Good Practice Regulatory Change

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Good Practice Regulatory Change: Executive Summary

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The Food Standards Agency (FSA) is responsible for food safety across England, Wales, and Northern Ireland. As part of its work on the Achieving Business Compliance (ABC) programme, the FSA wanted to understand more about how other regulators have approached regulatory change programmes, with a view to introducing their own programme. In response, Ipsos UK carried out a Rapid Evidence Assessment (REA) and 16 depth interviews between April and July 2022. Our key findings are summarised below.

Defining the purpose of a change programme

The literature highlights the importance of having a clear design structure for a change programme to identify objectives, set priorities and clearly articulate the purpose to both staff and wider stakeholders. This process can also help define accountability within the system.

Interviewees described the importance of identifying the key problem they were trying to solve, as well as any potential risks that could result. This process often took the form of engagement activities and research including: formal consultations, research with consumers, establishing working groups, learning from independent reviews, horizon scanning and preparing a business case.

Once regulators had a clear problem definition, they emphasised the importance of articulating the purpose and objectives of a change programme. Having a clear definition of what a programme is looking to achieve was seen as essential for providing a roadmap for the change and helping to build buy-in to a process.

Building the right structures

The literature suggests it is important for regulators and policymakers to have the right governance in place to maximise the effectiveness of regulation and that a strong team structure helps change programmes be more effective.

Interviewees described how they established centralised teams to oversee change programmes, helping ensure adequate resourcing, expertise, and to co-ordinate work with wider change activities. These teams helped to build routines around decision-making and inform governance structures that brought clarity and built momentum behind a programme. Senior ownership was also highlighted as key to ensuring timely decisions.

Managing relationships

Developing strong relationships with both internal and external stakeholders was seen as critical to the success of a change programme by both interviewees and the wider literature. The evidence highlights the importance of communicating the reasons for a change and recognising the specific characteristics between a regulator and regulated body.

Interviewees used stakeholder mapping exercises to identify those who could be affected by a regulatory change programme and adapted their engagement approach according to who they were speaking to. Regulators felt it was helpful to start engaging stakeholders once an organisation has a clear vision and concept of what the change programme was seeking to achieve. Without this, it can be more difficult to provide the consistency and clear messages required to reassure wider audiences.

Maintaining transparency around a change programme was also seen as critical to building trust and buy-in from a broad range of stakeholders. This can be achieved through a clear communications plan and dedicated resources to help manage relationships through a time of uncertainty.

Implementing in a flexible way

The wider literature was more limited on the importance of flexibility and timeframes in regulatory change programmes. However, interviewees emphasised the value of taking a flexible or agile approach, reflecting the time it takes to implement change. There was also a recognition that there is often an optimism bias in the design of programmes which means timeframes are not realistic. In response, regulators recommended building contingency into plans and creating space to pilot or test approaches before rolling-out a programme.

Measuring success

The literature describes how consistently changing regulation and inspection frameworks, alongside external political pressures, can make it difficult to see how effective regulation has been. It also points out that regulators often do not measure the benefits of regulation, reflecting how this can be hard to quantify.
Although interviewees emphasised the value of monitoring performance throughout the life of a programme, they often found it difficult to measure the outcomes of change programmes systematically. This is often made challenging due to the time it takes for changes to be realised in individual level impacts and the ability to attribute improvements to the regulatory change.

Good Practice Regulatory Change: Introduction

Background

The Food Standards Agency (FSA) is responsible for food safety across England, Wales, and Northern Ireland. As part of its work on the Achieving Business Compliance (ABC) programme, the FSA wanted to understand more about how other regulators have approached regulatory change programmes, with a view to introducing their own programme. The FSA wanted to learn from what had happened in the past, explore the current landscape of regulatory change, and identify what good practice looks like. The ABC team also wanted to understand the challenges and barriers faced by other regulators and how these were dealt with, so they could learn more about what works.

The overarching aim of the research was to identify transferable lessons learnt, and good practice in regulatory change. In particular, this focused on exploring:

- the planning and implementation of change
- stakeholder engagement and relationships
- outcomes and lessons learned

The scope of the research was not restricted to the food landscape and included a broad range of regulators with a focus on, but not restricted to, those who operate within an inspection, safety and standards environment.

Methodology

Our approach involved two strands: a review of available literature and a series of depth interviews with representatives from regulators. These strands ran concurrently during April to July 2022.

Rapid evidence review and targeted literature searches

The first strand was intended to provide a broad overview of the existing literature on regulatory change programmes, across key industries and regions. We carried out a Rapid Evidence Assessment (REA), with searches focused on relevant keywords set out in Table 1 below. Given the limited extent of the literature around regulatory change programmes, we also conducted purposive searches, for example, searching for information on specific regulators or exploring grey literature related to change programmes. In addition, we reviewed literature recommended by our academic advisors and interviewees.

Much of the academic evidence around regulatory change programmes focuses on specific aspects of regulation change, rather than how regulators have approached a change programme on a step-by-step basis. We did not limit our search to a bounded timeframe so we could include insights from older sources about specific regulatory concepts. Where possible we have used the most recent literature when discussing evidence of regulatory change, although some of the sources are older than 2010 given limitations in the availability of evidence on this topic.

Table 1: Search protocol: Key word searches using AND and OR functions

Source	Type of change	Topic	Country

Review	Regulatory change	Food safety	United Kingdom
Learning	Inspection change	Medicine	USA
-	Standards change	Construction	Canada
-	New regulation	Education	Australia
-	Regulation change	Health and safety	European Union
-	Regulatory reform	Aviation	-
-	-	Environment	-

Although the literature review continued to progress during the fieldwork period, initial findings informed the discussion guide for interviews, and helped to identify regulators to approach for interview.

Qualitative depth interviews

Qualitative research was conducted between the 9th May 2022 and the 12th July 2022. This involved carrying out 16 depth interviews with 12 organisations from the UK and Ireland. The aim was to capture a range of experiences and understanding of how different types of regulators, or organisations with an inspection remit, approached their own change programmes. In particular, interviews explored why a regulator had considered a change programme as necessary, what challenges they encountered, and what they might do differently if they were to deliver a similar programme in the future.

All interviews lasted up to one hour and were conducted by a member of the Ipsos project team. Interviewees were senior leadership and management figures who were closely involved, or led on, a specific change programme. With some organisations, Ipsos conducted multiple interviews with different individuals to gain a greater understanding of their change programme or carried out joint interviews with relevant stakeholders.

All findings are anonymised, except for the case studies. These have been included to provide further details on the specific aspects of regulatory change which could be applicable to the FSA.

How to read this report

This report has been organised in the following structure:

- in chapter one we summarise the background and methodology of the research.
- in chapter two we present findings from the REA providing context to regulatory change in the UK.
- in chapter three we summarise why having a clear and defined purpose for a change programme is important. This includes case studies exploring the Care Quality Commission’s approach to designing their recent change programme.

- in chapter four we consider why it is important to have the right team structures in place. This includes the importance of having a clear governance structure and effective decision-making. This section includes case studies from the Environment Agency and Ofgem, and their approaches to team structures and governance.
- in chapter five we reflect upon why managing stakeholder engagement is crucial to the success of a change programme. This includes considering why having familiarity with prospective changes is important in getting stakeholder support. This chapter includes a case study on the Legal Services Board, and their approach to engaging with stakeholders.
- in chapter six we look at the importance of flexibility. This relates to timeframes and allowing for contingency within a programme.
- in chapter seven we look at how regulators have measured the success of their programmes.
- Finally in chapter eight we provide conclusions for organisations considering a regulatory change programme.

Throughout this report we have referred to the individuals who opted in to participate in our research as “regulators” or “interviewees”. Anonymised verbatim quotes have been used to help illustrate key findings, but these quotes do not necessarily reflect the views of all participants we spoke to. Qualitative research is designed to be exploratory and provide insight into people’s perceptions, feelings, and behaviours. The findings are therefore not intended to be representative of the views of all regulatory stakeholders, but rather highlight and indicate key themes expressed by those we spoke to.

Good Practice Regulatory Change: Regulatory change in the UK

The current regulatory landscape

Regulation has a variety of purposes, but is primarily concerned with protecting people, businesses and the environment, and to support further economic growth (NAO 2021). The National Audit Office (NAO) reported in the year 2020-2021 there were around 90 regulators operating in the UK (NAO, 2022). A previous NAO report from 2017 suggested the annual expenditure of these regulators was £4bn (NAO, 2017). The UK has relatively low levels of regulation compared to other members of the Organisation for Economic Co-operation and Development (OECD), with less use of command and control approaches (NAO, 2017). A command and control approach is one where regulation is led by legislation, and there are clear boundaries between illegal or non-compliant activity and compliant activity. This approach is overseen by regulators with responsibility for enforcement (Gunningham and Sinclair, 2017).

In the UK, there has been an emphasis on reducing the burden of regulation on businesses and cutting ‘red tape’ (NAO, 2017). The government set targets to reduce regulatory costs to businesses over the period 2015-2020 by £10bn a year, a reduction from an estimated total of £100bn a year. Measures likely to have a significant impact on business, civil society, the public sector or individuals are expected to complete a full Impact Assessment and be submitted to the Regulatory Policy Committee (2019) for scrutiny. The impact on business is a key focus of the committee’s guidance (Regulatory Policy Committee, 2014). This has led the OECD (2021) to suggest that the UK may benefit from extending this focus to other elements important for sustainable and inclusive growth.

