

# Natural England Standard

## How we use regulation



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### 1:0 About this standard

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#### Introduction

This strategic standard describes the principles that govern how we fulfil our role as a regulator. The principles are designed to help us reach solutions that protect the environment as well as contributing to sustainable development.

Natural England's regulatory duties are based on a range of legislation relating to the natural environment and covering both national and international obligations. The relevant legislation for us is shown at [Annex 1](#). We perform some regulatory functions on behalf of government and some independently, and our regulatory role also supports government policy.

Regulation is one of a number of important means by which we can fulfil our organisational purpose of conserving and enhancing the natural environment and thereby contributing to sustainable development. It is one of the ways that we work with and through others to achieve our purpose.

We recognise the importance of explaining how and why we regulate in the way we do so that it is understood and respected by our customers<sup>1</sup>, ensuring environmental outcomes are achieved.

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### 2:0 The standard

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#### How Natural England delivers its regulatory role

This strategic standard for regulation sits alongside other standards describing how we deliver our work, such as the [Customer Standard](#), the [Evidence Standard](#) and the strategic standard for Advice on Development (due April 2013). Trained and skilled staff are vital to delivering our regulatory role and our Capability Standard (due April 2013) covers this topic. These other standards are relevant to how we regulate and should be applied in conjunction with this standard.

Natural England's ambition is to fulfil a regulatory role that is valued and respected for making a significant contribution to achieving positive outcomes for the natural environment and the social and economic benefits it provides. The principles below describe how we will achieve that ambition.

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<sup>1</sup> We use the word 'Customers' in this document to refer to the partners we work with and the customers we serve.

Our customers are encouraged to request advice at the earliest opportunity. Experience tells us that the earlier our advice is sought, the greater the chance of finding a solution that is legally-compliant, timely and successful in delivering multiple benefits.

**R1 When we regulate, we will apply the principles of the [Regulators' Compliance Code](#).**

**a) Our actions will be risk-based, targeted and proportionate**

- We will use a risk-based approach to applying and prioritising our regulatory activity, including data and information collection, advice and support, inspections, enforcement and sanctions.
- Our approach will be based on all relevant evidence available to us. We will consider the likelihood of non-compliance and its impacts on environmental outcomes.
- We will put more emphasis on, and commit more resource to, the most high risk situations where our input will be most effective in achieving positive environmental outcomes.
- We will ensure that our regulatory approach provides value for money.
- We will be clear with those we work with about what the statutory requirements are.

**b) Our decision-making will be consistent, transparent, timely and accountable**

- We will use consistent approaches, following operational standards and guidance where appropriate, so that our customers will have the confidence of knowing what to expect from us. This does not mean that our advice and decisions will always be the same, because the natural environment is variable and we need to reflect the circumstances of each case.
- We will operate with transparency; we will explain our decisions and the information we have used to make them, as appropriate to the circumstances<sup>2</sup>.
- We will provide timely responses to our customers, ensuring we apply our [Customer standard](#).
- We will use quality management to ensure that our decisions are consistent and appropriate, as described by our Quality Management standard. This means that those we regulate can be confident that we are making the very best decisions that we can.
- We will take responsibility for the decisions we make, always acting within Natural England's agreed governance arrangements.

**R2 Partnership working is important to us. It helps us to be more effective and optimize the benefits for people and the environment**

- We will work closely with our partners, including Government agencies, the Police and other regulators, to improve the integration of the regulatory role we provide.
- In some circumstances we may also involve others when we provide advice and make decisions, for example if they have evidence or specialist knowledge relevant to a case.
- Where we require the same information from a customer as another regulator we will consider sharing data<sup>3</sup> where this is practicable, beneficial, cost effective and legally permissible.

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<sup>2</sup> Subject to constraints in circumstances involving legal proceedings

- We will consult with our customers on our approach to regulation, particularly where we plan to make significant changes to our approach.

### **R3 When we regulate we will take account of sustainable development**

- Where our statutory duties allow us, we will consider the impact that our regulatory responsibilities may have on socio-economic progress, including the cost, effectiveness and fairness of our regulatory activity.
- We will deliver an approach which seeks to find solutions that meet both the regulatory requirements and the customer's needs.

### **R4 To regulate effectively we will carry out compliance checks**

Compliance-checking is an important activity and allows us to become aware of areas of concern. Our regulatory role includes checking compliance with consented activities and with licences or permits we have granted.

- Our greatest effort will be targeted to situations that we consider to be high-risk.
- Our focus will be on helping people to achieve compliance, recognising that the majority of people want to comply. We will provide general information and advice or guidance to make it easier for our customers to understand and meet their regulatory obligations.
- If breaches of the legislation have taken place, we will take the necessary and proportionate enforcement action, as specified in our Compliance and Enforcement standard.

