

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

By

John Brady

Anglia Ruskin University

Please address correspondence to:

John Brady

Anglia Ruskin University

Webb Building

East Road, Cambridge, CB1 1PT

j.e.brady@anglia.ac.uk

+44 (0)7759816251

2nd Annual Cambridge Conference on Regulation, Inspection &
Improvement

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

Centre for business research

Peterhouse, University of Cambridge, 12 September 2007

Intentionally blank

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

Author(s): John Brady

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 technology 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.

John Brady, Anglia Ruskin University, Cambridge

July 2007

Intentionally blank

Introduction

Recent UK regulation policy (Hampton 2005; Macrory 2006; Rogers 2007) identifies advice as helping regulatees to better understand their regulatory responsibilities and also, significantly, as contributing to better compliance.

The purpose of this discussion is to explore the phenomenon of advice to clarify its nature and its functions. The outcomes of this discussion will give a clearer picture of the costs, benefits and impacts of using advice in regulation.

The paper explores advice through:

- an examination of the Hampton report and subsequent government publications,
- a review of relevant and associated literature giving different perspectives on advice, and
- a case study of advice giving using the experience of providing advice and training materials for the licensed person (the Person Responsible) in assisted conception centres regulated by the Human Fertilisation and Embryology Authority in the UK.

1. Advice and regulation – theoretical focus

Advice giving by regulators does not take place in a regulatory stasis. The dynamics of regulation, its processes and ideologies interact with the notion of advice. Evaluating advice means also understanding the changes in ways of thinking about regulation and its relationship to the state, governance and markets. Ramsay notes that over the past twenty years markets have been transformed through 'large scale privatisation and deregulation ... and trends towards global economic integration (Ramsay 2006: p. 10). Command and control regulation (CAC) is seen as

too legalistic and too narrowly reliant on a linear relationship with the state. Black identifies its failings as:

That the instruments used (laws backed by sanctions) are inappropriate and unsophisticated (instrument failure), that government has insufficient knowledge to be able to identify the causes of the problems, to design solutions that are appropriate, and to identify non-compliance (information failure), that implementation of regulation is inadequate (implementation failure) and that those being regulated are insufficiently inclined to comply (motivation failure) and those doing the regulating are insufficiently motivated to regulate in the public interest (motivation failure and capture theory) (Black 2002a: p. 2).

New perspectives on a post CAC regulation offer new lenses through which to understand the links between advice and compliance.

One of the most important notions in the regulatory literature relevant to exploring advice is that of regulatory space.

Regulatory space is a metaphor that emphasizes that the state must always compete with other regulatory orderings for social control in any particular circumstance. It recognizes that wherever we look in society, all sorts of formal and informal social controls already exist—family norms, school rules, common business practices, corporate operating procedures, gang subcultures. Public agencies that seek to regulate members of society never issue their regulation onto a blank slate. Rather, it enters a social space in which all sorts of other orderings already “regulate” how people behave (Parker 2000: p. 532).

The other sorts of orderings Parker refers to include ideological controls mediated through individual interpretation; how people perceive of rules and structure their relationship with the state, values or orderings of worth including understandings of legitimacy (Etzioni 1961) and the internalisation of controls (Power 2003). Viewed as a complex web the space for regulation includes overlapping schemes that require careful negotiation and interpretation amongst many social actors. It is this empirical ground of normative, ideological and value schemes, not the centrality of state law, that attracts attention as a space and place for the seeking of compliance; and a framework for the contemporary exploration of advice, ‘shifting the focus of analysis from state law to the

wider range of norms and mechanisms through which (*regulatory*¹) control is asserted or achieved, however indirectly' (Scott 2004: p. 145). The rich literature on responsive or problem solving regulation, often utilising an enforcement pyramid (Ayres and Braithwaite 1992: p. 35), promotes the notion that regulation is more often than not concerned with persuasion, education and advice in the regulatory space of social and normative orderings.

Motivations and objectives of the regulated – theoretical hoops

Motivation is an important aspect of learning and there has been much written in the regulation literature on the motivation of the regulatee and/or corporation. Is the regulatee motivated to act on advice, to work pro-actively with the regulator or is the relationship characterised by instrumentality, profit seeking (Becker 1968), self interest (van Snellenberg and van de Peppel 2002) and formalism (McBarnet and Whelan 1991)?