In recent years, there has been a rise in change programmes related to digital transformation and new technologies. In 2019, the government published a White Paper (BEIS, 2019) setting out policies for reforming the regulatory system to support innovation, recognising the need to keep pace with technological change. More recently, a number of new regulatory powers have been established relating to the internet and online harms. This includes proposing Ofcom as the regulator for a new online safety regime as set out in the Online Safety Bill, and the Digital Markets Unit within the Competition and Markets Authority (CMA) as overseeing digital competition (CMA and Ofcom, 2022).

Different regulatory approaches

The most traditional form of regulation is command and control, with decisions about the scope and approach taken by central decision-makers. This was seen as a key feature of regulation in the United Kingdom, especially within healthcare, before Margaret Thatcher's deregulatory reforms in the late 1980s (Ham, 1999). The 2005 Hampton report (Hampton 2005) was commissioned by the government to understand Britain's regulatory landscape and considered the work of 63 national regulators. It has been argued that this report provided a shift in the regulatory landscape and the role of regulators by creating a consensus that regulatory agencies should prioritise advice and guidance, over methods of inspection (Vickers, 2008).

The literature identifies a number of different regulatory approaches that have come into prominence since the move away from traditional inspection-led, command and control regulation. This includes co-regulation, with a greater involvement of industry or third parties in the regulatory process (Martinez, Verbruggen and Fearne, 2013), and more flexible approaches as seen in descriptions of smart regulation. The concept of smart regulation (Gunningham and Sinclair, 2017) was first developed in 1998. Gunningham and Sinclair (2017) define smart regulation as:

"A form of regulatory pluralism that embraces flexible, imaginative, and innovative forms of social control. In doing so, it harnesses governments as well as business and third parties."

This differs from co-regulation, in so far as Gunningham and Sinclair (2017) suggest that smart regulation involves the use of different policy instruments, with some combinations complementing each other better than others. This includes wider types of regulation such as command and control and co-regulation, where a regulator will work alongside third-parties to enforce regulation in an industry, as well as others such as self-regulation and voluntarism. Self-regulation refers to where an industry or organisation will regulate itself without external interference, while voluntarism is an approach where organisations regulate their own affairs. Gunningham and Sinclair (2017) suggest that voluntarism, when it is genuine, will complement most forms of command and control regulation. De Bruca and Scott (2006) propose a similar concept titled New Governance. They define this as:

"A shift in emphasis away from command and control in favour of regulatory approaches which are less rigid, less prescriptive, less committed to uniform outcomes, and less hierarchical in nature."

Risk-based regulation has also grown in prominence as an approach. By taking a risk-based approach, regulators rely less on inspections and instead prioritise their resources towards organisations or sectors which are seen as posing the highest risks. It is important that those who adopt risk-based regulatory approaches have strong relationships and high levels of trust with the bodies they are regulating. They cannot rely on inspections to identify incidents and risks (Gunningham and Sinclair, 2017). This makes building trusting relationships between regulators and regulated organisations especially important so that individuals working in industry feel comfortable raising possible challenges or areas of non-compliance.

Risk-based regulation is a fluid term that has evolved since its rise to prominence after the Hampton report (2005). It has been defined as the idea that regulators cannot, and indeed should not, try to prevent all possible harms (Beaussier et al., 2016). Instead, regulatory interventions should focus on controlling the greatest potential threats to achieving regulatory objectives, as determined through assessments and forecasts of their probability and consequences. Prioritising regulatory activities in this way promises to make regulation more effective and proportionate (Rothstein et al., 2016).

This is closely linked to the concept of self-regulation or self-reporting. Etienne (2015) conducted a study of industrial risks in France and suggested that inspections were "a rather weak and inefficient tool for detecting incidents." He argued that inspection-based regulation would not be effective as incidents may be resolved or irrelevant by the time physical inspectors came to investigate. Instead, approaches relying on self-regulation may be more effective. The NAO (2017) describes how this can take the form of enforced self-regulation, through tools such as a mandatory code of practice, or voluntary self-regulation through voluntary codes or membership bodies. Although included in the literature review, self-regulation was out of scope for the remainder of this project.

Good Practice Regulatory Change: Defining the purpose of a change programme

The wider literature on designing regulatory change

Planning

The literature highlights the importance of having a clear design structure for a change programme. Ostroff (2006) describes the value of creating an effective road map and plan at the outset of the programme. He suggests a "change effort road map" which has three key phases: identify performance objectives, set priorities for the programme, and roll-out of the programme. He emphasises how it is important to identify performance objectives as it helps to create a consensus and define the mission of the programme. The second stage involves identifying possible ideas for the change programme and then deciding which to adopt and in what sequence to approach them. This process should also include thoughts on what is trying to be achieved through the change. For example, is it to focus on areas where potential improvement might be most marked, or on areas that can get the fastest results? Ostroff (2006) argues that if these ideas are followed, it should help the programme to be rolled-out smoothly.

Similarly, the NAO (2021) suggests that having "a clear articulation of the primary purpose of regulation" is important so that it can be understood by staff, and stakeholders. Senior management should ensure that ideas have broad support among staff. The NAO also discusses the importance of identifying if any of the suggested objectives may have tensions or conflicts with each other and taking necessary action at the start of the programme to avoid issues later on. The OECD (2021) recommends widely consulting on regulations during the early stages to identify alternative policy options and ensure rules are likely to work in practice.

Defining accountability

Beyond planning, the literature emphasises the need to define accountability during regulatory change, particularly when moving towards a more risk-based system which recognises there may be acceptable risks (May 2007, Rothstein et al., 2016, Almond and Ebester, 2018). Defining what is acceptable, and therefore does not need to be regulated as heavily, can be challenging and attitudes to this can vary across different industries (Beaussier et al., 2016). Beaussier et al. (2016) have argued that it is harder to implement risk-based regulation in industries such as food and healthcare, where the consequences of failing to maintain compliance could result in severe or wide-reaching outcomes for a population. This compares to other sectors where the impacts of regulation change are mostly confined to the employer-employee relationship and may not be as high interest to the public (Beaussier et al., 2016).

Accountability for incidents among risk-based regulators is challenging to identify when multiple regulators operate in similar fields. Changes to regulation in these sectors can make it harder to define the boundaries between organisations' responsibilities (Baldwin and Black, 2016). Similarly, this can be further complicated where organisations operate internationally such as in the financial sector. This requires engagement with different bodies to agree the scope and responsibilities involved in any new regulation. The OECD (2021) has described increasing international regulatory co-operation in response to technological innovations. This includes the creation of the Agile Nations, an intergovernmental alliance aiming to foster co-operation across borders towards governance and regulatory practices that can unlock the potential of innovation (BEIS, 2021).

Learning from others

The literature highlights the potential value of policy transfer to regulatory change as a way of applying principles that have worked elsewhere to the design of a new programme (Benson and Jordan, 2011). Dolowitz and Marsh (1996) define policy transfer as the:

"Process by which knowledge of policies, administrative arrangements, institutions and ideas in one political system (past or present) is used in the development of similar features in another."

However, there is some scepticism about whether lessons learnt approaches and observing other regulatory decisions help with implementing a change programme. This is in part due to the different stakeholders and contexts regulators operate in, as well as assessments of risk and public attitudes towards this (Lodge and James, 2003; Demeritt et al., 2015).

Findings from the interviews

Identifying why a change programme is needed

Regulators described both incremental change programmes and those developed in response to a specific change in the environment or strategic direction of an organisation. Some of the reasons for introducing a change programme included:

- New senior leadership changing the strategic direction of their organisation.
- Political announcements or priorities, as well as changes in the underlying legal architecture resulting from legislative change.
- Responding to technological change, for example where regulators and regulated organisations have adopted new software systems or require new specialist skills such as data analytics to modernise their approach.
- Responding to Covid-19. Several regulators were not able to conduct inspections face-to-face during the pandemic requiring a change to virtual processes.
- In response to an independent review. One regulatory change programme was introduced following a formal independent review which gave insights into the key issues facing the organisation, and potential solutions.

Given the diversity in the drivers of change programmes, regulators often described an initial stage of identifying the key problem they were trying to solve. This was seen as important for ensuring the team has a clear understanding of the wider context across a sector and could develop a programme that matches what they are trying to achieve. Frequently this process involved both internal and external engagement, including large-scale consultations to gather views, and to understand what risks might emerge as a result of any proposed changes.

“You can call it horizon scanning: what are the biggest risks that we’re here to manage? This was informed by what we found out through a large consultation exercise. That’s really helping us understand two things: what are the sorts of things we ought to worry about and whether stakeholders think we’re any good at it or not.”

A number of organisations conducted more formal reviews during the early stages of design to get a wide understanding of the challenges or used insights from external reviews conducted by organisations such as the CMA to inform their approach. Using an evidence base in this way was important for giving greater clarity to internal stakeholders on the purpose of the programme, and highlighting possible areas of risk – both in terms of the programme design and the risks related to not delivering changes. This could include staffing issues, unfeasible time frames for project delivery, and the negative impacts of changes (or inaction) on external stakeholders.

