

# The purpose of regulation

Improving accountability of our regulators to get a better deal for consumers, businesses and the United Kingdom

The first report of the Regulatory Reform Group

April 2023

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## ABOUT THE REGULATORY REFORM GROUP

The Regulatory Reform Group (“RRG”) is a caucus of Conservative lawmakers who have come together to help shape a regulatory system which, following Brexit, needs to have democratic accountability at its heart, and should put outcomes for the consumer at the centre of all regulatory activity. The RRG hopes to encourage a wide-ranging rethink about the purpose of regulation, whether it works for the end users, and the outcomes the regulatory system is trying to achieve.

The RRG is comprised of:

- » **Bim Afolami MP (Chair)**
- » **Sir Robert Buckland MP**
- » **Alun Cairns MP**
- » **Vicky Ford MP**
- » **Richard Fuller MP**
- » **Mark Garnier MP**
- » **Stephen Hammond MP**
- » **Lord Andrew Tyrie**
- » **James Wild MP**

The RRG is supported by a cross-sectoral Business Advisory Council, chaired by Tracy Blackwell, the CEO of Pension Insurance Corporation. The Council uses its industry-specific expertise to aid in identifying where and how regulators can evolve to best benefit the economy, communities, households, and individuals across the country. To inform the report, the RRG has also engaged with senior figures in Government and regulators across various sectors.

### About the author

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SECTION

01

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# FOREWORDS

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## **Bim Afolami MP**

Chair of the Regulatory Reform Group

## **Tracy Blackwell**

CEO, Pension Insurance Corporation plc and Chair of the RRG Advisory Council

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## FOREWORD

### Bim Afolami MP

#### Chair of the Regulatory Reform Group

Politicians see first-hand the successes and failures of our regulatory system. Our inboxes are packed with constituent casework that can be traced back to regulatory decision making, and these examples are rarely positive. The management of the energy market, the roll out of digital infrastructure, the quality and extent of house building, the purity of our water, and protection from financial scams – to name but a few – are examples of where regulators hold influence over vital economic and social outcomes, affecting living standards for all of us in areas which reach far outside their specific remits.

It's worth noting that across many sectors, the UK is recognised as a world leader in regulatory practices, and we must build on these strengths. However, I founded the Regulatory Reform Group ("RRG"), supported by a Business Advisory Council, because the influence our siloed regulators exert can lead to distortions within the wider economy which are out of proportion to the problems they are seeking to manage. Yet today, no one has the remit to consider how a systemic approach to regulation can enhance regulatory decisions and, by extension, the lives of every individual in this country.

### **Following Brexit, this is one of the major issues that we need to address to help drive long-term economic growth, avoid the damage of sectoral bubbles, and increase productivity.**

During our years within the European Union, the UK hollowed out appropriate democratic oversight of regulators, in effect outsourcing this oversight to Brussels. We have lost the institutional memory - never mind the structures and processes - to hold arm's length bodies to account. Following Brexit, it is right for Parliament and its elected representatives to correct this democratic deficit at the heart of our economy, and to regain the ability to scrutinise whether our regulators have the right objectives; whether they are appropriately executing these objectives; and how these objectives benefit consumers, businesses and the overall UK economy.

This first report of the RRG therefore focuses on the issue of accountability. More than ever, careful consideration must be given to how we maintain where we can, and drive where we must, best practice across all of our regulators. This is vital to ensure we allow businesses, consumers and communities across the UK to thrive, whilst providing the right regulatory protections to manage risk.

Striking the right balance between regulatory decisions in specific areas and the wider systemic benefits of those decisions is not easy. But an essential precondition of success is the input of both the regulated and regulators. So this report has been informed by interviews with some of the highest profile UK regulators, as well as with input from the members of our Business Advisory Council.

This report is a first step for the RRG. In future reports we will be delving into more specific issues across sectors that have a bearing on the wider regulatory system, including: regulatory objectives; how regulators are addressing technological change; and how they are working to meet Government objectives, including the level of cross-sectoral cooperation and coordination.

The ultimate ambition is that the work of the RRG leads to demonstrable change and helps to establish a world-leading regulatory regime in the long-term; one that manages risk at an individual level, but supports and enhances economic growth across the whole cycle.



**THE ULTIMATE AMBITION IS THAT THE WORK OF THE RRG LEADS TO DEMONSTRABLE CHANGE AND HELPS TO ESTABLISH A WORLD-LEADING REGULATORY REGIME IN THE LONG-TERM WHICH MANAGES RISK AT AN INDIVIDUAL LEVEL, BUT SUPPORTS AND ENHANCES ECONOMIC GROWTH ACROSS THE WHOLE CYCLE.**

## FOREWORD

### Tracy Blackwell

#### CEO, Pension Insurance Corporation plc and Chair of the RRG Advisory Council

According to a National Audit Office report for the Cabinet Office, Arms Length Bodies (“ALBs”), which include regulators, spend about £265 billion of taxpayer money each year, employing around 300,000 people. Their remits cover everything from healthcare to education, housing, food, and financial services.

To put that sum in context, when the NAO published its report in 2021, the Government collected £716 billion in tax, meaning that these bodies were that year responsible for about 40% of government spending. The problem, as Bim points out, is that there is little to no democratic oversight of this huge ecosystem.

It is important to stress that our regulatory regime plays a vital role in consumer and systemic protection. Some of our regulators are held up as “gold standard” globally and we would do well to export these standards. But their focus should always be on outcomes, which means the people at the end of their processes and decisions. Where we allow this focus to slide, the decisions taken often end up prioritising institutional goals over consumer outcomes.

This trend towards institutionalisation is driving a series of broader economic and social questions and dynamics that cut across business and government, and have become one of the most pressing issues of our time.

In short, we need to be smarter about how our regulatory regime can best benefit the economy, communities, households, and individuals across the country. As businesses, we really do need to ensure stability and growth across the entire economic cycle. This does not mean unwarranted criticism of individual regulators, or deregulation for the sake of deregulation. But it also does not mean avoiding doing the right thing because of a culture in which risk is seen as something to avoid, rather than manage.

This is why the Business Advisory Council has been formed. It aims to complement the work of the Parliamentarians in the RRG by identifying common regulatory issues across sectors, providing specific examples of breakdown, but also helping with an overall, systematic appraisal of our regulatory system - where it works well, and what can be improved now that we have the latitude to do so, outside of the EU.

SECTION

02

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# SUMMARY

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## Why regulatory reform is needed

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UK regulators wield significant influence over the way we live our lives. Despite this fact, there is often not enough focus given to addressing systemic regulatory underperformance.

