

November 2023

Unchecked UK response to Industry and Regulators Committee inquiry on UK Regulators

Introduction

Unchecked UK is a non-partisan network of over [70 organisations](#) making the case for strong social and environmental protections, and for the public bodies which enforce them. We welcome this inquiry and believe it presents a vital opportunity to reset the relationship between government and regulators, and deliver the reform needed to renew the UK's regulatory system.

Overview

Empowered and well-resourced regulators are essential to maintaining public trust, promoting fair economic growth and protecting the environment. When regulators do their jobs, law-abiding businesses prosper and public trust in the market increases. Competent regulators with sufficient resources signal that the government takes its duty to protect people and the environment seriously. Confidence in oversight allows markets to thrive with the full faith of consumers, employers and investors.

Conversely, when oversight bodies lack sufficient resources, powers and capabilities, rules go unenforced and people feel the impact. Unfortunately, this is increasingly the case in the UK. Whether it's nuisance calls or fly tipping, sewage discharges or online harassment, evidence of market failure is becoming increasingly present in communities and everyday lives.

Polling and focus groups find strong support for the idea that regulations keep us safe. British people – regardless of their age, politics or location – believe that regulation helps protect the environment and see strong labour market and consumer regulations as instrumental in ensuring that the economy delivers fairer outcomes.¹ We also know that UK businesses see robust, well-enforced regulations as essential to creating the conditions necessary to boost growth and drive investment.² According to our polling, fewer than a fifth (18%) of UK businesses see excessive government regulation as the most important domestic issues facing them and a similarly small proportion (20%) think the government regulates business environment practises too much.³ Contrary to

¹ [Unchecked UK: Public Attitudes](#)

² [Unchecked UK: Playing by the Rules](#)

³ [Regulation: what does UK business think?](#)

a widely held view that UK businesses are being held back by regulations, our consultations suggest that businesses are far more concerned about the dearth of robust regulatory frameworks and the insecurity that arises from ill-thought through initiatives to cut the so-called 'burden of regulation'.

Addressing the crisis affecting the regulatory system is both possible and desirable. The UK has a strong track record in establishing world class regulators. Relatively small investments (many of which could be paid from by the proceeds of enforcement) would be transformative and deliver significant returns (see table below).

The current direction of travel is therefore poor value for money and detrimental to the UK's international reputation. The inquiry should call for an urgent correction.

Enforcement yields a strong returns on investment:

£1 spent on waste crime enforcement = £5.60 in economic, social and environmental benefits (Source: Environmental Services Association Education Trust)⁴

£1 invested in Trading Standards = £6 in consumer savings (Source: Office of Fair Trading)⁵

Benefits of environmental regulations outweigh the net cost to business and civil society by at least three to one. (Source: Department for Environment, Food & Rural Affairs)⁶

£1 invested in running the Competition and Markets Authority to protect people from unfair trading practices = £26 in financial benefits to consumers (Source: Competition and Markets Authority)⁷

£1 spent on the HMRC's tax fraud work = £18 in additional taxes (Source: National Audit Office)⁸

⁴ [Environmental Services Association Education Trust: Waste Crime](#)

⁵ [National Audit Office: Protecting consumers – the system for enforcing consumer law](#)

⁶ [Emerging Findings from Defra's Regulation Assessment](#)

⁷ [CMA Annual Report and Accounts 2022 to 2023](#)

⁸ [HMRC's annual report and accounts 2022 to 2023](#)

Are UK regulators being given a clear job to do?