Similarly, regulators described the process of developing new organisational strategies to inform the future direction of regulation or their organisation. This process often involved:

- Commissioning research including research with consumers to understand people’s experiences of current regulation and where areas of detriment occur.
- Establishing working groups with stakeholders including industry bodies to help define a problem, map out key risks and inform programme design. This can also help to understand the readiness for change both within an organisation or across a regulated sector.
- The use of independent reviews to understand possible areas of change within the regulatory organisation.
- Using horizon scanning or planning frameworks such as RAID analysis (Haughey, 2021) which can be used to identify key risks, assumptions, issues, and dependencies.
- Developing a blueprint of a service (GDS, 2021) to build a complete picture of how a service is currently delivered, the teams and organisations involved and how changes could affect different parts of the system.
- Preparing a programme business case using the Five Case Model set out by HM Treasury (2018).

One regulator described how they developed a capability map and assessment to understand where they have powers they can use as a regulator and how often they have used these in the past. This included formal regulatory powers like enforcement action or changing legislation, as well as less formal engagement mechanisms including communication activities or playing a facilitator or convenor role. This helped to inform their design and identify which levers they could use as part of the programme.

Setting aims and articulating what success looks like

Once regulators had a clear problem definition, they emphasised the importance of articulating the purpose and objectives of a change programme. Having a clear definition of what a programme is looking to achieve was seen as essential for providing a roadmap for the change and helping to build buy-in to a process.

Being able to articulate this in an easy-to-understand way and repeating the objectives throughout the life of a programme was seen as key to reassuring stakeholders and supporting project teams to understand their role. Objectives needed to be focused on an overall vision, rather than being too specific, meaning that a programme is unable to flex and respond to wider changes.

“We spent a lot of time and effort making sure the 'why' part is clear. In other words, why are you doing this? Why is it important to do it now? And what are you hoping to achieve from it? So, I think that's as important for your own staff as it is for the industry.”

Setting objectives was seen as informed by, but distinct from, identifying the problem. For example, one regulator explained that while their early conversations gave them a good sense of what the main issues that the programme was looking to resolve were, they explained how in the future they would look to be clearer on what success looked like.

“It took us a while to pin down what good looked like. We had a good sense of what the problem was, but not necessarily what we wanted to achieve in these markets, as it was quite complex. Having that from the outset is really important.”

CQC case study: Understanding the aims of the change programme

The Care Quality Commission (CQC) introduced a five-year transformational change programme as part of their aim to modernise their processes and regulatory activity. This included a desire to be more insight-driven and efficient as a regulator that is largely funded through fees from providers.

The transformation programme is a portfolio of work, with four interrelated programmes each with a Senior Responsible Owner (SRO). CQC brought in new senior level appointments who had the remit of creating the change programme and delivering this at a strategic level. The team partnered with Deloitte, a consulting firm, to help identify the vision and opportunities for change, working together to build a target operating model for the regulator. They took time to iterate the design, engaging the Executive team throughout this process.

“It took a very long time to land the target operating model, but I was really clear that unless we had the senior leadership on the same page, we would really struggle to do this because it was fundamental change. So, a lot of time was spent initially just getting people in the right space, getting them onboard.”

The operating model was aligned to CQC’s strategic ambitions and helped to map the capabilities required at various levels. Given the timings of the programme, the team ran the first phase of designing the operating model at the same time as finalising the strategy. This created a few challenges as the team had to realign the portfolio of change projects to ensure they aligned fully with the new strategic intent.

“In an ideal world, you'd have your strategy then you'd build your portfolio and then you would do your delivery so you could really clearly align them.”

By taking a whole system look at the sector, the team redesigned both the policy and the implementation of regulation, with the new operating model underpinning their overall approach. Reflecting the importance of this, the team invested heavily in a centralised Project Management Office (PMO). This ensured that through effective reporting there was good visibility of the emerging risks and issues, such as those related to resourcing. It also gave sight of the critical paths and interdependencies of each project, and the portfolio overall, ensuring they were well understood. This has provided a system for monitoring the changes and receiving early warning if something were to go wrong, as well as allowing the team to report monthly on progress to the Board.

By defining the scope clearly from the beginning, and structuring the programme of work under specific areas, they have been able to iterate their approach within a framework agreed by the key stakeholders. This has helped them to set a direction and provide a pathway they can return to at key points throughout the programme.

“I think you need to be really clear about why you are doing this and how the changes are going to help deliver on the organisation’s purpose or strategic ambition. In doing so you need to be very clear about what is in scope, your timelines and your priorities for implementation. You also need to be realistic about what you can deliver, and take an iterative approach, starting small to test and learn, then once you are clear it works you can scale delivery quickly. But to do this well you need to be very clear about where you are going, so you can flex your plans and approaches as you learn, whilst ensuring that the outcomes are constantly pegged back to your ambition. Taking time to get the ambition or scope clear and all key stakeholders on board with it is critical. If you don’t have this, then you will struggle to have a coherent approach that people can believe in.”

Good Practice Regulatory Change: Building team and governance structures

The wider literature on structures and resourcing

The NAO (2021) suggests it is important for regulators and policymakers to have the right governance in place to maximise the effectiveness of regulation. They argue that good governance structures make decision-making more effective, which in turn strengthens regulation. The NAO (2021) also found that having a strong team structure, where individuals and teams were clear on their specific roles and the aims of the programme, helps a regulatory change project to be more effective. Similarly, Ostroff (2006) suggests it is important to have strong project and governance structures in place, which can ensure a project is rolled out smoothly.

One area identified in the literature is the impact that external factors can have on staff structures and resourcing availabilities, particularly in the context of austerity and staffing restrictions (Everett, 2019; Mustchin and Martinez Lucio, 2020; Mustchin and Martinez Lucio, 2022). This highlights how a driver for regulatory changes moving away from inspector-led approaches can be due to financial restraints (Mustchin and Martinez Lucio, 2020; Mustchin and Martinez Lucio, 2022).

Findings from the interviews

Team structures, resourcing and skills

Interviewees highlighted how a key risk of change programmes is that organisations must be ready for change and employees can feel overwhelmed if there is too much uncertainty or multiple requests on their time. This is particularly important if employees are split between working on the change programme and their usual day-to-day work. Several regulators described how they had established centralised change management teams to oversee their programmes. This had the benefit of enabling a ‘bird’s eye’ view of an organisation’s change portfolio, allowing programmes to be coordinated effectively.

“They’re all programmes within their own right with business cases but they sit under a portfolio so we can really manage that interdependency. So, we’re managing the implementation as a single programme rather than individual programmes. We’re then able to provide that coordinated approach to enable us to really work out how best to land this and manage the business change internally but also externally as well.”

Taking a centralised approach can help to ensure appropriate expertise in change management, provide SROs and avoid overburdening teams where an organisation has competing priorities. One regulator argued that a small central team in particular helps to manage expectations for what they may be able to achieve, while allowing the team to influence others across an organisation. This helps reduce the risk of a loss of momentum or clarity on a project, supporting the fast implementation of a new way of working.

A challenge in many regulatory change programmes was limited resources within the project team. Interviewees highlighted how the extent of resource was not always articulated or planned fully at the start of a programme, resulting in high workloads or the team not having the appropriate skills. Centralised teams can help to ensure dedicated resource as members are fully committed to the work. One regulator described how they had taken ten percent off wider budgets across the organisation to resource their change fund. This ensured there was adequate funding for the changes required, and supported the central team to deliver.

In contrast, a number of regulators built teams by drawing on resources from across an organisation. While this had the benefit of using existing resources effectively and selecting required skills from within a regulator, it could result in challenges if individuals were not resourced full-time onto the project. Interviewees highlighted risks around handing over the implementation of change programmes to delivery teams who may not have as much understanding or knowledge of the earlier stages of designing the programme.

“We knew we would find it a challenge, so we took people from the business teams and pulled them into the programme. We thought they could sell the positivity of the changes back to their teams but relationships with the change team broke down.”

The importance of strong project management was highlighted as essential for change programmes. One regulator described how they established a specific project management function in response to learning from earlier programmes. This reflects a recognition of the specialist skills required for successful project management, and subject matter experts with the relevant knowledge that is applicable to a programme, for example expertise in IT systems. In a number of cases, interviewees commissioned external teams to support with the design, implementation or delivery of a programme recognising the need for these specialist skills and additional resource. This also reflected the nature of some programmes which focused on technological changes, for example rolling out new IT systems.

Regulators also developed and delivered training courses for staff as part of a programme to help teams apply changes to their role. This was seen as a way of communicating the reasons for a change and what it meant in practice to all staff or those specifically affected, as well as providing staff with the new skills required for delivery. This reflected the importance of building support for a programme. However, there can still be challenges associated with encouraging staff to embed changes despite training. For example, where resources are limited or there is significant cultural resistance to the proposals.

Establishing clear decision-making structures

Building a routine

Regulators emphasised the importance of having routines and creating structures, while implementing a change programme. By creating a structure of regular meetings and milestones, programmes can create a sense of momentum and clarity on what is required by when. This supports transparent stakeholder management and also ensures there is greater clarity on resource requirements and wider organisational demands.

A number of regulators described decision making structures including fortnightly forums, programme boards, regular executive committee presentations or updates, and mechanisms for feeding back progress at a senior level. This provides a way of getting senior level steer on the direction of a programme as well as building in accountability mechanisms and opportunities to flag any risks or concerns. For example, one regulator held a programme board meeting every six weeks. Ahead of this, they provided a highlights report to the programme board to talk through the progress achieved and any issues in delivery. This approach helps to overcome key risks associated with keeping stakeholders informed of changes, reducing the chance they may oppose a decision at the last minute.

