



**BERR** | Department for Business  
Enterprise & Regulatory Reform

**CODE OF PRACTICE ON GUIDANCE  
ON REGULATION**

JULY 2008

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REGULATION  
EXECUTIVE



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Parliamentary Under-Secretary of State Department for Business, Enterprise and Regulatory Reform (BERR)	
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# Foreword from the Minister

If regulation is to achieve its objectives in protecting consumers, workers and the environment and making markets work efficiently it must be clear what you in business and other organisations need to do to comply with the law. Guidance which follows the rules in this Code of Practice will make it easier for you to understand how to follow regulation, increasing compliance and reducing the need to pay for external advice.



This Code of Practice sets out the golden rules which the government will follow when providing guidance on legislation having a significant impact on business and third sector organisations. I believe this Code of Practice will result in a real difference in the quality and relevance of the guidance you receive from government and its agencies.

A handwritten signature in black ink that reads "Shriti Vadera".

**July 2008**

**Shriti Vadera**

Parliamentary Under-Secretary of State  
Department for Business, Enterprise  
and Regulatory Reform (BERR)

# Introduction

This code of practice sets out the golden rules for guidance on legislation which will have a significant effect on business and the third sector. They have been created following views expressed by businesses, the third sector and other organisations and by a formal consultation process.

## **Who this code applies to**

UK Government Departments and their Agencies.

## **Status of the code**

The Code is a non-statutory code of practice. It sets out what you can expect from Government guidance. It is not legally binding and cannot prevail over statutory or mandatory external requirements (eg. under European Community law). Government departments and their agencies will, however, abide by this Code of Practice unless there are good reasons to depart from it.

The Government is committed to reviewing the effectiveness of this code. Feedback is welcome to [guidance@berr.gov.uk](mailto:guidance@berr.gov.uk).

## The golden rules of good guidance

The guidance you receive should be...

- 1 Based on a good understanding of users**

Effective guidance requires a good understanding of the target audience and their needs. Different types of organisations may have different needs for guidance.
- 2 Designed with input from users and their representative bodies**

Input from the users and their representative organisations is important to ensure that the guidance is designed and communicated effectively.
- 3 Organised around the user's way of working**

As far as possible, guidance will be aimed at helping businesses understand how the law applies to common business processes.
- 4 Easy for the intended users to understand**

Guidance will be written in clear language appropriate to the intended audience. It will be as concise as possible and avoid unnecessary acronyms and jargon.
- 5 Designed to provide an appropriate understanding of how to comply with the law**

Businesses should be confident that the guidance will help them understand how to comply with the law by providing a clear explanation of the law. While many regulations have exceptions or complexities, and their application will depend on particular facts, the guidance will give a clear understanding of how to comply in most cases. Simple checklists will be used wherever possible.
- 6 Issued in good time**

To give organisations time to prepare for regulations, guidance will be issued at least 12 weeks before a regulation comes into effect, with some necessary exceptions, e.g. emergencies. Sometimes more than 12 weeks will be needed, for example if a regulation is complex or costly to implement.
- 7 Easy to access**

Guidance will be easily available to the user. It will be accessible via [businesslink.gov.uk](https://businesslink.gov.uk). Other forms of communication, including sending guidance directly to businesses or communicating through intermediaries, will also be used where they will be effective.
- 8 Reviewed and improved**

Guidance will be reviewed to check it is up-to-date and allow direct feedback to check it works for the users. Guidance will be designed so that users can be confident that they are using the current version.

**1. Based on a good understanding of users**

Effective guidance requires a good understanding of the target audience and their needs. Different types of organisations may have different needs for guidance.

We will establish the intended audience for the guidance. We will consider what types of organisation may be interested and whether we have covered all appropriate sectors.

A good understanding of the audience will help to ensure that guidance is in the most appropriate format and language, and, once written, that it is distributed and publicised so that it has a good chance of reaching the target audience.

**2. Designed with input from users and their representative bodies**

Input from the users and their representative organisations is important to ensure that the guidance is designed and communicated effectively.

Guidance should be designed to meet the needs of the end-user and provides information that helps the organisation to comply with the law. When designing guidance, end-users should be involved at an early stage. This could be through a stakeholder panel or user-testing of specific pieces of draft guidance. Representative groups, such as trade associations, can be useful sources of knowledge and advice on how to make guidance work well for the target audience and should be approached when possible.

Input sought as early as possible will help ensure that the policy and guidance will work in practice.

**3. Organised around the user's way of working**

As far as possible, guidance will be aimed at helping businesses understand how the law applies to common business processes.

Guidance has often focused on specific legislation or the work of a particular Government Department that created the regulation. We understand that for a business trying to follow regulation, this approach can be unhelpful. We recognise that businesses and third sector organisations often think in terms of their own processes rather than legislative structures, and so may not realise some pieces of regulation apply in some circumstances.

For common business processes such as hiring new staff a number of areas of regulation must be considered and it can be confusing for organisations to try to bring together different sources of guidance and apply them.