Initiatives such as the Government's [Red Tape Challenge](#), [Cutting Red Tape Programme](#), and [Reforming Regulation Initiative](#) have perpetuated a perception of regulatory measures as burdens, further detracting from the true value and purpose of these vital protections.⁹

Regulators across different sectors have voiced mounting concerns about political interference which is undermining clarity and causing confusion. In 2021, a former chair of the Equality and Human Rights Commission warned that the watchdog was being undermined by political pressure to align with the government's agenda.¹⁰ Similarly, last year the interim chair of the Financial Conduct Authority raised an alarm about the regulator's autonomy being undercut through the introduction of ministerial "call-in powers" over its decisions.¹¹

Our view is that ongoing focus on the quantity of regulation has come at the expense of serious and strategic consideration about the important role that regulators play in an advanced economy like the UK. Such drives are often predicated on very biased assumptions about the economic impacts of regulations, and fail to take account of the role which regulations need to play in the pursuit of key agendas, such as driving net zero, addressing pollution, improving mental health or tackling obesity.

Is the right balance being struck between the responsibilities of regulators and those of the Government, particularly where there are political or distributional trade-offs that need to be resolved?

The Growth Duty, which came into statutory effect in March 2017,¹² has undermined clarity in terms of the responsibilities of regulators. This duty requires key regulatory bodies, including the Environment Agency and the Health and Safety Executive, to have regard to the desirability of promoting economic growth above all other concerns. We believe that whilst doing little to promote growth, the duty undermines regulators' primary objectives, which are to protect the public interest.

We are therefore concerned by the Government consultation to extend this duty to Ofgem, Ofwat and Ofcom.¹³ These critical economic regulators already struggle to deliver on their primary objectives. We have seen some of the UK's largest energy

⁹ See for example, [The Californication of Government](#)

¹⁰ [The Guardian: EHRC undermined by pressure to support No 10 agenda, says ex-chair](#)

¹¹ [The Guardian: Political intervention would undermine City regulators, says FCA](#)

¹² [Statutory guidance: Growth duty](#)

¹³ [Smarter regulation: extending the growth duty to Ofgem, Ofwat and Ofcom.](#)

companies collapse last year, and water companies have rewarded executives and shareholders despite crumbling infrastructure and record sewage pollution. Putting the duty to deliver on growth above other considerations will further undermine these regulators' sense of responsibility for the public and the environment.

In order to restore clarity, we propose the introduction of a Protection Duty to replace the Growth Duty and help to rebalance how regulators see their role. This could be facilitated by redrafting and relaunching the Regulators' Code. The new code should state that the primary role of regulators is to protect people and the environment, alongside promoting investment, innovation and economic growth. The Regulatory Policy Committee should also be given the power to 'red rate' regulations on the basis of their potential social and environmental impact.

Are the roles and remits of different regulators sufficiently discrete, or is there overlap and duplication?

Our assessment is that the UK's regulatory landscape is reasonably discrete given the complexity of our economy, with most bodies focused on specific sectors or issues with specialised skill sets. Indeed, some duplication may be necessary to ensure there is comprehensive oversight.

Overall, overlap is a lesser risk than regulatory gaps. Here we see far greater challenges, highlighted by a number of government organisations. The NAO has warned about the growing shortcomings of the UK's consumer protections regime.¹⁴ In 2017, the Government's Taylor Review highlighted the dearth of regulation in the most vulnerable sections of the labour market, calling for a redoubling of resources and consolidation of agencies, neither of which have been enacted.¹⁵ Similar instances exist in relation to a host of issues, such as online gambling and, until recently, vaping technologies.

Addressing gaps and weaknesses in the system should be a greater priority than dealing with overlaps and consolidation. Poor coordination is a far lesser concern than the hollowing out of expertise and capacity over the past decade. Reversing this erosion should be the priority for the inquiry.

14

<https://www.nao.org.uk/wp-content/uploads/2021/02/Protecting-consumers-from-unsafe-products.pdf>

15

<https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>

Do the UK's regulators have the necessary skills, capabilities and expertise internally to perform the roles they have been given? If they do not, how could this be improved?