Senior ownership

Having an SRO with clear decision-making powers was emphasised as a key part of ensuring decisions can be taken in a timely way and navigating internal structures. Where possible, interviewees pointed to the value of having continuity and the same person in this role, so they can see a change programme through from start to finish. This brings benefits in terms of understanding where the project is heading among senior leadership, as well as avoiding new leaders from feeling they need to put their own 'stamp' on an approach. Without an identifiable SRO, the programme can be put at risk due to a lack of clarity or direction. Centralised team structures can support this by providing a standalone team with key decision makers who can share learning and manage a portfolio of projects together.

"Each [change] programme has a programme board, so the heads sit on the different programme boards to provide advice. In the policy making phase, there was cross-pollination across the programme heads to ensure lessons had been shared. We learnt a lot from a previous programme rolled out shortly before ours, and a subsequent programme has learnt a lot from us on delivery."

Having senior sponsors, who are supportive of the programme's vision, on the board or executive committee of an organisation also helps to manage internal relationships and ensure external messaging is consistent. Interviewees described how they spent significant time engaging with senior leaders within their own organisation to ensure they understood what the programme was trying to achieve and why. Keeping the executive committee informed through regular updates was regarded as a way to help take people through a programme step-by-step. This can make the changes feel more manageable and avoid any surprises or challenging feedback in the final stages of the design or implementation phases of a programme from senior stakeholders.

Environment Agency case study: Applying change management principles to regulatory change

The Environment Agency commissioned a regulatory review of their projects and initiatives in an effort to bring their various change programmes under one umbrella, rather than addressing issues separately. This review provided them with an opportunity to look back at previous changes they had made and decide on what they could change in the future. It also helped to try and avoid duplication of initiatives.

The agency has recently placed a strong emphasis on applying change management principles to their regulatory change programmes. This includes looking in particular at the impact of changes on people. Their own research has demonstrated that they have typically focused on the technical side of change and neglected the people side of change. This can lead to resistance from internal and external stakeholders not embracing or adopting the changes.

To place emphasis on the people side of change, the Environment Agency use the Prosci change management framework (Prosci, 2022) to underpin their work and take people through a structured approach to change management. The Prosci Change Triangle (PCT) Model is based on four core aspects:

- Success: the purpose of a project
- Leadership or sponsorship: the strategy and direction of an initiative of a project
- Project management: the technical side of a project
- Change management: the people side of a project

The framework also emphasises the importance of individuals, arguing that the success of a project lies with each employee working in a new way. It argues that “without an individual perspective, we are left with activities but no idea of the goal or outcome that we are trying to achieve” (Prosci, 2022).

Reflecting this, the Environment Agency place certified change practitioners at the heart of change programmes. They also conduct training sessions for staff on the Prosci framework. They changed their organisational model for giving out permits, which has helped to create more efficient structures for delivery. These changes were based upon adapting to more modern and flexible approaches to working. They then brought a group of team leaders through training to lead people through change. They allowed themselves a three-to-six-month lead in time to plan this. As a result of their new approach and focus on the people side of change, they recently moved over 400 employees to new structures and faced little resistance to this.

Ofgem case study: building trust through engagement and assurance processes

Ofgem recently delivered a change programme that aimed to provide faster and more reliable switching services across the energy sector. They have built a new centralised switching system, to enable suppliers to switch consumers, introduced data reforms into the market, and introduced new regulation to require suppliers to switch consumers in five working days.

Throughout the programme, Ofgem focused on building trust with industry through transparency and strong stakeholder relationships. While Ofgem was fundamentally responsible for decision making, they aimed to make decisions through consensus by understanding the impact across industry and consumers and taking account of those concerns. They did this through a regular series of closed meetings with industry representatives that reflected diversity within the market, however all material was made available to industry.

Lower-level working groups (which were still decision-making groups) were open to anybody that wanted to attend. This was important as Ofgem did not have capacity to talk to everyone but could hear thematic concerns across the sector by talking to a wide range of people. Decisions would be made at these meetings by reaching consensus with the wider group. Where consensus was not possible Ofgem would take the decision in the broader interests of consumers and the market, in line with their regulatory objectives.

Although the higher-level meetings were closed, the team wanted to ensure all interested parties had information about what and why decisions had been made. They did this by:

- Publishing programme papers online that had informed decisions at the Delivery Group meetings. This included the papers for the meeting a week in advance, an immediate communique following the meeting to highlight the key outcomes, and minutes from the meeting published a week after the meeting. This gave all interested parties the opportunity to review the information and contribute.
- A day after publishing the papers, and five working days before the meeting, the team would hold a regular WebX, video conference broadcast to talk through key information in a more digestible format. This was seen as important for explaining material and therefore

avoiding opposition by helping stakeholders see the reasons behind an approach. This was a broadcast meeting, and Ofgem did not take questions from parties at this session. Instead, parties were encouraged to raise questions via their representative in the meeting.

- After these broadcasts, industry representatives were responsible for gathering opinions from across their group to inform their input into the meeting.

This regular process of engagement was seen as essential for building trust across industry while providing clarity on how decisions were made and could be influenced.

“When we have had to make hard decisions, industry have accepted them because they trusted the process and the people making them.”

In addition, the programme built independent assurance processes into the programme through two bodies that reported into Ofgem: a Core Systems Assurance Provider (responsible for assurance over the parties who ran the central industry systems impacted by the Programme) and a Licensed Party Assurance Provider (responsible for conducting sample-based assurance over the user of the system, pre-dominantly energy suppliers). This gave industry a way of asking for an independent view if they disagreed with information, building credibility and trust.

“The success of this approach has been demonstrated in the ability of Ofgem and programme participants to be confident that the information being provided to the Programme was accurate, and could be relied upon. This enabled all parties to ensure that their opinions, and ultimately decisions were based on evidence, rather than the pre-conceptions of other parties.”

Good Practice Regulatory Change: Managing relationships

The wider literature related to managing relationships

Communicating the reasons for a change

Stakeholder relationships and their familiarity with proposed changes is a key area of Ostroff’s (2006) road map. The literature identifies two components to successful stakeholder management. Firstly, familiarity with any of the proposed changes is an important factor that needs to be considered, so that support for the changes can be reached among key stakeholders (Armenakis and Harris, 2009; Lercel, 2019). Familiarity with the change is likely to make it more effective (Lercel, 2019; Shea et al., 2014). If familiarity with a change is low, this will likely result in lower levels of support for the change (Lercel, 2019). The majority of stakeholders must also have a high level of agreement that the policy is appropriate and feel motivated that it will bring benefits (Armenakis and Harris, 2009; Neves, 2009).

Hooper (2019) stresses that familiarity with change does not just mean explaining what technical differences there will be from any change management, but also explaining the potential impact on individuals. Hooper (2019) suggests there is often “very little of ‘what this means to you’”, which is important to communicating a programme amongst stakeholders and staff. There have also been suggestions that regulators should have “meaningful engagement with stakeholders”, so that they can understand what responses would be proportionate when different issues occur (NAO, 2021). However, even a degree of familiarity and support for a change, does not guarantee that it will be effective (Baxter and Clarke, 2013).

Managing regulatory relationships

Inspections have formed a significant aspect of how regulators have enforced regulatory compliance (Vickers, 2008). There can be challenges associated with inspections as a regulatory model as they often rely on the individual judgement of inspectors, who may make personal judgements on whether to be “overzealous” or whether to let smaller things pass (May, 2007). This criticism, and the subjectivity of individual inspectors, has been seen as a flaw within healthcare regulation (Demeritt et al., 2016). It can make managing relationships with regulated organisations more difficult, particularly where a regulator may be moving into more risk-based or self-regulatory models.

Similar challenges were highlighted in changes to Ofsted inspections in 2012 (Baxter and Clarke, 2013). Although initial reforms were welcomed, the longer periods between inspections and questions about the consistency of the scheme across different inspectors and regions, created opposition to the change. Baxter and Clarke (2013) see continuity as critical to the credibility of a change programme and for building trust in a new system. However, there are also challenges within a trust-based system, where regulators are reliant on individuals to disclose information. In these cases, it can be difficult to know whether they are accurately disclosing all of the required information (Etienne, 2015).

The literature describes a wide range of factors influencing the success of changes to the regulation of healthcare over the last thirty years (Demeritt et al., 2016). One factor focuses on “short-comings in the public engagement strategy” among healthcare regulators (Richardson et al., 2019). This focuses on how the general public believed there were variations in inspection approaches in different parts of the country, and difficulties related to the relationships between the regulator and the regulated party. However, it has also been argued that in an area such as healthcare which is a high public priority, regulation is not able to “completely assure the public that quality of care is good enough and will prevent future scandals of poor care” (Patterson, 2011). This is often due to the variety of levels of care, and different types of care settings and situations, within the wider system.

Findings from the interviews

Identifying and engaging relevant stakeholders

Although many interviewees had good relationships with their stakeholders and understood the groups who would be affected by changes, they described conducting stakeholder mapping exercises to identify relevant stakeholders and inform an engagement plan. This was emphasised as a way of systematically engaging with stakeholders and ensuring groups were not being missed. Regulators developing programmes in response to new sectors or technological changes felt this was especially important as the relationships held by their organisation may not cover all of those likely to be affected by a programme. This also helped to overcome the risk of unexpected opposition to the ideas proposed.

