



# REGULATORY ENFORCEMENT AND INSPECTIONS: OECD BEST PRACTICE PRINCIPLES

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**Improving Risk Regulation: From Crisis  
Response to Learning and Innovation**

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## Why these principles? What are we trying to improve?

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- Regulatory policy in many countries focus on improving the design of regulation
- Increased attention to the enforcement phase in the regulatory governance cycle and to proportionality in enforcement
- “Enforcement” in broad meaning, covering all activities of state structures (or structures delegated by the state) aimed at promoting compliance and reaching regulations’ outcomes
- Inspections: most visible/widespread enforcement tool
- Reduce burdens on business and citizens and release public resources – while in fact improving the desired outcomes
- Some experiences of reform, but still not very widespread – insufficiently consolidated knowledge and lessons



# OECD Best Practice on Enforcement and Inspections - Background

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- Principles cover the whole set of issues that allow to sustainably improve regulatory enforcement and inspections – making them more effective, efficient and transparent
- Based on experience from OECD and non-OECD countries, including from World Bank Group work – and on research conducted over 30+ years
- Over-arching aims: maximize positive outcomes through promotion of compliance, minimize costs and burdens by limiting a sanctions mentality



# Improving policies, institutions and practices

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- Policies:
  - Evidence- and measurement-based enforcement/inspections
  - Selectivity - use enforcement/inspections only where strictly necessary
  - Risk-based and proportionate enforcement
  - “Responsive Regulation” approach
- Institutions:
  - Long-term vision & stable institutional mechanism for improvements
  - Consolidation/coordination of inspection functions
  - Transparent governance + HR policies geared towards professionalism, outcomes
- Tools:
  - Information integration, ICTs to ensure risk focus, coordination
  - Clear and fair process, rules
  - Compliance promotion through toolkits, check-lists etc.
  - Professionalism, inspectors’ training



# 1 - Evidence based enforcement

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- For many countries, existing institutions and resource allocations have evolved over many years
- Allocate resources and efforts proportionally to potential outcomes
- Do not inspect and actively enforce “everything that is regulated”
- Rather, evaluate the risk level posed by different types of regulations and regulated areas
- Evaluate and adjust based on results



## 2 – Selectivity

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- Whenever possible, use “alternatives to enforcement”
- Market forces, insurance, civil litigation, social media etc. all have considerable power to prevent negative outcomes or enforce rules
- State-driven inspections and enforcement should only be used when these alternatives are demonstrably absent or insufficient
- In any case, stakeholders need to be involved – compliance and outcomes cannot be obtained purely “by force”



## 3 – Risk focus and proportionality

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- Frequency of inspections should be proportionate to risk level
- Severity of sanctions and burden of enforcement should be proportionate to actual hazard/damage
- Risk = probability x magnitude (scope x severity) of hazard



## 4 – “Responsive Regulation”

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- Enforcement modulated based on behaviour of regulated entities
- “Honest mistakes” and one-off violations treated differently from systematic, criminal misconduct
- Aim: promote compliance and positive outcomes





## **5 – Long term vision, clear objectives and stable institutional mechanism**

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- Official policy, clear objectives for continued improvements in enforcement – long-term perspective
- Institutional set-up gathering all relevant ministries, institutions, stakeholders
- Strong policy leadership



## 6 – Co-ordination and consolidation of inspection functions

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- Less duplication and overlaps – reduced costs and burden
- Greater coherence, better information flow – more effectiveness
- Core list of inspection/enforcement functions to match rational analysis of types of risks – not “historical” list of institutions



## 7 – Transparent governance

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### Professionalism should be cornerstone of regulatory enforcement institutions

- inspections/enforcement “at arm’s length” from political decisions for day-to-day operations –
- Appointment of senior management based on professional qualifications
- Stability to institutions through collective governance

### Performance management policies

- Performance in terms of reaching regulatory outcomes and regulatory compliance should be assessed across team and units



## 11 – Professionalism and training

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- The whole training, management, incentives need to be aligned with objectives and principles of “better enforcement”
- Inspectors’ training needs to incorporate risk-management, compliance-promotion, and a whole set of “competencies” related specifically to enforcement
- Aim to increase consistency, quality – reach better outcomes



## 8 – Information integration

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- Interconnect databases and systems used by different inspectorates / whenever possible set up single/joint systems
- Data sharing and shared planning mean less duplication, more efficiency – but also better outcomes because key information is shared effectively, risks are better identified
- Initial investment can deliver considerable benefits and efficiencies



## 9 – Clear and fair process

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- Framework legislation/regulations to ensure that inspections/enforcement process are clear and consistent
- Rights and obligations of all parties and stakeholders to be clarified – and abuses prevented



## 10 – Compliance promotion and transparency

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- Ensure that regulated subjects know what is expected from them
- Enforcement to be consistent and predictable
- Compliance promotion achieves better outcomes at lower costs
- Tools adapted to different types and profiles of establishments (checklists, guidance, etc.)



## Risk focus can allow to inspect far less in quantity – but not necessarily less in quality...

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- Georgia 2003-2005 went from 75% of SMEs inspected each year, to 30% - no noticeable negative impact from the decrease
- Lithuania 2011-2012: latest data suggests reduction by around 40% of inspections burden – again no noticeable negative impact
- Some countries inspect much more than others – generally not with better outcomes (e.g. 75% of SMEs inspected each year in Ukraine, vs. around 35% in Italy, maybe 20-25% in UK etc.)
- Gradual decrease of occupational safety inspections in UK in the 2000s (-50% at least overall) – no increase in accidents, fatalities etc. (on the contrary, in fact) – similar trend with England/Wales Environment Agency (reduced low-risk controls by 60-70%, improved outcomes)
- Evidence suggests that having “no inspections at all” or “too few” (less than 1% or so) may perform less well for safety than having “some, well targeted and professional inspections” – but there is no evidence that inspecting *many* is useful





THANK YOU FOR YOUR ATTENTION!

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