The Regulatory Reform Group (RRG) - formed by leading politicians with an advisory board of regulated companies - intends to push regulatory reform higher up the political agenda. There are several reasons why urgency is key for this reform to occur:

- **The opportunities provided by Brexit.** UK regulators have more powers and autonomy since 1973, yet less oversight.
- **The major challenges facing the country.** Regulators influence many of our key policy goals, significantly affecting parts of the economy far beyond the scope of their specific remits.
- **The development of globally important industries.** Regulators have a crucial role in the development and success of cutting-edge sectors vital to future economic growth, such as digital, life sciences and green technology.
- **Rapid economic and social transformation.** Regulators need to have an agile culture which allows them to adapt in rapidly developing areas such as technological advancement, as well as sociologically complex areas, like changing demographics.
- **The challenge of economic growth.** Having a dynamic, sympathetic, and systemically aware cadre of regulatory bodies should provide a clear route to higher growth combined with economic stability over the economic cycle.

Taken together, the regulatory response to the issues outlined above will define the future success of the UK and our place in the world.

## The UK regulatory system - where are we now?

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There is a relatively well-established list of issues that negatively impact our regulatory system. These include: a lack of consumer focus; regulatory capture (both by industry or vested interests of the regulators, and by government departments from the very regulators they oversee); unresponsiveness to change or to wider systemic factors; inadequate post-decision scrutiny; operational siloes (within regulators individually; between regulators in the same sectors; and across different sectors); a lack of consistent benchmarking against international best practice; and fundamentally, a lack of democratic accountability and real scrutiny of the hundreds of arm's length bodies which oversee much of our economy.

This is not an academic or theoretical concern. These issues make regulatory failure or regulatory underperformance more likely and more severe, leading to consequences for people in every community and every strata of society. Examples of these consequences are:

- **The cost of living.** Regulators have significant influence over the hundreds of billions that the UK government receives from taxing UK households.
- **Investment in vital UK infrastructure.** Regulators are critical in the determination of and speed with which transport, energy and digital infrastructure is built.
- **Subdued economic activity.** Companies choose to locate elsewhere in the world or are deterred from undertaking innovative new projects, with consequences for jobs and living standards.

These examples all point to a clear conclusion: that we urgently need to enhance oversight and real scrutiny of the entire regulatory architecture. We do not have to continue passively accepting the current situation. Things can and must improve.

## Key findings: A fragmented regulatory landscape

To inform the RRG's work, semi-structured interviews were conducted with specialists from across the UK's key growth sectors, as well as with regulators themselves. The findings demonstrate that there is significant room for systemic regulatory improvement across four specific areas where the regulatory system is underperforming:

- **Strained regulatory relationships.** The regulator-to-regulated relationship is not always collaborative and can be defined by mistrust, deterring innovation and leading to an excessively risk averse culture. This is in part driven by a culture of fear within regulators, encouraged by the media and parliamentary response to regulatory failure. The regulator-to-Government relationship can cause uncertainty for firms if there are disagreements around future policy. The regulator-to-regulator relationship can also cause uncertainty if policy development is made in isolation.
- **Incomplete lines of accountability.** Regulators need to be accountable to new objectives and powers, as handed to the PRA and FCA in the Financial Services and Markets Bill, if they are to behave fundamentally differently. The performance of regulators is almost never measured by any objective criteria, making real accountability impossible. In some cases, regulators' statutory objectives do not align to Government's priorities, confusing the direction of travel for businesses.
- **A lack of strategic direction.** Regulators can miss market developments in new areas because they do not fully understand them or are not incentivised to recognise them. It is also not clear how regulators are prepared - or are preparing - to address fast-moving and profound mega-trends such as an ageing population, climate change, or technological breakthroughs.
- **The need to build skills and knowledge.** There are question marks over whether the skills and knowledge-mix is right within regulators. A high turnover of people can contribute to a lack of institutional memory. Attracting people to work in regulators is difficult when there are constraints on pay and workforce numbers, and where the focus is entirely institutional. This makes having a dynamic culture crucial to attracting talented people.

## A new approach – RRG recommendations

There is no single solution that could fix our regulatory system. The following recommendations therefore seek to 'start at the start', focusing upon creating a better system of accountability that will enable stronger scrutiny of wider regulatory issues:

- **Establish a clear definition of a regulator to enable better scrutiny.** This would put an end to the current disjointed system. Government must provide absolute clarity with a published list of all bodies defined as regulators, their scope and remit, and the figures involved.
- **A Joint 'Committee for Oversight of Regulators'.** Made up of members from both Houses of Parliament, created to provide the capacity to scrutinise regulators in depth and measure their performance against their statutory objectives and consumer outcomes.
- **An 'Office for Oversight of Regulators' in the Cabinet Office.** Tasked with improving regulatory performance on a day-to-day basis, interrogating strategic policy statements given to regulators, and ensuring that all parties understand the expectations, responsibilities and level of performance they are expected to achieve.
- **A new 'Accountability Framework' to measure regulators.** To further enhance accountability of the regulators, a new 'accountability framework' would establish a standardised set of metrics to measure the performance of our major economic regulators.
- **An open, two-way, dialogue on regulatory implementation and performance.** A formal mechanism to facilitate greater dialogue between regulators and Government, including their sponsoring Departments.
- **An 'outcomes-based' approach to future regulation.** When regulating new sectors and emerging technology, we suggest that a regulatory 'baseline' be applied by the relevant industry regulator. Such a baseline would act as a guardrail, allowing further innovation, so long as this is not detrimental to the rights of consumers.

SECTION

03

# INTRODUCTION - WHY REGULATORY REFORM IS NEEDED

Regulators shape every aspect of our lives. They apply the rules that dictate the ease with which we can establish a business; the quantity and quality of new homes that are built; how much we pay for our electricity; what we can eat, the adverts we can see, what we watch on TV, listen to on the radio, what we read in the newspapers; and how we save and invest. There are many more examples besides.

This far-reaching activity of regulators exists to manage risk and keep citizens safe from harm. But in applying the rules, regulators wield increasing power and influence over the UK's economic and social outcomes. Our living standards depend in large part not only on the objectives that regulators are set, but significantly, in the very decisions that are made in interpreting and meeting those objectives.

Following Brexit, we have arrived at a situation where this power and influence is largely unchecked. Regulators do face some scrutiny and challenge, particularly from Select Committees. There are, however, questions remaining over how Parliament is resourced to take on oversight of the whole regulatory framework.

The many and varied types of organisations that have regulatory responsibility adds significant complexity to analysing the UK's regulatory system, making it harder to answer these questions.

**For the purposes of this report, the UK regulatory system refers to any regulator or organisation that performs a regulatory function.**<sup>1</sup> This definition includes public corporations (such as the Civil Aviation Authority), non-ministerial departments (such as the Office of Rail and Road), companies limited by guarantee (such as the Financial Conduct Authority), non-departmental public bodies (such as the Health and Safety Executive) and executive agencies (such as the Planning Inspectorate).

While these organisations vary in scale and regulatory scope, the sum of their activity is vast, and it is why this report is being written.