That regulatees are often ignorant of regulatory requirements, or incompetent in discharging them has been supported by several studies (Hawkins and Thomas 1984; Hutter 1988). There has been a 'long history of barren disputation' (Ayres and Braithwaite 1992: p. 20) over whether corporations will only comply with the law through the presence of a 'deterrence' or whether negotiation and persuasion creates the best conditions for compliance (Reiss 1984). For the purposes of this discussion, what needs to be established is how far regulatee motivation and objectives might affect the nature and function of advice giving. As Braithwaite comments

Some corporate actors will only comply with the law if it is economically rational for them to do so; most corporate actors will comply with the law most of the time simply because it is the law; all corporate actors are bundles of contradictory commitments to values about economic rationality, law abiding-ness, and business responsibility. Business executives

¹ My italics

have profit-maximizing selves and law-abiding selves, at different moments, in different contexts, the different selves prevail. (Ayres and Braithwaite 1992: p. 19)

Given the above description of regulatee motivation to comply, this paper stands back from assumptions on the innate drives of the regulated in order to more roundly make judgements on the functions and nature of advice in a regulatory context.

2. Starting with Hampton

Hampton's view on advice is that

'regulators do not give enough emphasis to providing advice in order to secure compliance... There is a large unmet need for advice' ... 92 per cent of those responding to the review's consultation said they wanted more advice from regulators' (Hampton 2005: p. 4-5).

The report goes on to make three recommendations specifically addressing regulatory advice functions.

Recommendation 3: All regulators should provide broad-reaching advice to businesses through ... web sites, which should give businesses an opportunity to personalise the information they see;

Recommendation 4: All regulators should judge the effectiveness of their advice by monitoring business awareness and understanding of regulations.

Recommendation 5: Regulators should make on-site advice visits and tailored advice available to businesses (Hampton 2005: p. 37-38).

In Hampton there is a strong assumption of advice enabling compliance.

Hampton sees advice as positive and constructive, making possible:

- Better and more effective comprehension of regulations and data requirements
- An increase in the probability of compliance
- Enhancement in the achievement of regulatory outcomes (Hampton 2005 p. 5).

Exploring and analysing the relationship between advice, compliance and non-compliance is the central purpose of the paper.

An underlying theme of Hampton and one directly related to advice giving is that regulators should recognise 'that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection (Hampton 2005: p. 43).

The same themes recur in the post Hampton reports (Better Regulation Executive 2006; Macrory 2006; Rogers 2007). The brief of the Macrory Report was to look at the system of regulatory sanctions then in place to see if they were suitable for a risk-based approach to regulation.

I accept, as did the Hampton report, that advice and incentives should play a key role in ensuring regulatory compliance, and should normally be the first response of regulators. Nevertheless, an effective sanction regime plays an equally vital role in a successful regulatory regime. It underpins the regulator's advisory functions, and its very existence will often act as an inducement to compliance without the need to invoke the formal sanctions (Macrory 2006: p. 15).

From Hampton through to Macrory there is consistency on the significance of advice and how it can contribute to better compliance. There is an equal emphasis on assessing the extent, and satisfaction with, the prevailing 'advice-market'. Are regulatees getting enough of the right kind of advice?

The extent of advice seeking

The Hampton reflections on advice drew upon a longstanding concern in UK business and government that advice taking and advice giving play a pivotal role in the successful establishment and development of business enterprises. Further, there is an assumption of an increasing complexity in business management with a significant proportion of this emanating from the 'burden' of regulation.

Surveys of small to medium businesses in the UK suggest they receive advice from a range of sources:

- The most popular being accountants and then a range of government sources² (Better Regulation Executive 2007b: p. 29; Small Business Service 2006: p. 163).
- 49% of small businesses had sought advice as to how regulation might affect their business, of the 51% who did not seek advice the major reasons given were that they did not need it at the moment or they had their own in-house provision (Small Business Service 2006: p. 167).
- Satisfaction with government sources of advice is lower than that derived from accountants, consultants, trade associations and personal contacts. The Federation of Small Businesses suggest that, in part this is due to confusion over what these services offer and lack of awareness of their availability (Carter, et al. 2006: p. 9).
- Discontent is directed at inconsistent and conflicting advice within and between regulatory agencies (Department of Trade and Industry 2006: p. 8)

Advice taking is prevalent in many sectors and advice givers may include consultants, Chambers of Commerce, or the government funded Business Link. Hutter and Jones (2006) found that there was significant use in business of private consultants and that some of their work included advising on regulation issues. Similarly Parker noted the work of Australian compliance professionals in providing advice (Parker 1999: p. 228-230). The estimated cost to business of obtaining advice is estimated at £1.4 billion (Better Regulation Executive 2007b: p. 8), a cost, it is argued, that could be reduced by better advice from regulators (Better Regulation Executive 2007b: p. 5).

² The rankings derived from these surveys tend to be misleading in that they suggest an either/or popularity, in fact businesses might, in any one advice situation, consult a range of sources simultaneously.

With most surveys on advice there is little attempt to map its characteristics or to propose a working definition. The next section attempts a multi-disciplinary perspective on advice.