Interviewees described how they ran internal workshops to identify relevant groups, used desk research and spoke to key influencers for suggestions on contacts. In some cases, they worked through existing relationships held across an organisation to make connections with others. A number of regulators described how their existing contact databases were not systematic or held at an organisational level, with individual teams holding contact information separately. This made it more difficult for those leading on change programmes to find relevant contacts or understand who was already linked into key individuals. Several change programmes have had an unexpected lasting legacy by building new contact databases or systematically capturing this information for a whole organisation.

Very few regulators engaged wider consumer groups or citizens in their regulatory change programmes. Although consumer views informed the design of a change, as described above, they were rarely involved beyond this except through existing consumer forums. In a small number of cases, regulators described the changes taking place through social media campaigns or awareness raising activities where changes were likely to effect consumers directly.

Table 2: Common stakeholder groups and example engagement approaches

Group	Example stakeholders	Example engagement approaches
Regulated industries or organisations and their employees	Including small, medium and large businesses/ organisations across relevant sectors, trade bodies and Unions, employee representatives and employees themselves.	• 1:1 interview programme with key bodies • having conversations as part of existing relationships • workshops, presentations and open forums • publishing information and updates online • connecting through representative groups
Consumers and the wider public	Including consumers of regulated industries, those directly affected by regulations or the change programme and the wider public.	• consumer consultations including focus groups and surveys • social media campaigns • consumer panels or forums that provide guidance to a regulator
Expert groups	Including academics, policy experts, other regulators and Government departments.	• establishing advisory bodies or working groups • 1:1 interviews

Group	Example stakeholders	Example engagement approaches
Internal stakeholders	Including senior leadership, teams implementing or affected by a change programme and wider employees.	• internal workshops split by seniority to facilitate honest conversations • regular communication from the Chief Executive with updates on the Intranet • case studies or scenarios to highlight the benefits to different groups • working through line managers and team leads

When and how to engage

While the timings around engaging stakeholders depended on the specific programme and wider context, interviewees felt it was helpful to start engaging stakeholders once an organisation has a clear vision and concept of what the change programme was seeking to achieve. Without this, it can be more difficult to provide the consistency and clear message required to reassure wider audiences. Interviewees emphasised the value of being proactive rather than reactive, particularly when communicating with internal stakeholders. It was felt this approach helped to avoid the risk of anxiety within teams as people may feel nervous if they are not clear on the impact that the change will have upon their role, including job security and their responsibilities, or if they feel they are not involved in discussions.

In addition, regulators suggested having a simplified message which can be used across all stakeholder groups and tailored depending on the audience. This was seen as a way to provide a simple, clear message while ensuring communications showcased the potential benefits of a change to a specific group. It was felt that it was important to consider who is best to engage with stakeholders and prioritise resources effectively. For example, in some cases it may be valuable for the Chief Executive or a senior leader to speak to a stakeholder, while in other cases it may be more useful for those with day-to-day relationships to lead on conversations. Working through existing networks and identifying advocates for a change can also support getting a message across.

A number of regulators established specific working groups to engage key audiences in elements of a change programme. These are groups made up of stakeholders, including consumers, who help to shape and inform the approach to a programme. For example, one interviewee described how they established ongoing working groups for each element of their programme. These groups were open to everyone from across the industry and helped to define how they dealt with specific parts of the project. Throughout, they relied on a series of design principles set at the beginning, which helped to provide a roadmap of their overall aims which they could return to.

“From the very beginning, we’ve taken an open and transparent approach. The design working group meant that anyone from industry could come along and participate in the development of the design. Naturally, there were some parties more involved. Typically, you see the larger suppliers more involved because they have the resources to do it. But the fundamental principle is that it wasn’t representative, it wasn’t limited, they could send as many people along as they wanted. And, really, they were fundamental to that design stage. We were reliant upon the expertise within industry of how the existing systems work and how they were connected in order to make the changes.”

Building open relationships

Maintaining transparency around a change programme was seen as critical to building trust and buy-in from a broad range of stakeholders. Interviewees recognised that changes can be unsettling, making it important to be open about the steps in a process and provide regular updates to reassure both internal and external stakeholders. A number of regulators published updates about their programmes online. For example, Ofgem published details of the business cases, engagement approaches and consultation responses linked to their Switching Programme. While the Financial Conduct Authority (FCA) publish a regulatory initiatives grid that sets out their plans and progress against these for the next two years.

One interviewee described how maintaining transparency around regulatory change had been more difficult during the Covid-19 pandemic when they had to implement new approaches quickly. They described how this resulted in some stakeholders feeling as though they had not been consulted and meant the organisation had to rebuild certain relationships after the initial programme was rolled out.

A commitment to openness was reflected in many of the ways interviewees described engaging their stakeholders as set out in Table 2. They often provided a variety of mechanisms to feed into a programme on an ongoing basis. This was seen as vital to helping design and shape a programme that could be implemented effectively by providing valuable evidence about the potential impact on industry or wider groups. It was emphasised that strong and ongoing stakeholder engagement, if effective, means there should be no surprises when a programme goes out to formal consultation during the design phase, and subsequently when a change programme is launched.

Managing relationships through uncertainty

The flexibility required for implementing a change programme is a key risk that can make managing relationships more difficult as a result of the uncertainty surrounding the approach or the likely outcome. This applies to both internal and external stakeholders who may be resistant to change, particularly where this relates to culture or long-established processes. Conflicting priorities across stakeholder groups is also a risk that makes implementation more sensitive and increases the importance of good relationship management to balance these tensions.

Interviewees emphasised the importance of having a clear communication plan and dedicated resource for communications and engagement to manage this effectively. A number of regulators established specific roles which helped to coordinate messaging and create structure. Interviewees highlighted the risk of programmes possibly being undermined if relationships with their regulated industries were not maintained throughout. One interviewee described how they held internal workshops to explore likely areas of resistance so they could mitigate these. In this way, they drew on the insights and knowledge of people across the organisation to inform their communications plan.

“What are people going to say when we put this out? What are the doubts people will have and do we have lines we can come back to them on?”

Clarifying the role of a regulator

A number of change programmes sought to create a more collaborative or co-operative approach between industry and the regulator. For example, one regulator wanted to take a more preventative approach, working with industry to avoid potential breaches rather than focus more heavily on enforcement action. They described the importance of building a narrative to tell the story around the reasons for a change, providing consistency in how different organisations are treated and going on a ‘charm offensive’ to help reduce scepticism and mistrust.

“Regulators can speak a different language from industry. Regulators, when involved in protecting public health can have ‘right’ on their side and power on their side. We need to make sure to put the other side at ease and try and properly engage them.”

Reflecting a more collaborative approach, regulators highlighted how it is important to provide a timeframe for communicating changes, where the emphasis is placed on educating industry or providing training and guidance on how to comply with new regulations. However, they also spoke of the importance of agreeing a point or deadline for when behaviours and processes should have changed by. They highlighted how, although collaboration was important, fundamentally a regulator’s role is to enforce certain rules which all parties must be clear on.

“There will come a point when we say you’ve had your chance.”

One interviewee described the different style of their change programme team compared to the wider regulatory organisation. They emphasised how their role was to develop an effective approach to future regulation that recognised the context and capacity of industry. As such, they encouraged ongoing and confidential relationships with industry where stakeholders could come with questions or concerns about the planned changes. By acting on this information, the team built credibility and meant they had the information needed to effectively deliver the programme and improve outcomes for consumers. However, they recognised this is not an approach a compliance team could take but reflects the unique nature of a change programme.

“The principle throughout the delivery phase of the programme was ‘I am here to help’. I’m not wearing a typical regulator hat, I’m not going to talk to compliance. If you come to me before we go live, I will try and fix it. We are in a fix forward mode, no questions asked.”

The relationships between regulators and industry can be more complex where regulation is delivered or enforced by third-parties such as local authorities. One regulator described competing priorities between local authorities that carry out inspections, and the wider industry. For example, they pointed to changes which would make the system more efficient for industry but would require additional resource from local authorities who already have high workloads.

Working through third parties, who enforce regulation and inspections on behalf of the regulator, can allow a regulator to build a more supportive or collaborative relationship with industry, through a focus on developing and sharing guidance rather than direct enforcement. However, it can also increase the number of stakeholders in a programme and add complexity as third parties need to be engaged on the benefits of a change and trained in a new delivery approach, giving regulators less control over implementation. Etienne (2015) has also suggested that there can be risks in relying on third-parties to deliver regulation, as they will not always have the same commitment to the overall aims of a programme. This can also present additional risks, for example if the local authority workforce is reducing or does not have capacity to deliver in a new way.

“A lot of the initiatives that we want to bring in to support local authorities might not be the best for businesses, stuff that is good for business might be more of a burden on the local authority. You want to improve compliance, so we were looking at penalties, but this places a burden on local authorities to do that. It is a constant challenge to support all of our stakeholders. In the past, we have very much focused on nurturing relationships with local authorities and we didn’t get the balance with consumers and industry right.”