As far as possible, guidance will be organised around common business processes, making it clear what actions should be taken at each stage.

#### 4. Easy for the intended users to understand

Guidance will be written in clear language appropriate to the intended audience. It will be as concise as possible and avoid unnecessary acronyms and jargon.

The easier guidance is to understand the more likely it is to be followed correctly. The language used should be as clear as possible. We will avoid jargon and acronyms which are not familiar to the end user. Clear communication is not restricted to text. When appropriate we will use graphics, flowcharts and videos to help to make guidance easier to understand.

Users should be able to tell quickly whether the regulation is likely to apply to their organisation, so they can decide whether to continue reading the guidance.

Guidance should be as concise as possible so that users do not have to spend too much time reading it.

As far as possible guidance should stand alone - most users should not need to consult other documents to understand it (although there should be clear links to more detailed or technical guidance for those that need it).

#### 5. Designed to provide an appropriate understanding of how to comply with the law

Businesses should be confident that the guidance will help them understand how to comply with the law by providing a clear explanation of the law. While many regulations have exceptions or complexities, and their application will depend on particular facts, the guidance will give a clear understanding of how to comply in most cases. Simple checklists will be used wherever possible.

If guidance is to be effective it should help most businesses understand how to comply with the regulations. This does not mean that guidance should aim to cover every possible scenario for compliance, as that would make it too complicated and unwieldy. It also does not remove the responsibility of businesses and third sector organisations to comply with the law, or the fact that interpretation of the law is ultimately a matter for the courts.

Nonetheless, giving businesses a good idea of how to comply is essential. The *Regulation and Business Advice* report found that uncertainty and lack of confidence make businesses more likely to pay for external advice, increasing the costs of complying legislation. The Hampton Report also stressed the need for guidance to be authoritative.

Users of guidance will be advised how to seek further advice if they are not sure, from the regulator in the first instance.

## 6. Issued in good time

To give organisations time to prepare for regulations, guidance will be issued at least 12 weeks before a regulation comes into effect, with some necessary exceptions, e.g. emergencies. Sometimes more than 12 weeks will be needed, for example if a regulation is complex or costly to implement.

If guidance is not issued in good time it can greatly increase the costs of regulation for businesses and third sector organisations. Late guidance can mean that organisations do not have time to get their systems ready to meet the regulation and so compliance is affected. Late guidance can also cause over-compliance, as businesses take a 'better safe than sorry' approach because of the uncertainty about the regulation.

Guidance issued at least 12 weeks before a regulation comes into force gives businesses a reasonable amount of time to prepare for that legislation. If the legislation is particularly complex or expensive, we will consider whether a longer period to prepare may be appropriate. However, there will be also be a limited number of occasions, such as emergencies, some taxation changes, and some European law, where legislation has to come into force quickly and it may not be possible to meet the 12 week limit<sup>1</sup>.

There are two "Common Commencement Dates" (6th April and 1st October) when the government is committed to bringing in regulation affecting businesses (unless the regulation is covered by an exemption). As far as possible, guidance will be issued 12 weeks before these dates.

## 7. Easy to access

Guidance should be easily available to the user. It should always be accessible via [businesslink.gov.uk](https://businesslink.gov.uk). Other forms of communication, including sending guidance directly to businesses or communicating through intermediaries, will also be used where they will be effective.

We recognise that high quality guidance will be ineffective if no-one reads it. Having understood our audience, we will produce guidance working with the audience and then ensure that it is made available in the most appropriate fashion. Input on how best to communicate guidance should be sought when gaining input on designing the guidance.

Guidance will be accessible through [businesslink.gov.uk](https://businesslink.gov.uk)<sup>2</sup>, either by hosting on [businesslink.gov.uk](https://businesslink.gov.uk) or by providing links to guidance sources.

Businesses like government to be active in informing them about new regulation. We will consider direct communication of guidance where this is likely to be effective.

<sup>1</sup> See Small Business Service, 2000. *Guidance on implementation periods: timing of the issue of guidance to business on compliance with new regulation*. London.

<sup>2</sup> Except in exceptional circumstances such as where guidance is subject to national security restrictions.

### **8. Reviewed and improved**

Guidance will be reviewed to check it is up-to-date and allow direct feedback to check it works for the users. Guidance will be designed so that users can be confident that they are using the current version.

Even guidance that has been well designed and tested before publication may not work perfectly. We will work to ensure that guidance is tested after it has been issued to see whether it is effective in informing users. If we identify problems, we will revise the guidance. Guidance should include the facility to provide feedback from users.

We will ensure that guidance is clearly dated and marked with a review date.

Guidance will also be withdrawn or archived when it no longer applies.

Guidance should also make it clear when it was issued and how long it applies for, so that users can be sure they are using the most up-to-date version.



Better Regulation Executive  
Department for Business, Enterprise and Regulatory Reform  
3rd Floor  
1 Victoria Street  
London SW1H 0ET

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