Between 2009-2019, key regulators in the UK suffered severe budget reductions. The Forestry Commission's funding was reduced by 53%, while Natural England faced a drastic 72% cut. Local Authority environmental and regulatory services saw a 31% decrease, and both Natural Resources Wales and the Marine Management Organisation underwent cuts of 32% and 56%, respectively. The Human Rights Commission and the Health and Safety Executive grappled with significant staff reductions of 61% and 34%, respectively, leading to a marked decline in enforcement activities such as inspections.

These cutbacks have led to a worrying enforcement gap, and had a huge impact on the skills and expertise that exist in the system.¹⁶ Regulators are struggling to retain experienced staff and key expertise. As the system has drained staff to the private sector, key specialist knowledge and skills have been lost. A good example is food standards regulators, who have lost specialists and now struggle to test products properly for allergens and contaminants.

We also find the private sector highlighting that under-staffing is becoming a growing concern. Our consultations with business flag growing frustrations with regulators falling behind new developments, and signal that factors including capacity and expertise, rather than regulatory overzealousness, are creating the greatest challenges.

Overall, we believe the inquiry should demand a plan for redressing the hollowing out of expertise and capacity as a matter of urgency. This will require increased budgets for recruitment, training and retention.

We call on the inquiry to propose a major audit of the UK's regulatory capabilities more broadly. This process should seek to establish whether the current system is fit for purpose in light of the cumulative impact of budget cuts. This review should establish whether the fact that most have had to assume additional responsibilities (both as a consequence of Brexit, and as a result of wider developments, including those resulting from technological advances). The review should focus on a funding settlement that would make the system fit for purpose once again.

¹⁶ [Unchecked UK: The UK's Enforcement Gap 2020](#)

Who should hold the regulators accountable for their performance against their objectives? What is the appropriate role of Parliament in performing this scrutiny role?

In order to prevent political preference from jeopardising their independence, regulators should be accountable not to ministers but to Parliament – through a relevant select committee. Select committees should conduct regular reviews of regulators' performance and resources. Committees could be given enhanced powers to request information from regulators and make recommendations.

However, parliamentary committees with responsibility for scrutiny of regulators need to be properly resourced. Steps should be taken to ensure committees carrying out scrutiny have the necessary technical expertise, either through the recruitment and training of clerks and advisers, or by allowing committees to request input from external experts. Others have also recognised the need for select committees to be able to draw on specialist expertise. The Centre for Policy Studies has proposed the creation of a Parliamentary Regulatory Oversight Panel (PROP) to empower select committees with the necessary tools and expertise for more effective oversight.¹⁷ The National Audit Office also serves as a good model: it is accountable to the Public Accounts Commission, which determines its funding, appoints non-executive board members, and scrutinises its performance.

Funding for regulators, traditionally set by the Secretary of State of the parent department, should also be subject to greater Parliamentary scrutiny. Regulators could be given the power to propose their own budget estimates, to be submitted to Parliament or the relevant select committee for approval. Regulators could also be required to indicate in annual reports whether they have been allocated sufficient funds to carry out their statutory functions.

Crucially, the performance of regulators should be assessed on the basis of outcomes-focused metrics that track progress towards social and environmental goals (like cleaner air or fewer workplace injuries) not exclusively in relation to value for money criteria.

Conclusion

In summary, regulators play a crucial role in safeguarding the public interest, protecting the environment and ensuring fair economic growth. But there is an urgent need for

¹⁷ [Centre for Policy Studies: Regulating the Regulators](#)

action, one that reasserts the centrality of public protection and addresses the growing weaknesses in the system, particularly those that are driven by under-resourcing.

The inquiry should recognise the significant challenges that regulators face, from political pressures to financial constraints, making the case that addressing these challenges is not only feasible but also economically sound. By reinforcing the independence of regulatory bodies and ensuring they are well-resourced and free from undue political influence, we can rebuild public trust, reassert our international reputation, and create a more robust, fair, and safe society.

Unchecked UK welcomes the Industry and Regulators Committee's inquiry as an important step. We would welcome the opportunity to contribute further to this inquiry.