**FOLLOWING BREXIT, WE HAVE ARRIVED AT A SITUATION WHERE THIS POWER AND INFLUENCE IS LARGELY UNCHECKED. REGULATORS DO FACE SOME SCRUTINY AND CHALLENGE, PARTICULARLY FROM SELECT COMMITTEES. THERE ARE, HOWEVER, QUESTIONS REMAINING OVER HOW PARLIAMENT IS RESOURCED TO TAKE ON OVERSIGHT OF THE WHOLE REGULATORY FRAMEWORK.**

<sup>1</sup> The Government defines 'regulatory function' as "exerting powers over, or imposing burdens on, other organisations or individuals; by means of inspection, licensing, referral to another decision-maker (particularly with binding advice), accreditation or enforcement". Cabinet Office, July 2021, Public Bodies 2020, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001885/Public\\_Bodies\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001885/Public_Bodies_2020.pdf)

## Introducing the Regulatory Reform Group

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The Regulatory Reform Group (“RRG”) has been formed to push the subject of regulatory reform up the political agenda. The RRG intends to make the case as to why reform is necessary, and also propose how reform should happen. Its membership consists of politicians from both Houses of Parliament, and it is advised by representatives of UK businesses. The RRG’s recommendations will be reasoned, practical and non-partisan, and are intended to provide practical ways to immediately improve our regulatory landscape for the long-term.

The RRG’s ambition for regulatory reform should not be interpreted as a blanket criticism of UK regulators. Many are world-leading, making difficult decisions within the confines of strict operating objectives, constrained resources and changing Government priorities. Indeed, the perspectives of regulators are vital if any reform is to be successful, and many regulators are open to ideas around how reform should happen.

Equally, the RRG’s ambition should not be interpreted as a means to reduce the responsibilities of the regulated parts of the economy. Many regulated organisations have constructive relationships with those that regulate them, and can see the logic and purpose in the rules that they have to follow. The perspectives of regulated companies are just as vital as those of regulators in achieving successful reform.

The only interpretation of why the RRG is undertaking this work should be its desire to improve the daily lives of people in every community across the UK. The need to do this is urgent.

## The time is now

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The RRG recognises that regulatory reform is not straightforward. There is rarely a consensus on how regulatory change should happen. Some areas of regulation are extremely complex and may only be truly understood by a handful of people. There can be significant legal consequences to changing regulatory frameworks. The periodic attempts to look at the UK’s regulatory system often begin with good intentions but tend to fade in the face of too many difficult questions and competing interests (yet there is some hope that the Department for Business and Trade-backed assessment of economic regulation and Professor Dame Angela McLean’s look at the regulator Growth Duty will yield positive results).<sup>2</sup>

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2 The DBT work so far on economic regulators can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1051261/economic-regulation-policy-paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1051261/economic-regulation-policy-paper.pdf) and the reference to Professor Dame Angela McLean’s work can be found in the 2023 Budget: <https://www.gov.uk/government/publications/spring-budget-2023/spring-budget-2023-html>

Nevertheless, the prize for improving the performance of UK regulators is significant. It will mean more investment, more jobs, greater prosperity, and stability across the economic cycle. This prize has been just out of reach for some time. Yet there are now several reasons why urgency is required in the pursuit of regulatory reform:

- **The opportunities provided by Brexit.** UK regulators have more powers and autonomy than ever before, yet are subject to much less oversight. While this means Whitehall policymakers and regulators have a steep learning curve to adapt to this newfound freedom, not least because we have lost the institutional memory of managing our regulators, it also means there are new opportunities to generate better outcomes from the regulatory system.
- **The major challenges facing the country.** Regulators influence all of our important policy goals, significantly affecting parts of the economy far beyond the scope of their specific remits. For example, the UK's main political parties agree that reducing greenhouse gas emissions should have a significant policy focus. They also agree that more needs to be done to boost those parts of the UK that have economically underperformed for years. How to reconcile these not necessarily complementary policies will largely be down to regulators.
- **The development of globally important industries.** Regulators have a crucial role in the development and success of cutting-edge sectors vital to future economic growth, such as digital, life sciences and green technology. For instance, the regulatory environment has a bearing on the performance of the five growth industries recently identified by the Chancellor: digital, life sciences, green technology, financial services and advanced manufacturing. All of these industries have opportunities to establish a significant global footprint, ultimately bringing investment and jobs to the UK. Regulators can either help or hinder whether these opportunities are taken.
- **The rapid economic and social transformation.** Regulators need a culture which allows them to adapt to rapidly developing trends, such as technological advancement, demographic change, and urbanisation. The regulatory response to these trends will define how well the UK can adapt, manage and exploit them.
- **The challenge of economic growth.** Having a dynamic and proportionate cadre of regulatory bodies should provide a clear route to higher growth combined with stability over the economic cycle. Given our slowing growth rate, and the consequent challenges for the prosperity of our people and the fiscal position of our country, this should be a national priority.

Just one of the above points alone is enough to interrogate whether our regulatory system is fit for purpose. Taken together, the regulatory response to the above issues will define the long-term future success of the UK and its place in the world.



## The content of this report

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This first report from the RRG highlights what the current problems are with the UK regulatory system, and how the oversight and accountability to Parliament should be improved. Of the following chapters:

- Chapter Two highlights the current status of the UK regulatory system, the principles that underpin it and the issues that affect it.
- Chapter Three describes the ways in which UK regulators can improve from the perspective of regulated firms across a number of sectors.
- Chapter Four outlines the RRG's policy recommendations on how the accountability of regulators can be strengthened, in order to begin addressing the issues with our regulatory system.

SECTION

04

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# THE UK REGULATORY SYSTEM - WHERE ARE WE NOW?

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The Government uses regulation to deliver policy outcomes. Examples include regulation to ensure that businesses can fairly compete, that the rights of workers are protected, that educational standards are maintained and that certain prices are controlled. The methods of securing policy outcomes range from the light-touch (such as publishing good-practice guidance) to the prescriptive (such as the imposition of legal penalties). Simply put, without regulation, the needs of citizens and / or public policy objectives would not be met.<sup>3</sup>

Regulators oversee the application of regulation (the many and varied types of regulators were set out in introduction to this report). Given many arms' length bodies (ALBs) in the UK act as non-economic regulators, it's important to account for the £265 billion of the UK's public expenditure spent by ALBs when considering the entirety of the regulatory landscape.<sup>4</sup> In 2019, the National Audit Office (NAO) found that there were roughly 90 regulatory bodies in the UK, with combined expenditure of around £5bn. Almost 60% of this expenditure was attributed to regulators of health and social care, financial services, food and environment and utilities, communications and media. While regulators deliver economic and societal benefits, they also impose monitoring and compliance costs, estimated to total over £100bn annually to the private sector.<sup>5</sup>