Legal Services Board case study: Engaging stakeholders from design to delivery

The Legal Services Board (LSB) is an independent body responsible for overseeing the regulation of lawyers and legal professionals in England and Wales. It ensures that the interests of consumers are placed at the heart of legal services. It launched a consumer-focused sector-wide strategy in March 2021 called Reshaping Legal Services. This sets out nine challenges that need to be overcome in order to reshape legal services to better meet society’s needs. The strategy sets a ten-year strategic direction for the legal sector (2021-31), with a focus on the role of regulation in making the market work better for people who need legal services. The strategy also identifies priority areas for the legal sector over a three-year period (2021-24) and how the LSB will contribute to these priorities.

Engaging a wide range of stakeholders was a key part of their approach to designing the strategy and formed a main strand of their activities from 2019 onwards. The organisation wanted to ensure they reached out to parts of the sector they did not regularly speak to, as the strategy needed to reflect the diversity of perspectives across legal services and not only focus on regulated bodies. In particular, they wanted to include the consumer side of the legal sector, reaching out to lawyers and legal businesses, local government, government agencies and broader consumer groups. However, given the LSB is a small organisation, they needed to work efficiently to prioritise resources while including the breadth of perspectives required.

A dedicated communications and engagement manager for the programme established a plan for stakeholder engagement. This involved stakeholder mapping, including through internal sessions within LSB to identify who they were missing, establishing a stakeholder database to track and evaluate engagement, administrative support for the team to communicate over email, and prioritising engagement activities. Throughout, the LSB focused on segmenting the legal sector to identify who to engage with and the best approach to doing so. For example, the team thought carefully about who from LSB should be reaching out to each external stakeholder and tailored their approach accordingly. This included:

- one-to-one conversations with the Chair of the LSB and/or the Chief Executive
- conversations through existing policy leads
- evidence sessions bringing four or five people from a similar sector together with a board member
- larger consultation events which were open to anyone wanting to join and help throughout the development process, actively encouraging feedback on the strategy
- a summit with key senior stakeholders across the sector
- a formal written consultation with the opportunity to provide feedback on the draft strategy both in writing and at wider events

As well as working through existing connections to identify wider stakeholders, the team conducted desk research, social media analysis and horizon scanning to see who was talking about related issues, and LSB staff went to pre-existing events to network and make new connections. The team also spoke to other regulators and government departments, such as the FCA, HM Land Registry and the Office of the Public Guardian, who could have a perspective on the legal sector.

“We were always very conscious of trying to facilitate as much of a two-way conversation as possible, trying to listen and reflect on what are the big challenges in the sector and how did that match up with our research and more widely.”

The organisation sees itself as unique in having convening abilities to bring people together across the legal sector and is keen to continue to do so since the publication of the strategy. They see this as a key way of delivering regulatory and sector-wide change for society, so the LSB continues to emphasise bringing people together, facilitating conversations and championing collaboration. This includes through:

- a microsite, specifically established to communicate the strategy, with information on the sector’s progress. It includes stories and case studies from across the sector on stakeholders' activities and plans.
- hosting an annual Reshaping Legal Services conference to bring stakeholders together to maintain the momentum it has built up, collaborate, and encourage commitments which the LSB can track progress against.
- a system of relationship managers with policy leads connected to each regulator who can provide updates and maintain open communication channels.
- establishing the Market Transparency Co-ordination and Oversight Group to bring together regulators to collectively improve consumers’ engagement with the market. Market transparency was a key challenge identified by the LSB as requiring regulatory change. The group is chaired by the LSB and attended by regulators in the sector as well as the Legal Services Consumer Panel which represents consumers. The Consumer Panel has existed since 2009, but the new approach brings them together with regulators to foster dialogue.

Good Practice Regulatory Change: Implementing in a flexible way

The wider literature on timeframes

Literature is limited on the importance of flexibility and timeframes in regulatory change programmes. Gerbec (2016) identifies the value of incorporating a testing, or piloting, scheme for parts of a programme. He says this is important as it helps to identify which parts of the specific changes work, and what impacts this will have. Similarly, Carroll (2008) argues that it is important to be able to say no to ideas during the design stage of a change programme, before an approach is fully implemented. This recognises how changes will not always work.

HM Treasury’s (2018) guide to developing a programme business case distinguishes between three different programmes:

1. Making and delivering programmes: where the change being delivered is based on making and delivering new facilities, the programme will tend to be led by the specification of the outputs required. There are likely to be low levels of ambiguity about what the programme is to deliver. The scope will be reasonably well defined and adjusted according to circumstances.
2. Organisational change programmes: where the change is more focused on changing the way an organisation works, the programme will tend to be led by a vision of the desired outcomes and the benefits it will deliver. There will typically be some level of ambiguity about what the precise changes are and how they will be delivered; but there are fairly clear levers that can be employed to achieve the vision.

3. External or societal change programmes: where the change is focused on interventions and improvements in society, the programme will be driven by the desired outcome, but will typically be highly ambiguous and complex to define in terms of what it will involve. The scope may need to be adjusted as elements are clarified over time.

The guide emphasises the importance of a continual process of alignment to ensure a programme remains linked to its strategic objectives, recognising a need to respond to changes in strategies or accommodate new initiatives and policies.

Findings from the interviews

Taking a flexible approach

Interviewees emphasised the time it takes for changes to be achieved and how many factors, which influence change programmes, are outside of a regulator's control. This brings challenges for maintaining momentum as well as the risk of implementing a programme that may have been designed for a different context. Reflecting this, regulators emphasised the importance of taking a flexible approach to implementation including using agile project management approaches, building in milestones to review progress and not being afraid to change direction.

One regulator described how they build a number of options into their change programme to allow for different legislative settlements. While another described how their strategy is based around several high-level principles that are defined through an annual business plan process.

"We were mindful of that when we were doing the analysis and content development that [our strategy] needs to be specific enough to garner action without being so specific that it dates quickly. We've managed to strike the balance relatively well. Here's the three broader objectives, nine challenges that sit within that and our priorities that we set as a business year on year."

Allowing for contingency

There was a recognition that there is often an optimism bias in the design of programmes which means timeframes are not realistic. This was particularly emphasised in relation to building in sufficient time to change mindsets or influence the culture of an organisation or sector, which was seen as always taking longer than anticipated. This means there is often a risk that programmes may not deliver to the anticipated timescales, which can cause problems for all parties involved.

"If I were to do it again, I think the bit that should and would take longer is a fourth phase around embedding change. You've got a lot of people in regulators who have been working in a certain way for an awfully long time. So, probably there's a slightly longer tail to these programmes than is formally recognised."

As such, interviewees emphasised the importance of building in contingency time or agreeing to windows for changes rather than hard deadlines. This can help to provide flexibility and keep teams engaged, as missing deadlines can affect team morale.

"It was a massive change piece, but the big lesson was it took much longer to get set up than anticipated. It was supposed to be a two year project, but it took five years. It always takes much longer than planned so now I always build in that contingency time. There is always something that comes along, that rediverts resources, reprioritises things, situations change."

One interviewee recommended having an agreed period of contingency that is held for the end of a programme, and not communicating this with wider groups until the end stages of a project. They described how this meant they could continue to progress, while assessing developments and then finalising a key delivery date shortly before the planned changes were implemented.

“If you don’t need to impose a hard deadline, then give yourself a window where it doesn’t look like you’re failing if you’re not meeting the band exactly.”

Creating space to pilot and test different approaches

In some cases, regulators piloted or tested approaches before rolling out a programme. This was important as it enabled regulators to see what parts of the programme worked, allowing them to change approach if something did not go as planned. This reduced the risk of a programme not being fully operational when implemented. For example, one regulator tested system changes with regulated parties in advance of implementing the full-scale programme. They set up a working group to achieve this with industry, collaborating to design the best approach.

“You want to prove that regulation is really necessary. I think the test-and-learn stuff is vital. If anybody's going to do a shift it's too easy to make assumptions around what doesn't work now versus what's needed.”

Another regulator described how they had decided to run pilots for a longer period of time, but over smaller geographic areas to provide a more comprehensive picture of whether their new approach worked. They felt this helped enable them to scale up pilots more quickly as they had a chance to fully test the approach at a smaller scale.

A recent trend involves regulators setting up ‘sandboxes’ to create controlled environments for businesses to test innovations (OECD, 2021). In the UK, examples include:

- The FCA’s sandbox, which allows financial services to test products with consumers for a limited duration
- The Information Commissioner’s Office’s (ICO) sandbox which supports services using personal data in innovative and safe ways
- Ofgem’s sandbox which supports the gas and electricity markets to test new approaches in a live energy environment, involving consumers, interacting with market rules or the physical system
- The Department of Transport (2021) has also consulted on the potential of launching a regulatory sandbox to support innovation in surface transport

These approaches allow regulators to collect data on new services on a smaller scale, encouraging innovation while managing the risks to consumers or interactions within the market associated with implementing a new approach. This can also support collaborative relationships with industry, providing guidance to businesses about how a new service could interact with existing regulations.

Interviewees also emphasised the value of embedding formal learning and processes for continuous improvements into project implementation. They described using logs to capture information that are reviewed with ideas for making future improvements and avoid making the same mistakes. One organisation includes a lessons learned process at the end of each programme.