3. A multi-disciplinary perspective on advice

What constitutes advice? On a common-sense level we know that if offered advice you do not necessarily have to take it, it is only 'guidance or recommendation offered with regard to future action' (Oxford University Press 2006). Thus, advice is distinct from any requirement to comply with rules or legislation issued by a regulator in that it can be taken or ignored.

Advice is different from information. Harvey, in a consumer education context, classifies information as awareness raising whereas advice is enabling (Harvey 1996). Both are kinds of information giving but the latter is aimed at assisting people in taking specific actions in specific situations. Bennett and Robson examined suppliers of business advice in a study of 2547 respondents in small and medium enterprises (SME's). Their definition of business advice as 'a process that produces change' (Bennett and Robson 1999: p. 353) is evocative of the Harvey definition used above. Bennett and Robson were interested in the impact of advice on business outcomes. They concluded that advisors with a high use of site visits and a high use of contractual relationship produced the highest impact on business outcomes.

In the information-exchange process, personal relationships are important in allowing implicit assumptions and obligations to be explored, and trust to develop (Bennett and Robson 1999: p. 353).

This model of effective advice giving is a useful one in that it suggests the complexity of the advice relationship, which we return to later in particular the nature of interpersonal interaction in advice exchanges. Supporting this view a review study from a consumer education perspective found that face to face interaction was the most favoured form of consumer

advice sought with telephone and web assistance second (Wang, et al. 2005: p. 163).

Psychological studies

Studies of advice from a psychological and social network perspective, in particular decision-making and knowledge sharing, add considerably to our understanding of the definition and functions of advice. Cross et al in a study of knowledge management and sharing in social networks identified five benefits from consulting others. These were:

- Solutions – In turning to others for advice, what was most appreciated was the sharing of specific solutions. However, within these solutions it was the procedural knowledge involved (know-how) rather than the particular facts (know-what). This is an important distinction, as much regulatory advice tends to be legalistic rather than being applied to business processes.
- Meta-knowledge – respondents would also turn to people and be directed to sources of information or expertise. They were tapping into overarching experiential maps of where knowledge, information and expertise were located. However, these locations were, in the majority of responses, people rather than databases or other repositories.
- Problem reformulation – advice was valued under this heading when it reassured advice-seekers that they were solving the right problem. The adviser might point out dimensions that the advice-seeker had not considered or have knowledge or experience of possible or likely consequences of a particular solution.

- Validation – this benefit of advice does not involve the transfer of new knowledge or contacts instead it refers to the affirming for the advice-seeker of the validity of the solution proposed. This allowed the advice-seeker to be more confident especially in handling complex problems with complex consequences.
- Legitimation – a solution is legitimated by a respected source promoting its acceptance more quickly and across diverse social situations.

Care should be taken in applying the above benefits directly to the regulatory context; however, they provide a direction in which to consider the likely functions of advice. In particular, they point to and support earlier evidence of a location for advice within social and normative structures featuring face-to-face, group or community networks. As well, and importantly for regulators dealing with volatile sectors, the advice relationship promotes validation and legitimation of different solutions encouraging better sectoral problem solving.

Other studies focusing on the individual in the advice situation suggest that people take advice from people they trust (White 2005) and that they avoid advice from people they believe have a self-interest in a particular future action (Kuang, et al. 2007). Bonaccio and Dalal (2006) in an integrative literature review of advice taking and advice giving offer a synopsis of the main findings. These are mostly based on an experimental design known as the Judge and Advisor System (JAS) where one subject is the judge and the other(s) the advisor; various combinations and variants of this are to be found. A feature of these experiments is that they are rarely conducted on a face-to-face basis suggesting a limitation of their generalisability. The table below lists some of the central findings applicable to this paper.

Table 1: Central findings of the psychology advice literature (Bonaccio and Dalal 2006)

Advice is often integrated from multiple sources
There is an element of social conformity in taking advice – the advice taker may not wish to offend
‘Egocentric advice discounting’ – most judges do not follow advice 100%; judges may prefer their own decisions because they believe them to be superior to those of the advisor.
Judges were found to be more responsive to advice from those with greater age, education, life experience or wisdom.
Those who solicit advice are more likely to follow it.

Whilst network studies have looked at group interactions and individual studies describe situational behaviours an educational perspective is much broader and aligns individual action with cognitive change (learning) and motivation.