Several recent policy papers have made arguments for how to improve the regulatory system. A report by the Centre for Policy Studies argued that the growing regulatory powers of the Bank of England raised questions of accountability and legitimacy across the entire regulated sector, and is something that Parliament needed to adapt to and address.<sup>6</sup> The think tank Policy Exchange argued that Government risk aversion means that the incentives to regulate outweigh the incentives to avoid regulating, with proposed improvements to the regulatory system including fewer, bigger regulators in key sectors to aid accountability, a clear hierarchy of objectives and duties applied to regulators, and regulators being regularly audited against the objectives set them by the Government and Parliament.<sup>7</sup> Additionally, the Social Market Foundation argued that the Government consistently misses the target it set itself for reducing regulatory burdens and argues there is an opportunity cost to regulation, making the case for mapping out regulatory burdens to free up private sector capacity to innovate, diversify, and expand.<sup>8</sup>

The Taskforce on Innovation, Growth and Regulatory Reform argued that the UK approach to regulation should have three aims: boosting productivity, encouraging competition and stimulating innovation - central to this was a new 'proportionality principle', making regulation proportionate to the scale of the risk being mitigated, and the capacity of the organisation being regulated.<sup>9</sup>

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3 NAO, Regulation Overview 2019, <https://www.nao.org.uk/wp-content/uploads/2020/03/Overview-Regulation-2019.pdf>

4 <https://www.nao.org.uk/wp-content/uploads/2021/06/Central-oversight-of-Arms-length-bodies.pdf>

5 Ibid

6 <https://www.nao.org.uk/wp-content/uploads/2021/06/Central-oversight-of-Arms-length-bodies.pdf>

7 CPS and Andrew Tyrie, 2021, Regulating the Regulators, [https://cps.org.uk/wp-content/uploads/2021/10/CPS\\_REGULATING\\_THE\\_REGULATORS.pdf](https://cps.org.uk/wp-content/uploads/2021/10/CPS_REGULATING_THE_REGULATORS.pdf)

8 Policy Exchange, August 2022, Re-engineering Regulation, <https://policyexchange.org.uk/wp-content/uploads/2022/08/Re-engineering-Regulation.pdf>

9 <https://www.smf.co.uk/wp-content/uploads/2023/03/Reducing-the-burden-of-government-regulation-March-2023.pdf>

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It should also be noted that arguments to improve the regulatory system are about building on a system which indisputably does more good than harm, and that if improvement is going to happen, then it is politicians and policymakers that have the responsibility to do it. A question that does emerge throughout the extensive literature is how regulatory delivery can both protect the UK's consumers whilst also preparing the ground for economic growth, ultimately reviving the principles that underpin the UK's regulatory framework.<sup>10</sup>

## What does effective regulation look like?

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Government sets the parameters within which regulators operate. It periodically reviews and articulates the principles and objectives to which regulators adhere (individual regulators often expand upon these with subject-specific principles suited to their particular area of oversight).<sup>11</sup>

Table One summarises some of the principles that the Government currently applies across different parts of the regulatory system. Very few people would disagree with them at face value. However, there are questions over whether they form a coherent framework for the regulatory system as a whole. For instance, the Government's stated principles for post-Brexit regulation, of taking a sovereign approach and supporting cutting-edge technology, either do not feature strongly, or don't feature at all, in the principles for economic regulation (although it should be noted that the principles for economic regulation were developed in 2011, well before the decision to leave the EU was taken). This inconsistency muddies the waters of what the Government is asking regulators to do.

In addition to these principles, Table One also records a well-established list of issues that are believed to affect how regulators apply regulatory principles, preventing them from delivering the best economic and societal outcomes. No design of the UK regulatory system will eradicate regulatory failure entirely. Individual institutions will periodically miss things or take the wrong course of action, thus failing to meet their objectives. But the cross-cutting issues in Table One are thought to be commonplace, making regulatory failure or regulatory underperformance more likely and more severe.

Theoretically, these issues should not exist if regulators are adhering to the principles set out in Table One. For example, the issue of 'being slow to act' is at odds with the economic regulatory principle of "Efficiency", which requires regulators to adopt 'timely and robust' decision-making. If the identified issues are present in the regulatory system, therefore, it suggests that regulators are not adopting the principles that the government has set them as strongly as they should.

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10 Taskforce on Innovation, Growth and Regulatory Reform, June 2021, <https://www.gov.uk/government/publications/taskforce-on-innovation-growth-and-regulatory-reform-independent-report>

11 BEIS, March 2020, Better Regulation Framework Interim Guidance, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/916918/better-regulation-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916918/better-regulation-guidance.pdf)

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This leads to the conclusion that greater accountability is needed - for regulators to explain why principles are not being met.

**Table One: Regulatory principles and cross-cutting regulatory issues**

REGULATOR TYPE	PRINCIPLES	CROSS-CUTTING ISSUES
<p><b>Economic regulators.</b></p> <p>Includes Ofgem, Ofwat and Ofcom, which promote competition in industries that would otherwise be natural monopolies due to high network or infrastructure costs.<sup>11</sup></p>	<p>The Government has detailed six principles for economic regulation:</p> <ul style="list-style-type: none"> <li>• <b>Accountability.</b></li> <li>• <b>Focus.</b></li> <li>• <b>Predictability.</b></li> <li>• <b>Coherence.</b></li> <li>• <b>Adaptability.</b></li> <li>• <b>Efficiency.</b></li> </ul> <p>(full descriptions can be found in the footnoted BEIS paper on economic regulation).<sup>12</sup></p>	<p>Identified issues with the regulatory system include:<sup>13</sup></p> <ul style="list-style-type: none"> <li>• <b>A lack of consumer focus.</b></li> <li>• <b>Regulatory capture (both by industry or vested interests of the regulators, and by government departments).</b></li> <li>• <b>Not identifying newly arising regulatory issues.</b></li> <li>• <b>Being slow to act.</b></li> <li>• <b>Being excessively legalistic.</b></li> </ul>
<p><b>Other regulators.</b></p> <p>Some non-economic regulators act in similar ways to economic regulators (such as the FCA), but others are primarily concerned with different outcomes, such as ensuring the safety of the population (the Health and Safety Executive and Food Standards Agency are in this category).<sup>14</sup></p>	<p>The Government has four objectives for its approach to regulatory reform:<sup>15</sup></p> <ul style="list-style-type: none"> <li>• <b>Unlocking cutting-edge technologies.</b></li> <li>• <b>Modernising the approach.</b></li> <li>• <b>Cutting red tape and minimising burdens.</b></li> <li>• <b>Boosting competition.</b></li> </ul> <p>In support of these objectives, the Government set out five new regulatory objectives:</p> <p><b>A sovereign approach - built on UK law.</b></p> <ul style="list-style-type: none"> <li>• <b>Leading from the front</b> - supporting the development of new technologies and creating new markets.</li> <li>• <b>Proportionality</b> - pursuing non-regulatory options where possible.</li> <li>• <b>Recognising what works</b> - removing regulation where it is not working or too costly.</li> <li>• <b>Setting high standards at home and globally</b> - influencing the decisions of others and helping to solve problems that require a global approach.</li> </ul> <p>(full descriptions can be found in the footnoted paper on the Benefits of Brexit).</p>	<ul style="list-style-type: none"> <li>• <b>Competition and growth not sufficient weight.</b></li> <li>• <b>A lack of focus on net-zero long-term ambitions</b></li> <li>• <b>Excessive and unnecessary regulation.</b></li> <li>• <b>Operational siloes (within regulators individually, between regulators in the same sectors, and across different sectors).</b></li> <li>• <b>A lack of consistent benchmarking against international best practice.</b></li> <li>• <b>Fundamentally, a lack of democratic accountability and real scrutiny.</b></li> </ul> <p>(Note that these issues do not apply to all parts of the regulatory system equally, but will exist in more than one area.)</p>