Good Practice Regulatory Change: Measuring Success

The wider literature around measuring success

The literature describes how consistently changing regulation and inspection frameworks, alongside external political pressures, can make it difficult to see how effective regulation has been (Ozga et al., 2013). The OECD (2021) found that less than one-quarter of member states systematically assess whether regulations achieve their objectives. They argue that governments need to develop more ‘adapt and learn’ approaches that can help provide learning and ensure changes correspond to the latest evidence and science.

This reflects insights from the NAO (2017) which highlight how the benefits of regulation are not easily quantifiable. The NAO (2017) has argued that regulators need good performance measurement to enhance accountability and demonstrate value for money, even if this is something they find challenging to do. Their good practice guide on performance measurement by regulators (NAO, 2016) sets out the importance for a regulatory framework to give a balanced picture on where the needs of providers and consumers may conflict, the costs of collecting performance information on providers, and on the ability of regulators to influence their intended outcomes. They have also published a corresponding maturity model that can help an organisation to assess their own performance against good practice criteria across several stages: developing a performance measurement framework, reporting performance information and using performance information.

Findings from the interviews

Ongoing monitoring and data platforms

Regulators emphasised the value of monitoring performance throughout the life of a programme. By capturing data on a continued basis, interviewees described how they were able to use this to gain buy-in and provide evidence that they were achieving their goals. This was seen as important for building relationships with both internal and external stakeholders, particularly where there was scepticism about the reasons behind a proposed change. This data could also be used as part of regular meetings with senior leaders or wider stakeholder groups.

This was often easier to achieve for programmes involving a greater use of technology or data-driven approaches that can provide real-time intelligence and insight into what is happening across a sector. In contrast, programmes built on changing a culture or delivering a new strategy could be harder to measure. Interviewees also described challenges in upskilling teams to understand how to use new platforms to measure performance and to ensure the accuracy of data being collected.

“We carried out a project on data accuracy. As part of that, we developed a dashboard to show how it is improving over time. Any elements we can report on, we add them into the dashboard. It is important to show the progress, it helps to get buy in, particularly if you have a programme set up without lots of permanent staff and you are relying on input from other teams within the organisation. Anything that helps buy-in and helps others see the benefits or the differences being made.”

One interviewee described how they have built automated processes into their relationships with regulated bodies. They see ongoing data into how organisations are interacting with consumers and if something has not been resolved satisfactorily, the regulator will get involved. This provides a good indicator of whether an organisation is getting small things wrong, which can suggest there are larger problems. By flagging concerns early, the regulator can check an organisation is getting the basics right and provide support to ensure larger problems do not arise, as well as tracking the success of the new regulatory approach.

Similarly, interviewees described how continued engagement with stakeholders could help to provide ongoing insight into how a change programme was progressing. By building new relationships that are more collaborative or proactive, organisations were able to have more real-time, honest conversations that could help to inform an approach.

Measuring impacts

Developing an approach for measuring outcomes was seen as important but was not always done systematically. Regulators used a range of methods to measure outcomes including: staff surveys, analysis of financial data, impact assessments, complaints data, the number and results of enforcement cases, accident reporting and Value for Money (VfM) assessments. Measures tended to be quantitative, with regulators describing how they translated specific regulatory outcomes into quantifiable indicators of change. However, there was recognition that this could result in a focus on measuring outputs, such as the number of businesses engaged in a programme, rather than outcomes. There were few mentions of establishing formal evaluations of the programme from the start.

Interviewees described a number of challenges in measuring the outcomes of change programmes:

- It can take a considerable length of time after introducing changes to be able to measure the outcomes. For example, changes to protect employees against long-term health conditions can take decades to materialise in the data.
- External changes to the policy landscape in fast-moving sectors, such as the technology sector, were reported to make it difficult to determine whether intended changes to regulatory programmes were successful.
- It is often difficult to determine a direct link between changing regulations and behaviour change. For example, accident reporting can help to show a reduction or increase in incidents, but this does not provide information about near misses.

In response, interviewees emphasised the value of having proxy measures or indicators for the outcomes of a change programme. This can help to provide insight into the success of measures at an earlier stage.

“When you are right at the beginning, it is important to make sure you are not just focusing on the outputs of change but doing some sort of impact assessment and making sure you include things like behaviour, mindset, attitude so you can start thinking about the challenges to measuring this.”

Regulators also stressed that financial indicators, and the final costs of the programme should not be the only method of measuring how successful a project is. It is important to balance the financial indicators with other measures that can assess whether the project has achieved its desired outcomes. These other measures could include internal staff surveys and feedback from stakeholders in the industry.

Good Practice Regulatory Change: Conclusions

Although the academic literature is limited regarding the specific experiences of regulatory change programmes, our research has highlighted several themes that are unique to regulators beyond wider change management principles. This includes:

? The context for change, with regulators describing implementing new approaches based on changes to legislation or political direction. This can limit the amount of control regulators have over a change programme, or the context in which it operates in, with a greater emphasis on

responding to external factors.
? The importance of managing relationships with regulated industries, and the challenges in doing so effectively by balancing enforcement and support approaches.
? The extent and number of wider stakeholders that a regulator may need to engage with in a programme, including other government departments including HM Treasury, regulators, representative bodies and consumers.

We have also identified ten key insights related to implementing regulatory change programmes, which could be considered by the FSA's ABC team.

1. Define the key challenges that a change programme is established to solve in the early planning stages.

This can be informed by both informal and formal reviews, where the latter includes commissioning research with consumers, working groups with stakeholders as well as horizon scanning. Potential benefits include:

- In-depth understanding of the landscape that can help identify the most impactful areas of change to focus on
- Understanding the potential impact on diverse stakeholder groups, including likely risks and challenges to delivery

2. Clearly articulate the goals of a programme and what it will achieve.

These should be focused on an overall vision instead of being too specific to a programme (which limits flexibility to respond to change). Potential benefits include:

- Supports building buy-in from wider stakeholders and provides reassurance about the intentions behind a programme
- Aligning the team to a common goal
- Helps identify metrics that can be used to measure outcomes

3. Consider establishing a centralised change management team.

This can include senior accountability as well as sponsorship, with senior decision-makers helping to advocate for change. Potential benefits include:

- Gives an overarching view of the change portfolio, enabling more effective co-ordination and management of competing organisational priorities
- Provides clarity for teams on what is expected and who is responsible for a change programme
- Ensures dedicated resourcing to programmes, from both a capacity and expertise perspective

4. Build clear structures for decision-making.

This can include internal decision-making forums, as well as external communication plans. Potential benefits include:

- Maintaining programme momentum and helps avoid delays
- Sets expectations for what will be delivered by when
- Provides a forum to keep senior decision-makers updated

5. Create a communications plan once a clear vision has been agreed.

This should include simplified messaging which can also be tailored to specific audiences. Change advocates can also be identified to support with sharing the message. Potential benefits include:

- Creating alignment amongst the wider organisation
- Helping provide reassurance, inspiring confidence and building rapport with key stakeholders
- Helping to mitigate likely areas of resistance by keeping stakeholders informed and involved

6. Build a regular schedule and routine behind engagement activities.

This could be part of an engagement plan which is supported by a stakeholder map, built from working groups, desk research and speaking to key influencers for suggested contacts. An example of building this type of routine is a regular broadcast to the wider industry to gather feedback and inform future approaches. Potential benefits include:

- Creating a culture of openness and collaboration with the wider industry
- A better-informed design phase
- Ensuring consistent engagement and preventing key stakeholder groups being missed

7. Pilot and test different approaches, before larger scale roll outs.

This could be implemented in a number of ways such as with different stakeholder groups or geographies. Potential benefits include:

- Supporting the mitigation of issues before wider roll out
- Lessons learnt from a pilot can inform more successfully delivery of a wider roll out

8. Embed Agile Management approaches as part of implementation.

This could be by building in regular milestones to review progress, as well as focus on what changes can be made going forward to adapt to new challenges or shifting goals. Potential benefits include:

- Effectively responding to changing priorities
- Remaining relevant to the shifting policy landscape

9. Build contingency into timelines from the start.

This was particularly emphasised in relation to building in sufficient time to change mindsets or influence the culture of an organisation or sector. Potential benefits include:

- Supporting a flexible, agile approach that can respond to changing circumstances
- Maintaining team morale by avoiding missed deadlines
- Effectively managing external stakeholders

10. Establish ongoing monitoring mechanisms to measure success throughout the change programme.

It is important to consider measures beyond purely financial and quantitative metrics. Value can come from using proxy measures to provide insight into the success of the programme at an earlier stage including behaviour, mindset, attitude, as well as qualitative measures that capture a more nuanced picture of delivery. Potential benefits include:

- Providing evidence that can be used to demonstrate progress and show a programme is achieving defined goals
- Building stakeholder buy-in by showing success
- Identifying learning which can be applied to future change programmes

Good Practice Regulatory Change: Appendix

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Discussion guide

Background for moderators

The FSA has commissioned Ipsos UK to conduct research to better understand how other industries and regulatory bodies have introduced their own regulatory change programmes, and how the FSA can use some of these ideas for their own future programme.

These interviews will involve engaging with key stakeholders from different regulatory bodies and highlighting the different approaches they have taken in actioning their own regulatory change programme. We are speaking with representatives from different regulatory bodies, who witnessed and were involved in change processes.

The interviews will help inform our key findings and identify case studies to illustrate the different aspects that emerge in regulatory change programmes and how different organisations approached related challenges.

