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.	<p>Performance against service standards is published.</p> <p>Feedback from our audit and audit visit activity is regularly published in our sectoral outcomes reports.</p>