



BIS | Department for Business
Innovation & Skills

**CODE OF PRACTICE ON GUIDANCE ON
REGULATION**

OCTOBER 2009

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Foreword from the Minister

Good quality guidance on regulations is an important element of better regulation. Guidance can help businesses, particularly smaller businesses, save time and money. It makes it easier to comply with regulation and may remove the need to pay for external advice.

This document, first published in July 2008, sets out the golden rules which Government will follow when providing guidance on how to comply with the law. The Code is designed for use by businesses and states in simple terms what you can expect from government guidance – it sets out what good practice for guidance should be.



Over the past year Government has continued to improve the quality of guidance it provides to businesses, supported by the Code of Practice. In looking to the recovery, good quality government guidance which also saves businesses time and money will be more important than ever.

Earlier this year we welcomed Sarah Anderson's report which made several proposals to increase the certainty that businesses can have in government guidance. These included proposed changes to the Code which we have now implemented. For example, in this updated version we are introducing "quick-start" summary guides to help businesses engage with long or complex guidance quickly and looking to remove disclaimers of liability which can reduce business confidence.

I believe that these changes to the Code will result in more user-friendly guidance giving businesses greater confidence in complying with regulation.

A handwritten signature in black ink, appearing to read 'Ian Lucas', with a long horizontal flourish underneath.

October 2009

Ian Lucas
Parliamentary Under-Secretary of State
Department for Business, Innovation and Skills

Introduction

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

Who this code applies to

UK Government Departments and their Agencies.

Status of the code

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

The Government is committed to reviewing the effectiveness of this code. Feedback via the Better Regulation website www.betterregulation.gov.uk is welcome.

Summary table of the eight golden rules of good guidance

The guidance you receive will be...

- 1 Based on a good understanding of users**

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

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

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

Guidance will be written in concise and jargon-free language appropriate to the intended audience. If guidance is not already very brief and straightforward then a quick-start guide will be made available.
- 5 Designed to provide users with confidence in how to comply with the law**

Guidance will not contain legal disclaimers of liability as businesses should be confident that, in most cases, guidance can be relied upon to achieve regulatory compliance. Guidance will clearly state the circumstances under which it applies.
- 6 Issued in good time**

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

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

Each separate item of guidance will be reviewed so users should be confident that it is accurate and current. Users will be able to provide feedback on the guidance. In the case of users acting upon inaccurate or inconsistent guidance, a route for complaint or redress will be made clear.

1. Based on a good understanding of users

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

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

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

2. Designed with input from users and their representative bodies

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

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

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

3. Organised around the user's way of working

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

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

For common business processes, such as hiring new staff, a number of areas of regulation must be considered and it can be confusing for organisations to try to bring together different sources of guidance and apply them. As far as possible, guidance will be organised around common business processes, making it clear what actions should be taken at each stage.

4. Easy for the intended users to understand

Guidance will be written in concise and jargon-free language appropriate to the intended audience. If guidance is not already very brief and straightforward then a quick-start guide will be made available.

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

Guidance should be as concise as possible so that users do not have to spend too much time reading it. Users should be able to tell quickly whether the regulation is likely to apply to their organisation, so they can decide whether to continue reading the guidance.

An effective way to introduce the steps to compliance for businesses is through the use of a quick-start guide. The aim is for these guides to serve as an entry point – not a substitute – to the guidance for those users with a limited understanding of the topic, or where the topic is complex. These guides will be developed for all guidance except where that guidance is already very brief and straightforward.

The format and detail of the quick-start guide may vary depending upon user requirements.

Quick-start guides will include a short summary of the guidance and could include key steps, or a checklist, of how to attain and maintain compliance. A quick-start guide should be a separate document to the guidance while still containing references or links to it. However, in some cases, and forms of media, the guide may also be accessed as a component within the full guidance document. The quick-start guide should be very brief, ideally less than 10% the length of the guidance.

5. Designed to provide users with confidence in how to comply with the law

Guidance will not contain legal disclaimers of liability as businesses should be confident that, in most cases, guidance can be relied upon to achieve regulatory compliance. Guidance will clearly state the circumstances under which it applies.

If guidance is to be effective, it should help most businesses understand how to comply with the regulations. It should also provide users with confidence that the guidance they are following is comprehensive, accurate, current and therefore can be relied upon to ensure their compliance with regulations.

This does not mean that guidance should aim to cover every possible scenario for compliance, as that would make it too complicated and unwieldy. It also does not remove the responsibility of businesses and third sector organisations to comply with the law. Neither does it change the fact that interpretation of the law is ultimately a matter for the courts.

To provide users with confidence in how to comply with the law, guidance will not contain legal disclaimers of liability, but will contain a positive statement of what users can expect from it, its scope and limitations.

Users of guidance will be advised how to find further advice if they need it. They should seek this from the regulator in the first instance.

6. Issued in good time

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

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

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

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

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

7. Easy to access

Guidance will be easily available to the user. It will be accessible via www.businesslink.gov.uk. Other forms of communication, including sending guidance directly to businesses or communicating through intermediaries, will also be used where they will be effective.

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

Guidance will be accessible through www.businesslink.gov.uk,² either by hosting on www.businesslink.gov.uk or by providing links to guidance sources.

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

8. Reviewed and improved

Each separate item of guidance will be reviewed so users should be confident that it is accurate and current. Users will be able to provide feedback on the guidance. In the case of users acting upon inaccurate or inconsistent guidance, a route for complaint or redress will be made clear.

Even guidance that has been well designed and tested before publication may not work perfectly. We are always looking to improve guidance. If user feedback indicates that users are experiencing difficulties with guidance then once the problems have been identified we will revise the guidance.

Guidance should carry a link to the code and clearly state whether it is compliant with the eight rules of good guidance, when it was issued or last reviewed, how long it applies for or when the next review is planned. This is so that users can be sure they are using the most up-to-date version. Guidance will also be withdrawn or archived when it no longer applies.

Users should be provided with a mechanism, such as contact details or a link, through which they are able to report inconsistencies or inaccuracies in each item of guidance. Where complaint or redress options exist, users who feel they have received and acted upon inaccurate guidance should have these options made clear. In many cases this will link into regulators' existing systems. Alternatively, users may wish to use the Better Regulation website www.betterregulation.gov.uk/ in the case of inconsistent guidance or regulatory conflicts, or if they have other suggestions concerning regulation.

Uncertainty over inconsistent or inaccurate guidance should ideally be resolved by the regulator within 90 days.

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

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