



## **NATURAL ENGLAND'S REGULATORY STRATEGY**

### **1. Introduction**

Natural England's principle focus for regulation is the protection and enhancement of England's natural environment, securing better environmental outcomes for the benefit of present and future generations.

Regulation is one of the five primary levers, along with advocacy, advice, incentives and direct delivery, that Natural England has at its disposal to secure outcomes.

This document is intended as a broad over-arching strategy which sets out Natural England's approach to regulation. It outlines the Hampton and better regulation agenda and sets out some proposed 'next steps' that will guide the integration of the core regulatory business and drive service improvements.

This Strategy, and the documents and projects that underpin it, will enable the business and customers that we regulate to broadly understand the objectives and basis for regulation within Natural England.

### **2. General principles**

Natural England must ensure that our regulation:

- functions within the context of Natural England's statutory purpose;
- delivers better environmental outcomes;
- is consistent, proportionate, transparent, targeted and accountable (i.e. complies with the statutory Regulators' Compliance Code<sup>1</sup> – derived from Hampton principles and better regulation principles);
- is part of a package that encourages our customers to comply with legislation and focuses our efforts on those that fail to comply;
- where practicable, will reduce the administrative burden on customers and realise internal efficiencies and savings.

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<sup>1</sup> The Code came in to effect on 6th April 2008

*Definition of regulation ('regulatory functions'):*

Section 32(2) Legislative and Regulatory Reform Act (2006) defines "regulatory function" as:

*"a function under any enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity; or  
a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which under or by virtue of any enactment relate to any activity".*

Whilst this definition (of regulatory functions) is broad, this Regulatory Strategy document is aimed at the core of Natural England's "regulatory business": *Wildlife Management and Licensing, Protected Areas and Access*<sup>2</sup>.

There are other areas of the business, for example land management incentives, that are clearly captured by the definition above and, whilst not 'core regulatory business', the statutory Regulators' Compliance Code is still applicable.

### **3 Natural England's regulatory framework – a "licence to operate"**

Natural England is a Non Departmental Public Body (NDPB) created by the Natural Environment and Rural Communities Act 2006 ("the Act").

Section 2(1) of the Act sets out Natural England's general purpose:  
*"ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development".*

Whilst Natural England is not a 'regulator' or 'inspectorate' in the way that the Environment Agency and Rural Payments Agency are, Parliament, via the Act and other legislation, has provided Natural England with a range of regulatory powers, duties and functions.

As intended by Parliament, Natural England will use its powers, duties and functions to secure better environmental outcomes for the benefit of present and future generations.

Where it is practicable to do so, our use of regulation will be integrated with other levers (advocacy, advice, incentives and direct delivery) to deliver these outcomes. For example, in cases where one lever is failing to deliver SSSI favourable condition, regulation will be appropriately used to secure the desirable management of the land.

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<sup>2</sup> Including: Sites of Special Scientific Interest, Special Protection Areas, Special Areas of Conservation, heather and grass burning, Environmental Liability Directive, Open Access

#### **4 Hampton and better regulation principles and the Regulators' Compliance Code.**

The broad purpose of the Government wide Hampton and better regulation initiative is to ensure that regulatory bodies undertake their activities in ways which are:

- consistent: in the way that regulation is undertaken;
- proportionate: a balanced, tiered approach, will be applied to enforcement incidents;
- transparent: customers should be encouraged to comply with the law, and will understand what action Natural England will take if the law is breached;
- targeted: risk assessment should be used to concentrate resources in the areas that need them most. Those customers that regularly comply will benefit, from 'light touch' regulation;
- accountable: Natural England will adhere to the principles above and justify its choice of regulatory action, publishing both outputs and outcomes of regulatory action.

In regulating responsibly, 'economic progress' (a key Hampton theme), should be supported and the administrative burden on the customer reduced.

The *Regulators' Compliance Code: Statutory Code of Practice for Regulators* places a statutory duty 'to have regard' to the Code on all bodies with regulatory functions, including Natural England, in effect enshrining adherence to the Hampton and better regulation principles in law.

Operating within the confines of Natural England's statutory purpose, all parts of the business covered by the definition of 'regulatory functions' (see section 2 above) must have regard to the Regulators' Compliance Code and apply the Hampton and better regulation principles to guide the day to day operation of specific activities.

#### **5 Regulatory improvement - next steps**

Some work has already commenced and detailed improvement plans and projects are in operation. The matters highlighted below are intended to provide a direction of travel only in order to realise 'regulatory improvements'.

Natural England will strive to deliver continuous service improvement, and so the list, below, cannot be regarded as exhaustive. If certain initiatives, projects or programmes are not listed, this does not mean that they are not important or should not be undertaken.

##### ***Business wide (including Core):***

- Embed Hampton and better regulation principles within relevant areas of the business – have regard to the statutory Regulators' Compliance Code;

- Continually assess the legislation we use – ensure it is fit for purpose, consider amendments or moving regulation to other bodies. Horizon scan to ensure we are aware of / champions for new legislation;
- Ensure join-up with other regulators (e.g. Rural Payments Agency and Environment Agency) to ensure that the best use is made of their regulation to deliver our environmental outcomes (e.g. Single Farm Payment cross-compliance and protected areas).

***Core Business:***

- Development of a Natural England Enforcement Policy and Enforcement strategy that integrates founder body enforcement work and introduces new ways of working to ensure that Natural England is a ‘firm but fair’ regulator focussed on environmental outcomes;
- Where not currently undertaken, build capacity to ensure that core regulatory business is owned and proportionately delivered locally with support from national specialists who set standards, offer support, ensure consistency, and lead on appropriate pieces of casework;
- Ensure more ‘regulatory integration’ and horizontal working across the business (e.g. ensure effective planning casework/licensing/protected areas join up) to achieve integrated decision making, maximising environmental outcomes and reduce the administrative burden on the customer.
- Investigate, with our business, alternative delivery models e.g. Incentive Scheme Service centres.

**Natural England June 2008**