The focus of discussions should be on what challenges regulatory bodies faced while introducing programmes, and how they overcame them. There should also be a focus on how effectively the regulatory body operates now that it has gone through this period of change, and how they have managed relationships with key stakeholders, of different sizes and influence, before and after the regulatory change.

This interview discussion guide is designed to deepen our understanding and build on what we learnt during the desk-based research. The guide first introduces the purpose of the discussion and confirms consent. It then goes on to capture contextual background about the participant's current role and the service their organisation provides. The guide then asks about how the organisation initially approached planning and implementing their regulatory change programmes. It will then consider how relationships with different stakeholders were affected by the regulatory change programme, before considering how successful the programme has been and what advice they could offer to someone who is planning to introduce their own regulatory change programme.

1. Introduction and consent (5 minutes)

Thank you very much for agreeing to take part in this interview. My name is [xxx], and I will be conducting the interview with you.

To begin with I'll tell you a bit about who I am, what the purpose of this interview is, and what to expect. After that you can ask me any questions before we make a start.

I work for an independent research organisation called Ipsos UK, and the Food Standards Agency (FSA) have commissioned us to speak with a number of stakeholders across different industries and regulatory bodies. The Food Standards Agency regulates food in England, Wales, and Northern Ireland to ensure that the food we eat is safe and what it says it is. Achieving Business Compliance (ABC) is one of the FSA's flagship programmes, aiming to make sure that consumers continue to have food that they can trust but in the rapidly evolving sector, acknowledges a need to regulate in smarter way. The food landscape has changed dramatically in the three decades since the current regulatory system was introduced. Although regulation has continued to evolve, our assurance model has not kept pace with the significant changes in the food industry. ABC endeavours to design new, responsive, regulatory approaches which are innovative and make best use of technology, data, and relationships.

The purpose of this research is to better understand how other regulatory bodies have approached their own regulatory change programmes. It also seeks to understand if there any lessons that the FSA could learn from when introducing their own change programme.

Please be reassured that the purpose of this interview is not to scrutinise you or [ORGANISATION]. By participating in this interview, you will help the FSA better understand regulatory change programmes across different sectors and identify ways to work alongside their various stakeholders.

Information shared during interviews will be published externally in an anonymised report. This report will not identify any individuals who have been involved in the research. We will also produce a report with case studies of different organisations. If we would like to include your organisation as a case study in the report, we will provide you with an opportunity to review your contribution and suggest amendments before publication. This is because there is a chance that participants could be identifiable based on the case study write-up. You will also be able to request that the case study is not published and only used internally by the FSA.

Any quotes that we use will be completely anonymous, with any identifying details omitted from the quote. Only the Ipsos project team will have access to your information, and this will be securely stored and deleted once the research has been completed.

I do have a set of questions to guide us through this conversation, but we are mostly interested in your views and experience of working within [ORGANISATION] and approaching your own regulatory change programme, so we will let this conversation be led by you and what you have to say.

This interview is completely voluntary, and so you are free to pause or end the interview at any point if you wish to. You can also decline to answer any question if you wish to or ask to come back to it later in the interview.

If it is okay with you, I'd like to audio record the interview so that I can listen back to make sure that my notes accurately reflect what you have said. The recording will be saved securely in an encrypted folder, only accessible by the Ipsos project team, and will also be deleted once we have completed our report.

Are you happy for me to make this recording? TURN ON RECORDING
Can I confirm that you are happy to proceed with the interview?
Now that I have talked through the approach, do you have any questions?

? If you don't right now, please do feel free to ask me any that come to your mind as we go through the discussion.
Are you currently in a comfortable and quiet space to start the discussion?
If not, I am happy to call back in 5 minutes once you are.

2. Background (10 minutes)

Would you be able to introduce yourself for the recording and tell me a bit about your role?
How long have you worked at [REGULATOR]?
What areas does your agency/ department regulate?
What was/is your role within the change programme?
I've got a number of questions designed to understand more about specific elements of [PROGRAMME]. First, it would be great to have a summary of the programme and the wider context for regulatory change.

Would you be able to summarise what the programme was trying to achieve?
When did the change programme begin and finish [if relevant]?
What timescales were involved? Was this phased at all?
What was the scale of change involved in the programme?
How many organisations were affected?
Probe if relevant: What different approaches were taken to inspection:
Changes to inspection frequency?
Virtual or in person inspections?
Changes to unannounced inspections?

What was the key problem(s) the programme was trying to solve?
What did the evidence base look like? How did you go about building this evidence base?
Were there any wider contextual factors that influenced the design or delivery of the programme at the time?
Probe if relevant: Did COVID-19, and any changes you were forced to make as a result of the pandemic, influence the intentions of the regulatory change programme?

3. Planning and implementation (15 minutes)

Thank you, that's really helpful to understand. I'm now going to ask some questions about how [ORGANISATION] went about planning for the new regulatory change programme, and how [ORGANISATION] implemented it.
Moderators to adapt based on the type of organisation e.g. international.
How did you approach designing the change programme?
• How did you engage with internal stakeholders during the design phase?
o Probe if relevant: Did you encounter any major challenges/ pushback from internal stakeholders?
• Did you commission any research?
o Probe: with industry? Experts? Public?

Did you identify any risks or challenges at the outset?
How did you approach mitigating them?
Probe: Information, infrastructure, technology, legislative changes, behaviour change
What influenced the decision to implement the programme when you did?
Why was it the right time for this kind of change?

Had this change been considered previously/ have there been any previous attempts to introduce the change programme?

What was needed to deliver the programme? What were the critical components and dependencies?
Probe: information needs, infrastructure, technological changes, behaviour changes (businesses/ public)
Was legislative change required? How did this affect delivery?

Overall, what key challenges did you face in implementing the changes?
In practice, what were the key issues for delivery? How similar/different were these to the risks and challenges you identified?
PROBE: resourcing, external stakeholders, internal organisational change, perceptions of certain businesses/ groups (for example, SMEs), public sector organisations (e.g. schools/ hospitals etc) being disadvantaged by the changes

What would you do differently if asked to deliver the programme again?
What would you not change?

4. Relationships (15 minutes)

Thank you, that's very useful. The next area I'd like to explore further, is how you managed relationships as part of the change programme.

Can you provide a brief overview of the different stakeholders connected with [PROGRAMME]?
• Who were the key stakeholders involved?
o Probe if relevant: Businesses (small, medium, large), Government Departments, Local Authorities, Public Services, Public
o Did any have more power or interest than others?
• What type of relationship did they have with [REGULATOR]?

How did you manage the relationship with industry/regulated organisations during the changes?
[If not covered above]: how were they engaged in the design stages of the programme?
How were they engaged during the early stages of implementing the programme?

What kind of relationship did you want to develop between regulators and industry?
Probe: Did the changes require industry/regulated organisations to take greater responsibility, ownership, accountability?
If so, how did you encourage behaviour change?
Were there shared objectives, or did industry and regulated organisations have different priorities? How/to what extent was this overcome?
Probe if relevant: How do you maintain clarity about your role as a regulator/enforcer while building partnerships and encouraging cooperation?
How successful were you in managing these relationships?
What kinds of challenges did you face? How did you overcome these?
Probe if relevant: Were there any challenges that could not be overcome and how did this impact the change programme?
How did your relationships with stakeholders change during the implementation of the programme?
What, if any, challenges remain?
How did you communicate the changes in regulation to the public?
Are the public aware of the changing relationship? Why/why not? Does this matter?
What level of public interest was there before introducing the changes?
? Probe if relevant: If you did not communicate with the public, what factors influenced this decision?
What challenges did this raise and how did you overcome them?

Probe if relevant: How did you make sure the public were clear that you still have a role as the regulator (for example, not self-regulation)?

5. Outcomes (10 minutes)

To what extent did the programme achieve the intended outcomes?
Probe: High level view of the impact of change on the industry, regulator, and other key stakeholders.
Did any risks arise that you had not anticipated?

How did you measure the final benefits and value of the programme?
Qualitative/ quantitative methods? Another method?

What (if any) unforeseen / unintended consequences resulted from the changes?
How were these overcome?
If the consequences were positive, how did you get the maximum potential out of this?
What advice would you give to someone involved in implementing a regulatory change programme?

6. Wrap up (5 minutes)

Thank you so much. We are nearly at the end of our conversation. Reflecting on what we have spoken about:
Has your regulatory change programme worked as intended?
What was the biggest challenge to introducing regulatory change?
If you were to have the time again, is there anything you would do differently?
Are there any other regulatory bodies and regulatory change programmes, either national or international, that you are aware of and think we should be speaking to?
Before we finish, is there anything else is there anything you feel is important that we haven't covered today that you'd like to share?

Explain next steps of research and recontact:
We are producing a report to share with the FSA that describes how other bodies have approached their own regulatory change programmes.
.
We would like to know if we can contact you again if there is anything further we'd like to ask you or to get your feedback on findings to ensure it reflects all of the relevant detail. For example, we would like to get back in touch if we are considering using your organisation or change programme as a case study, to check you are happy for us to do so as this could be identifiable in the report. Are you happy for us to contact you in the future, either via phone or email?
The FSA is interested in building relationships with other regulators who have been through similar change programmes to act as 'critical friends'. Would you be happy for us to pass on your contact details to the FSA team? This will not change the anonymity of your contributions today as we will not be sharing any identifiable details from the interview with the FSA.
Thank You.