12 NAO, A short guide to regulation, <https://www.nao.org.uk/wp-content/uploads/2017/09/A-Short-Guide-to-Regulation.pdf>

13 BEIS, Economic Regulation Policy Paper, January 2022, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1051261/economic-regulation-policy-paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1051261/economic-regulation-policy-paper.pdf)

14 Taken from previous research undertaken by Lord Tyrie.

15 NAO, A short guide to regulation, <https://www.nao.org.uk/wp-content/uploads/2017/09/A-Short-Guide-to-Regulation.pdf>

16 HMG, January 2022, The Benefits of Brexit: How the UK is taking advantage of leaving the UK, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1054643/benefits-of-brexit.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054643/benefits-of-brexit.pdf)

## The impact of the regulatory system

### What happens if regulatory principles are not met? Or if one of the aforementioned issues comes into play?

Ineffective regulation can lead to a multitude of issues, but overall, poor practice has serious implications for the health of our economy, imposing a cost burden in the UK which is not mirrored elsewhere, disincentivising investment which could benefit citizens across the UK.

While there are many and varied examples of regulatory failure, the following are specific and recent illustrations:

- **Regulators not spotting the LDI crisis coming.** Some Defined Benefit pension schemes pursued liability driven investment (LDI) strategies. These strategies used leveraged gilt funds to simultaneously hedge the interest rate and inflation risk that arises from having long-term liabilities, and to invest in growth assets. Following the September 2022 mini-budget, gilt yields rose sharply, causing a significant fall in the value of LDI funds, setting off a chain of events that meant assets could not be sold at fair value, creating an acute liquidity problem. The Bank of England intervened, staging a £20bn intervention in the market over almost two weeks, to buy time for LDI funds to right themselves.<sup>17</sup> The UK's financial stability was threatened. Accounting standards, investment consultants and pension scheme trustees have all been identified as shouldering some of the blame, but regulators have also been found, 'to have been slow to recognise the systemic risks' relating to LDI strategies.<sup>18</sup>
- **Energy Market Collapse.** Ofgem saw the rapid rise of new entrant retailers, although arguably, many of them were not sufficiently skilled or capitalised to run resilient businesses. When the price cap was introduced in 2019, Ofgem was particularly slow to see the impact the cap had on the risk of company failure and took until 2021 to introduce a new financial resilience principle. However, Ofgem did not monitor compliance with this principle, and when market prices destabilised from autumn of 2021, the unprecedented cost of wholesale gas and electricity led to 29 company failures - a major blow to the UK's energy market, affecting around 4 million customers. Ofgem has now introduced new rules in response, including enhancing its financial responsibility principle. However, a report by the Public Accounts Committee argued that Ofgem has not struck the "right balance between promoting competition in the

17 Bank of England speech by Sarah Breen, November 2022, Risks from leverage: how did a small corner of the pensions industry threaten financial stability? <https://www.bankofengland.co.uk/-/media/boe/files/speech/2022/november/sarah-breen-speech-at-isda-aima.pdf>

18 The Industry and Regulators Committee, February 2023, <https://committees.parliament.uk/committee/517/industry-and-regulators-committee/news/185963/leveraged-ldi-strategies-worsened-september-2022-financial-turmoil/>

energy suppliers' market and ensuring energy suppliers were financially resilient".<sup>19</sup>

- **Nutrient neutrality stopping the development of new homes:** Natural England is a Non-Departmental Public Body that performs regulatory functions. It advises the Government on how to 'safeguard England's natural wealth'. Its recent advice to planning authorities required mitigation plans to offset nutrient pollution to be in place before planning permission can be granted.<sup>20</sup> One estimate suggests that this requirement would have the effect of delaying the construction of 100,000 homes.<sup>21</sup> It points to at least three regulatory failings. First, it lacks proportionality, with new homes making up a tiny proportion (a maximum 4%) of additional nutrient pollution. Second, it lacks coherence with wider policy, with the Government having a target for 300,000 new homes to be built a year. Third, it potentially lacks accountability, with the Environment Agency having been aware of the issue of nutrient-related pollution to waterways for at least 30 years and not having communicated it to Ofwat (the water industry a big contributor factor to nutrient pollution)<sup>22</sup>
- **Collapse of Carillion:** BEIS and DWP Committees argued that the collapse of government contractor Carillion exposed terrible failures of regulation. The Carillion Group went into insolvency in January 2018, with an unsustainable level of debt and an £845 million write-down in the value of several major long-term construction contracts. Due to the group having billions worth of financial liabilities, thousands of employees' pensions transferred to the government lifeboat pensions scheme. MPs at the time argued that regulators failed to protect millions of pension savers, describing the oversight of Carillion and response to the underfunding of Carillion's pension schemes as "feeble".<sup>23</sup> The report concluded that "substantial cultural change" was required. The Pensions Regulator themselves also stated that its conduct was "insular" and "isolated" from key stakeholders, including government departments and other regulators, ultimately leading to a renewed leadership within the Pensions Regulator, major calls for a review of several of the auditors involved and billions in legal disputes.

19 The Industry and Regulators Committee, February 2023, <https://committees.parliament.uk/committee/517/industry-and-regulators-committee/news/185963/leveraged-ldi-strategies-worsened-september-2022-financial-turmoil/>

20 Local Government Association, Nutrient Neutrality FAQs, <https://www.local.gov.uk/pas/plan-making/archive/nutrient-neutrality-faqs>

21 Lichfields, May 2022, Achieving nutrient neutrality for new housing development Demographic analysis of Natural England's advice, [https://www.hbf.co.uk/documents/11858/Lichfields-HBF\\_-\\_Demographics\\_Report\\_-\\_31\\_Mar\\_2022.pdf](https://www.hbf.co.uk/documents/11858/Lichfields-HBF_-_Demographics_Report_-_31_Mar_2022.pdf)

22 House of Lords Built Environment Committee, March 2021, the impact of environment regulations on development, <https://committees.parliament.uk/oralevidence/12804/pdf/>

23 <https://commonslibrary.parliament.uk/research-briefings/cdp-2018-0177/>

Of course, there are also examples of where the regulatory system works well, and it is important to recognise these benefits where they do arise.

