

The end of zero risk regulation: risk toleration in regulatory practice

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**Title: Taking Advice: the relationship of advice to the risk
of non-compliance**

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Abstract: Purpose –The UK Hampton Report (2005) recommended that increased advice giving by regulators to regulatees would improve compliance; there was, Hampton argued, a ‘need for advice’. The purpose of this paper is to explore the nature and function of advice in a regulatory context. Firstly, the paper takes a multi-disciplinary approach to defining what is meant by advice finding a broad continuum from information-giving to consultancy both of which may take place in multiple episodes and group contexts.

The paper then examines the notion of a ‘need for advice’ re-examining the Hampton material and adding to it with UK and OECD sources on the nature of compliance. Finally, it is argued, whilst advice can be seen as enhancing compliance it can also be seen as as a form of regulatory quasi-control minimising the risk of non-compliance and encouraging more pro-active regulatee participation. However, in terms of ‘responsibilization’ is this simply the application of a technique of governance?

Practical implications – the discussion contributes to the operational and strategic use of advice in regulation.

Originality/value – Whilst the regulatory literature has consistently acknowledged the notion of ‘negotiation’ it has remained a generic activity in the process of compliance-seeking. The paper unpacks advice from negotiation and enables a theoretical and analytic exploration to assist further research in the area. This paper is part of a wider article on the function of advice.

Keywords: advice, enforced self regulation, responsibilization

Hampton, P. 2005 'Reducing administrative burdens: effective inspection and enforcement': H.M. Treasury.

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