### **R5 We will use enforcement and sanctions where necessary to achieve environmental outcomes**

- Enforcement is part of our regulatory role and we will be robust in its use where it is needed.
- If things go wrong we will also offer assistance, advice, incentives or practical action to get things back on track.
- Where we are considering enforcement action we will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach.
- We have access to a range of proportionate sanctions. Where we do decide to use a sanction we will use it to:
  - aim to change the behaviour of the offender
  - aim to eliminate any financial gain or benefit from non-compliance
  - be responsive and consider what is appropriate for the offender and the regulatory issue
  - be proportionate to the nature of the offence and the harm caused
  - aim to restore the situation to one of compliance, and

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<sup>3</sup> Paying due regard to Data Protection legislation and requirements

- aim to deter future non-compliance<sup>4</sup>.
- We will seek restoration where possible and appropriate to do so.
- We will explain any complaints and appeals options available.

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<sup>4</sup> These principles from the Regulators' Compliance Code reflect the Macrory Review principles.

## Annex 1: Summary table of Natural England's regulatory role

What's our role?	The legislation we work to
<ul style="list-style-type: none"> <li>• Issuing consents, assents and advice for activities on or affecting protected sites: Sites of Special Scientific Interest (SSSIs), Special Protected Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites</li> <li>• Serving Management Schemes and Notices in order to remedy lack of positive management on SSSIs</li> <li>• Enforcement of offences committed on or affecting SSSIs</li> </ul>	<ul style="list-style-type: none"> <li>• Wildlife &amp; Countryside Act 1981 (as amended)</li> <li>• Conservation of Habitats and Species Regulations 2010 (as amended)</li> <li>• NERC Act 2006</li> </ul>
<ul style="list-style-type: none"> <li>• Considering cases of environmental damage in relation to terrestrial biodiversity; serving prevention and remediation notices where damage to biodiversity has occurred</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Damage (Prevention and Remediation) Regulations 2009</li> </ul>
<ul style="list-style-type: none"> <li>• Providing advice on wildlife management and assessing applications for licences for activities that would otherwise be illegal. Includes non-native species releases and reintroductions, prevention of damage to property or spread of disease, disturbing or moving protected species or destroying habitat of protected species</li> <li>• Enforcement of licence breaches</li> </ul>	<ul style="list-style-type: none"> <li>• Conservation of Habitats and Species Regulations 2010</li> <li>• Wildlife &amp; Countryside Act 1981</li> <li>• Protection of Badgers Act 1992</li> <li>• Deer Act 1991</li> <li>• Conservation of Seals Act 1970</li> <li>• Destructive Imported Animals Act 1932 (all as amended)</li> </ul>
<ul style="list-style-type: none"> <li>• Investigating poisoning of wildlife from pesticides and helping to enforce against pesticide offences</li> </ul>	<ul style="list-style-type: none"> <li>• Food and Environment Protection Act 1985</li> <li>• Control of Pesticides Regulations 1986</li> <li>• Biocidal Products Regulations 2001</li> <li>• Plant Protection Products Regulations 2011</li> <li>• Plant Protection Products (Sustainable Use) Regulations 2012</li> </ul>
<ul style="list-style-type: none"> <li>• Screening Environmental Impact Assessments and issuing consent or refusal, investigating referred cases and issuing enforcement notices</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006</li> </ul>

<ul style="list-style-type: none"> <li>• Granting licences to burn heather and grass outside the burning season, enforcement of breaches of the regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Heather &amp; Grass Burning Regulations 2007</li> </ul>
<ul style="list-style-type: none"> <li>• Resolution of complaints about injurious weeds including, if necessary, exercising powers to clear the weeds and recover the costs</li> </ul>	<ul style="list-style-type: none"> <li>• Weeds Act 1959</li> </ul>
<ul style="list-style-type: none"> <li>• Resolution of complaints about damage caused by pest animals including, if necessary, issuing enforcement notices to take action to prevent further damage</li> </ul>	<ul style="list-style-type: none"> <li>• Pests Act 1954</li> <li>• Agriculture Act 1947</li> </ul>
<ul style="list-style-type: none"> <li>• Issuing Camping and Caravanning Exemption Certificates</li> </ul>	<ul style="list-style-type: none"> <li>• Caravan Sites and Control of Development Act 1960 Public Health Act 1936</li> </ul>
<ul style="list-style-type: none"> <li>• Deciding where open access restrictions should be put in place for purposes of land management, safety, fire prevention, nature conservation or heritage preservation</li> <li>• Decadal review of maps of open country and registered common land that contain access rights</li> </ul>	<ul style="list-style-type: none"> <li>• Countryside and Rights of Way Act 2000</li> <li>• National Parks and Access to the Countryside Act 1949</li> </ul>

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**Quick reference****Type of standard** Strategic**Purpose:** This standard describes our role as a regulator and how we deliver it.**Owner(s):** Regulation Function**Sign-off:** Janette Ward, Director of Regulation  
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