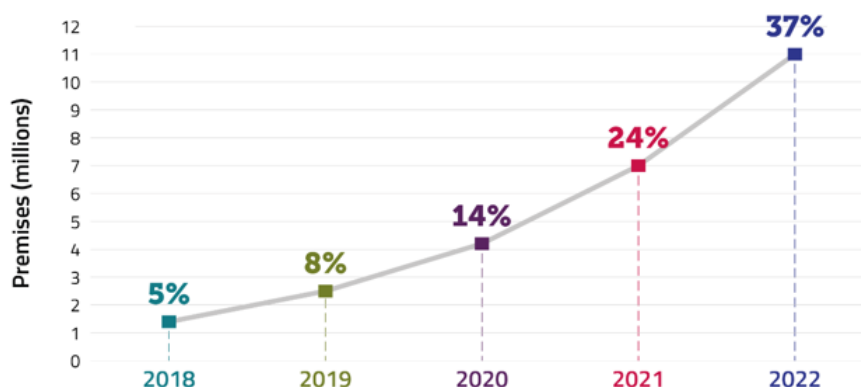
Regulators can influence how consumers receive value from products and services and the confidence they have in them.<sup>24</sup> The Financial Conduct Authority (FCA), for example, estimates that it adds at least £11 of benefits to consumers and small businesses for every pound it spends as an organisation.

There have also been cases where regulators have set effective rules that reflect the Government's ambitions, and are designed to boost competition to drive forward innovation and investment, empower consumers across the UK.

For example, just five years ago only 6% of homes had full-fibre broadband. In their 2019 general election manifesto, the Conservative Party pledged to deliver "nationwide gigabit-broadband by 2025". While the timeline has since shifted to 2030, the message is clear - namely, that the Government's primary policy priority is to deliver the full fibre broadband infrastructure, largely using private investment, that communities and businesses require to prosper across the UK.

This clear signal from Government enabled the regulator, Ofcom, to set appropriate longer-term rules for the wholesale broadband market which has reduced investment risk and opened up competition between Openreach and other, smaller providers, encouraging long term investment. Based on current data, Ofcom now expects full fibre broadband to be available in half of all homes this Spring and for 80% of all homes to have access within the next two years.<sup>25</sup>

**Growth of full-fibre broadband availability in the UK**



Ultimately, there are cases where a streamlined regulatory approach, with clear direction from Government, leads to better outcomes for the public and economic growth. What's clear is that overlapping or clashing regulatory principles, or a lack of strategic direction or foresight continues to harm consumers, as well as the UK's economic progression significantly.

24 FCA website, What we do at the FCA, <https://www.fca.org.uk/about/what-we-do/the-fca>

25 <https://www.ofcom.org.uk/news-centre/2023/full-fibre-to-reach-half-of-homes,-as-competition-drives-better-broadband#:~:text=Just%20five%20years%20ago%2C%20only,within%20the%20next%20two%20years>



SECTION

05

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# KEY FINDINGS: A FRAGMENTED REGULATORY LANDSCAPE

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To inform the RRG's work, semi-structured interviews were conducted with more than 20 specialists from across the energy, housing, health and financial services sectors, as well as with regulators themselves.

Though the research spans the UK's regulatory landscape, much of this report's findings summarise input from those across the financial services sector. No doubt because since leaving the EU, the government has identified financial services as one of the 5 key growth sectors and prioritised instructing a fundamental review of EU-inherited financial regulation. The interviews were conducted in the period January to March 2023, with participants asked for their perspectives on the issues - and their consequences - affecting the parts of the regulatory system that they interact with.

Enhancing parliamentary oversight and maintaining high regulatory standards was a key factor across the interviews. It is seen as critical if the UK is to make progress in establishing a revised regulatory system that works for the long-term benefit of the economy. As a senior expert in the Prudential Regulation Authority, interviewed for this report states :

**“History is cyclical with regards to regulation; politicians cycle between wanting more regulation after failures of regulation, and less when the system feels stifling. There is a need to build structures which are sufficiently robust to survive this cycle.”**

In order to create a smarter regulatory system, as the findings of the interviews demonstrate - there is significant room for regulatory improvement. Taken together, the interviews suggest four areas in particular affecting the regulatory system:

- 1. Strained regulatory relationships.** Existing in the interactions between regulators, the regulated and the Government.
- 2. Incomplete lines of accountability.** Where scrutiny of regulatory decisions and approach are absent from oversight.
- 3. A seeming inability or unwillingness to adapt to changing circumstances.** Where regulators are not doing enough to assess and respond to strategic economic and societal challenges.
- 4. The need to build skills and knowledge.** Where regulators need to make strides to develop capabilities that will drive better regulatory outcomes.

Of course, these four areas are all interrelated to some degree. For example, the skills and knowledge within regulators have a bearing on how relationships within the regulatory system work. Moreover, these areas also overlap with other issues affecting the entire regulatory system, as set out in the previous section. For instance, regulators being slow, siloed and excessively legalistic.

## Case study: The importance of productive regulatory relationships

In the financial services sector specifically, this relates to the Financial Conduct Authority (FCA), and the Prudential Regulation Authority (PRA). From our research, it is clear that the two regulators are facing similar challenges but have adapted to meet them differently.

As a result, in 2021 alone, London Markets Group argues that the UK lost out on millions of foreign investment in ILS to Singapore, arguing that this is a clear example of 'regulators not being accountable to delivering change'. Although significant effort went into setting up the UK's ILS regulatory regime, sluggish approval processes and uncertainty meant significant financial benefits were not realised.

The perceived proactivity of the FCA has been favourably acknowledged by industry and seems to already be paying some dividends - one industry source, regulated by the FCA, noted that the regulator was **"getting better at being comfortable with being challenged"**.

Regulators themselves acknowledge this reality. Whilst stressing the need to avoid anything nearing industry capture, there is room for closer working relationships and collaboration.

The need for greater transparency and accountability of regulators has long been acknowledged, most recently in Lord Bridges' amendment to the Financial Services and Markets Bill, calling for the creation of an Office for Financial Regulatory Accountability. Although perhaps the most high-profile, recent debates around financial regulation point to a more systemic issue, present across the entire regulated economy, requiring a redefinition of the relationship between regulators, Parliament and the regulated.

## Case study: Incomplete lines of accountability

HMT sponsored regulations to create a new market for Insurance-Linked Securities (“ILS”) in the UK at the beginning of 2018. The PRA were supportive in the development of this new opportunity, setting up a specialist unit for approvals.

However, the approach they adopted to the review of applications was not fit for purpose, leading to extended timescales as well as extensive data and document requests and an uncertainty of outcome. As a result, only five of these vehicles were created.

