SUMMARY OF OUTCOME-BASED COOPERATIVE REGULATION

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We achieve more when we cooperate. So how do we do that?

This approach is firmly based on the evidence (scientific and empirical studies) of how humans behave and what works in maximising achievement of collective goals and outputs.

It re-invents traditional regulation (rules-inspect-breaches-sanctions-assume deterrence) by focusing on *behaviour* and outcomes, supporting those who are well-intentioned (enlisting society’s ethical values and principles with the state’s common goals of prosperity, growth and protection) and differentiating those who are not.

Key elements are:

1. to support people to behave well and constantly improve performance.
2. reliance on intrinsic motivation with supportive interventions rather than externally imposed authoritarian control (which is reserved for those from whom society needs to be protected).
3. building trust – through producing a convincing and adequate body of evidence that people have good intentions, competences, understanding, resources, and will do the right thing (based on ethical values), such as asking for help, reporting problems, cooperating to implement fixes.
4. involving everyone (all stakeholders) in a collaborative co-creative exercise.

This approach can be applied widely:

* regulation as a concept, supporting closer working in low-intensity-rules (ie inherent proportionality matching the risk of the activity with relevant competences), enabling sandboxes and development of innovative ideas through new approval processes that establish adequate protection.
* a principles-plus-outcomes approach encourages excellence and constant improvement in performance (rather than just compliance with the standard set by a rules-based system).
* transforming productivity of SMEs, with proportionate low-intensity controls, refocused Small Business system, including Local Authorities, Trading Standards, sectoral regulators, technical support, a single data platform and Ombudsman.
* delivering fair employment (avoiding workplace disputes through a Code, supported by a fused ACAS-ET pathway and Labour Regulator, rather than partisan workers-employers confrontation).
* people working in large organisations (where many companies best already employ this ethical trust & culture approach).
* dispute resolution (Ombudsmen applying Codes of ethical practice, rather than adversarial and costly litigation; the former can be largely funded by private sector, saving public expenditure).

In greater detail, the key elements are:

1. A trust-based system that differentiates those who can be trusted to behave according to ethical values in the achievement of agreed purposes and outcomes from those who do not, with appropriate accountability and consequences.
2. A system in which all stakeholders work together to achieve the common purposes and outcomes and avoid undesired outcomes.
3. Co-creation involving all stakeholders, such as government, industry and civil society.
4. Agreement on the core purposes, objectives and outcomes.
5. Agreement on the mode of engagement, i.e. a code of ethical practice governing the whole system, to which all actors should sign up, supplemented by all necessary subsidiary agreed rules on specific activities and behaviours, whether in law, standards or guidance.
6. Agreement on the functions, roles, responsibilities, objectives, outcomes, metrics and accountability mechanisms of each stakeholder.
7. Operating a constant monitoring system in which stakeholders account for their behaviour and contribution in achieving the desired purposes and outcomes, and cooperate in identifying problems, analysing root causes and implementing agreed responses prospectively to reduce risk and retrospectively to repair harm.
8. All stakeholders are treated as responsible actors and encouraged to act through self-motivation with competence, autonomy and relatedness.
9. All contribute to an achievement and problem-solving mode in which all cooperate to achieve the purposes and outcomes whilst identifying and resolving problems and reducing risk.
10. Appropriate responses are made to failures. Actors who make mistakes are supported to improve their performance, competence, behaviour and outcomes. Actors who behave unethically and anti-socially are subject to interventions of appropriate severity aimed at protecting society.

The problem-solving model:

Establish clear rules

Support systems & culture to work well

Identify problems

Take action to prevent recurrence and repair damage

Monitor to decide if further change is needed

Identify the root cause of each problem

Operationally:

1. identify who performs each function,
2. every actor accepts the role and hence the responsibility for performing it, and will give an account of how it is done
3. every actor commits to work together under a Code of Ethical Practice
4. agree the common purposes and outcomes to be achieved (and avoided)
5. build agree and build mechanisms for providing evidence (data) on how the system is working, identification of new problems, confirmation that everyone is delivering their commitments to achieve the common objectives and outcomes
6. independent function of examining how the system is working as a whole (eg Commissioner plus Parliament plus stakeholders)
7. opportunity for refocused policy-making function.