Singapore copied the UK’s ILS regime, recognising the quality of the framework, encouraged new entrants and has approved 18 ILS vehicles in a shorter period of time. As a result, in 2021 alone, we believe that the UK lost out on over \$700million of foreign investment in ILS to Singapore. The London Market Group argues that ‘this is a clear example of regulators not being accountable to delivering change’. Although significant effort went into setting up the UK’s ILS regulatory regime, sluggish approval processes and uncertainty meant significant financial benefits were not realised.

The impact of regulatory decisions on the UK’s competitiveness, including in the global insurance and reinsurance sectors, has been well acknowledged by both the regulators and industry. The above example once again illustrates the importance of parliamentary oversight in holding regulators to account, and questioning regulatory decisions that have negative economic consequences.

Specific issues within each of the four areas outlined above are discussed below in turn.

## Strained regulatory relationships

- **The regulator-to-regulated relationship.** Although critical for regulators to remain objective and enforce proportionate action where necessary, combative or insubstantial engagement can lead to regulators mistrusting information provided by firms to support innovation and evolving business models, thus preventing the innovation and evolution from happening. As one regulatory expert in the NAO stated, **“There is an assumption across Government, but also in external analysis of this area, that there is a significant amount of data flow between regulators, sponsoring departments and central Government, but this is simply not the case”**. This means that regulators’ knowledge and understanding of the industry they are regulating may be outdated, and in some cases, leads to regulators only supporting market activity that is well-established, over acknowledging shifts in market structures.

- **The regulator-to-Government relationship.** Strategic direction and clarity from Government to regulators can be improved - for example, responsibility for pensions policy involves both DWP and HMT. Differences in opinion between regulators and Government can slow regulatory improvement, stifling innovation and growth in the process. In some cases, there is overlap or duplication between departmental responsibilities and relevant regulators - for example, both BEIS and Ofgem were tasked with examining the future wholesale market design.
- **The regulator-to-regulator relationship.** There are some structures and mechanisms in place to facilitate regulatory communication. But policy still gets made in ways which suggest that these conversations and interactions could be strengthened. One example given is the recent reforms to the UK's audit regime being consulted on at the same time as a review of UK listings was being consulted on.

## Incomplete lines of accountability

- **Setting regulatory objectives.** The objectives that regulators are set by politicians define how regulators think and act. If there is a desire to see regulators behave fundamentally differently, then new objectives may be needed, or at least a new Strategic Policy Statement issued from Government (very few of which have ever been published by any Government department to regulators they sponsor). From an industry perspective, it appears that objectives are not aligned to government priorities, or are at odds across different types of regulators. For instance, 'levelling-up' is a government priority, yet the planning system makes it difficult for long-term investment to be delegated across the UK.
- **Measuring regulator performance.** First, there is weak cost / benefit analysis applied to new regulatory rules; there is then no appraisal of new rules once they are in place. Second, the performance of regulators against their objectives is not measured, making it harder to hold regulators to account on if and how their objectives are being met.
- **Improving Parliamentary scrutiny.** Select Committees have limited bandwidth. Detailed and expert-led scrutiny of granular aspects of sector sectoral regulation tends not to be the focus of Select Committee scrutiny. Instead, scrutiny may be skewed towards assessments of regulatory failings, compounding the fear factor amongst regulators, rather than looking at how regulators can boost their contribution to growth, or how different parts of the regulatory system can work better together to meet regulatory objectives.

## A lack of strategic direction

- **Market, economic and societal trends.** Regulators can miss market developments in new and complicated areas because they do not fully understand them, with examples including cryptocurrency and cyber risk (with a lack of understanding leading to knee-jerk reactions in these areas). It is not clear how regulators are prepared - or are preparing - to address the fast-moving and profound mega-trends such as an ageing population, climate change or deglobalisation, which will fundamentally alter how economic resources are consumed. To give one example relating to the above, there is currently no forum for regulators to discuss and cooperate on the cross-cutting issue of Artificial Intelligence.
- **Instability and short-termism.** Long-term regulatory stability supports firms in planning, innovating and undertaking growth-generating activities. But issues like Brexit and the cost-of-living crisis have caused short-term uncertainty and interference in regulatory policy, which has yet to be superseded by a more long-term approach.
- **Prioritisation.** Regulators often consult industry on multiple enquiries simultaneously, without any guidance how firms should prioritise these requests. This lack of strategic direction has been described as a 'scattergun' approach from regulators and creates a significant burden on businesses expected to respond and adapt their operations to proposed new regulation; particularly in industries governed by multiple regulators.
- **Lack of international benchmarking :** Arguably, one of the major benefits of Brexit is no longer having to harmonise regulation across lots of different jurisdictions, and therefore the UK can be more agile on how it remains competitive in attracting investment to the UK. However, international benchmarking is an essential part of identifying areas for improvement and better understanding the global investment landscape.

## The need to build skills and knowledge

- **Capability.** There are many highly capable people working within regulators. But there are question marks over whether the skills and knowledge-mix is right; indeed, regulators may also rely on other outside information to fill knowledge gaps - such as from ratings agencies - but this information is not produced by experts in particular assets either.
- **Experience.** A high turnover of people can contribute to a lack of institutional memory. Staff tend to leave regulators to work in consultancy and then in industry. The reverse path is rarely trodden.
- **Resources.** Attracting people to work in regulators is difficult when there are constraints on pay and workforce numbers. Generally, these resources mean that there is limited bandwidth for regulators to address many of the issues set out in this section of the report.

Though this list of issues highlighted are not exhaustive, industry leads from across various sectors, including energy, housing and health, have shared similar concerns. As the UK aims to set a new path outside of the EU, questions must be raised over how our new powers should be wielded by Government, parliamentarians, arms-length or independent regulators. Upholding regulatory independence is of critical importance, although powerful lines of accountability will ensure regulators think more carefully about how they uphold the principles of our regulatory landscape. Recognising ineffective practices is an important step in setting a new blueprint that supports our economy and the many citizens and businesses affected as a result.

SECTION

06

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# CONCLUSION AND RECOMMENDATIONS - A NEW APPROACH TO ACCOUNTABILITY

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The previous chapters have highlighted some of the varied, albeit interrelated, issues facing the UK regulatory system. There is no single solution that could fix the UK regulatory system. Although regulation is not a precursor to growth, nor should there be a bias towards intervention, accountability mechanisms are critical to ensure we have a regulatory framework that adheres to the UK's restored sovereignty, in order to boost economic growth and meet our social needs.

The following recommendations therefore seek to 'start at the start'. They are all focused upon upholding regulatory independence, whilst also creating a better system of accountability that will ultimately enable stronger scrutiny of regulators and provide a more stable foundation, on which future efforts to improve our regulatory system can be built.

### **Recommendation 1: Establish a clear definition of a regulator to enable better scrutiny**

The first step towards scrutiny and accountability comes from establishing a clear definition of regulators, including the introduction of a new audit classification for regulators. This would put an end to the current disjointed system which sees regulators audited by the NAO in line with the industries they monitor rather than as a separate class of organisation, meaning that regulators currently span three different categories of arms-length body.

Reclassifying regulators in this way would make auditing them easier, and enable a better scrutiny process designed specifically for regulatory oversight. This would in turn enable the creation of set criteria for performance, such as regularity of reporting, quality of information, transparency, and other metrics.

### **Recommendation 2: A Joint 'Committee for Oversight of Regulators'**

We recommend that a new Joint Committee, made up of members from both Houses of Parliament, be created to scrutinise regulators and measure their performance against their primary and secondary statutory objectives and consumer outcomes, as well as against the metrics noted in Recommendation 1.

This Committee would have significant powers to investigate the work of regulators and make recommendations to the Government based on their performance. These powers would include the ability to call in regulators to give both written and oral evidence relating to their performance, the interpretation of their objectives, and their internal structures, such as decision-making processes and the management of trade-offs.

Rather than duplicate the work of existing select committees, this committee would take a holistic view of the regulatory environment and understand the impact of regulation on a series of overarching goals including consumer protection, growth and competitiveness, ESG, market stability and risk.

**Recommendation 3: An 'Office for Oversight of Regulators' in the Cabinet Office**

We recommend setting up a new dedicated 'Office for Oversight of Regulators' within the Cabinet Office, tasked with improving regulatory performance. Given there is a renewed need to consider how our regulatory regime impacts global businesses, this office will examine how our domestic regulatory approach compares to the approaches of large non-UK jurisdictions, especially in sectors where international standards play an important role.

This office would be aided by feedback and industry expertise from those working on regulatory issues first-hand. Aided by the joint committee's recommendations, it would work across relevant government departments to review regulators' strategic policy statements - uncovering areas of confusion, contradiction, and disproportionate burdens on businesses and individuals. The new office would also support Parliament's scrutiny committees.

Alongside engaging with regulators and industry experts - perhaps operating in a way akin to the No 10 Delivery Unit - this office should report directly to No 10, to support the Government in delivering its key priorities, and to further galvanise action across relevant sponsoring departments.

**Recommendation 4: A new 'accountability framework' to measure regulators**

Furthermore, to further enhance accountability of regulators, we also suggest establishing a new 'accountability framework', with a standardised set of metrics to measure regulatory performance.

The framework would measure the performance of our major economic regulators and their various regulatory activities and responsibilities, such as fulfilling their regulatory scope, resource allocation, as well as meeting industry and consumer duties. An established framework would streamline how we review the effectiveness of our major regulators, and dependent on its findings, can be used to inform policy decisions across our key sectors.

The framework will also take international standards in the regulatory space into consideration, to assess where regulatory change is needed to promote the international competitiveness of the United Kingdom, ultimately leading to long-term growth.

This accountability framework, spearheaded by the government, could then be used to inform the joint 'Committee for Oversight of Regulators' and its recommendations, as well as potentially sitting in the 'Office for Oversight of Regulators'.

**Recommendation 5: An open, two-way, dialogue on regulatory implementation and performance**

In addition to both the Committee and Office, we recommend a formal mechanism to facilitate greater dialogue between regulators and Government, including their sponsoring Departments. In instances where the Government feels that policy is not being implemented correctly, Ministers would have the ability to review existing practices and, where appropriate, be subject to a deadline to issue new guidance for regulators to ensure that the situation is remedied as quickly as possible.

In turn, should regulators feel that their existing guidance is unclear, we recommend a mechanism whereby the head of a regulator can request Ministerial guidance, meaning that there can be no excuse left for confusion or issues with implementation.

**Recommendation 6: An 'outcomes-based' approach to future regulation**

Together, the recommendations in this paper aim to encourage an outcomes-based approach to future regulation; focused on desired outcomes from high-growth sectors, an agile framework that responds to regulatory successes and failures, and long-term economic growth and prosperity.

It should be noted that the forces of enterprise and the free market often provide the best outcomes for consumers, with competition naturally creating better value for money and higher quality products and services. Where regulation is required, we should seek to imitate such an environment as far as possible, without putting in place arbitrary barriers to competition and innovation.

For example, to address high-growth sectors, like emerging technologies such as AI or cryptocurrency, we suggest that a regulatory 'baseline' of desired outcomes be applied by the relevant industry regulator. Such a baseline would act as a guardrail, allowing further innovation so long as this does not detriment the rights of consumers. Such a baseline would then apply until further guidance is issued.

In this way, the regulation of new sectors would become an iterative process, with industry and regulators working together to identify what works from existing frameworks, and where further guidance or new regulation is needed. However, we must also be wary of implementing regulation too early in the development of new technologies and stifling creativity, as the recent Pro-innovation Regulation of Technologies Review concluded<sup>26</sup>.

26 HMG, 15 March 2023, Response to Sir Patrick Vallance's Pro-innovation Regulation of Technologies Review, p. 10: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1142798/HMG\\_response\\_to\\_SPV\\_Digital\\_Tech\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142798/HMG_response_to_SPV_Digital_Tech_final.pdf)

## Conclusion

Throughout this report, we have sought to discuss the successes and failures of the UK regulatory system in a balanced way. As previously stated, the sole ambition of the RRG is to improve the daily lives of people in every community across the UK, by ensuring that the regulatory system takes into account the potential economic impact of decisions that are often taken in regulatory siloes. Issues, where we have encountered them, have been highlighted, and we have made recommendations that we believe would be the first steps in delivering such a system.

Correcting regulatory underperformance, the likes of which has been discussed in this report, is not an academic exercise. It is an important part of the lives of all our citizens, whom we as elected officials serve to represent. The primary focus of our report, therefore, is ensuring that the scrutiny processes surrounding regulators are as open, transparent, and effective as possible.

We also appreciate that being a well-functioning regulator is often a thankless task – few of us even notice the numerous ways in which effective regulation aids and improves our lives. For this reason, we have also sought to highlight concrete examples of regulatory success, and we will continue to do so. Our conversations with regulatory staff have been immensely constructive, and it is clear that the regulators themselves are aware of many of the issues we have identified in this report.

Ultimately, regulatory approaches need to be clearly explained and clearly accountable if they are to translate policy into good outcomes. Our regulators need to be appropriately staffed and resourced to enable the best possible expertise to tackle the difficult issues we face. A system-wide culture that is focused on openness and overall outcomes is also desirable, and scrutiny of the system as a whole must also be improved.

This is where Parliament has a role to play. Parliament is the ultimate voice of the citizens and businesses operating in the UK. We believe the recommendations we have outlined, including the creation of a new Joint Committee for Oversight of Regulators, would go a long way towards furthering the scrutiny of this system, and ensuring that both the direction set by the Government, and the effective outcomes that consumers need, are met.

The RRG will continue to make recommendations on the future of the regulatory system and will continue to engage with all parts of this system to do so.

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