Delivering advice: learning and motivation

Defining advice as ‘producing change’ (Bennett and Robson 1999: p. 353) promotes a consideration of how advice as information can be transformed into changed behaviour or action. Many commentators including Hampton have suggested the link between education and advice, a link which is well established in consumer education where educational strategies and techniques structure advice giving and focus on learning (Brennan and Ritters 2004; Coppack 2003; Coppack and Brennan 2005; Wang, et al. 2005; Williams 2007). Learning consists of cognitive and affective aspects and is most successful where there is motivation to learn. Bloom’s taxonomy (Bloom 1956) is a hierarchical list of cognitive and affective staged factors. Learning occurs because people want to learn. Complex cognitive skills and understandings build on

simpler and more basic skills. The cognitive part of the taxonomy is set out in diagrammatic form below showing how different educational objectives represent different cognitive complexities and abilities.

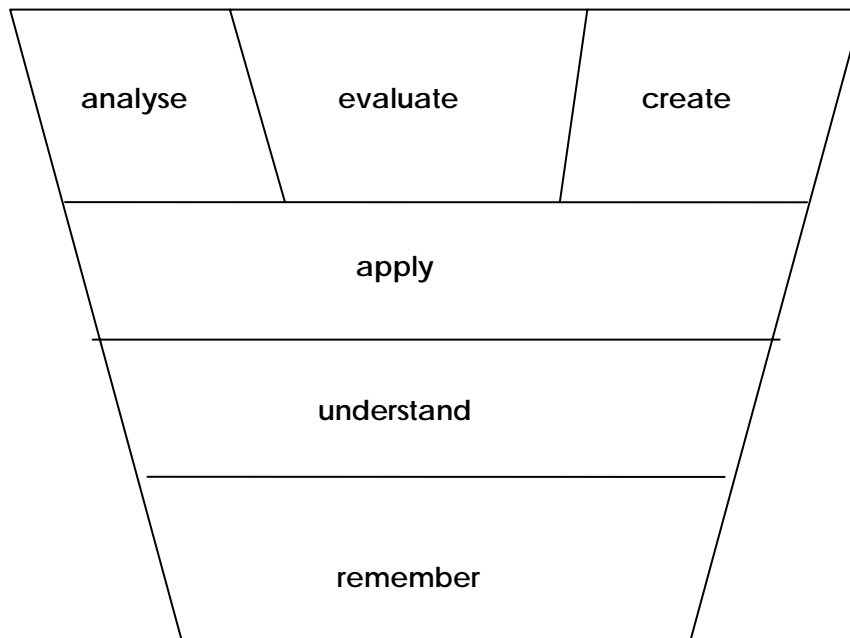


Figure 1: Bloom's taxonomy (Anderson and Krathwohl 2001)

Bloom's taxonomy would suggest that a process whereby advice becomes new compliance behaviour involves high order cognitive skills as the advice is transformed into understanding and application. At the same time, for this to occur there is a complex interaction between attentiveness and seeing the value of a piece of information, to actually being motivated to incorporate it into the personal schema of the learner and consequently changing behaviour.

Delivery of learning

The delivery of learning should effectively support the affective and cognitive processes involved. Acquiring learning is mediated by instructional modes derived from training in the Second World War (Skinner 1954). The techniques used are the identification of key tasks and the splitting of these tasks into smaller segments. Reward is used to encourage motivation. Instructional design often follows variants of the ADDIE model

(Molenda 2003), analysis of learning needs and context, design of the programme, development, implementation and evaluation. Learning is a life-long activity not confined to the classroom. An ultimate goal of many learning programmes and situations is to empower the learner to learn for themselves (Boud and Feletti 1991). Managing and monitoring ones own learning enables the confrontation of transformative change and necessary organisational change.

Advice giving and taking assumes the changing of individual and organisational behaviour. Educators have considered how individual learning can transfer into organisational learning. Ideas on the 'learning society' (Schön 1973) or the learning organisation (Senge 1990) have increased awareness of the relationship of learning to the organisation and wider society. The focus here shifts from individuals to systems of knowledge transfer to processes and relationships in the organisation and/or its wider system. As will be discussed later the value of an organisational learning approach is in recognising that successful compliance is dependant on organisational as well as individual capacities.

A further form of advice is that found in guidelines using systematic review of research evidence on outcomes. Although these might not readily spring to mind as forms of advice they are often used by regulators in Codes of Practice, as external sources of advice³.

Guidelines

Guidelines for medical advice to patients and to professionals are well established, for example, the National Institute for Clinical Excellence (NICE) provides guidance or advice to medical professionals on clinical practice. Organisations that work to achieve international consistency of

³ For example see the current HFEA Code of Practice

<http://www.hfea.gov.uk/en/371.html>

advice, for example the Scottish Intercollegiate Guidelines Network, seek agreement on the quality of research evidence and verification of process and treatment. One of the means of working toward international consistency is to create a shared methodology for the development of guidelines and the way in which evidence is considered (AGREE Collaboration 2003; Schunemann, et al. 2006; SIGN 2004).

Guideline development represents an ideal and systematised form of advice giving; it is not out of place to consider this experience as contributing to the development of advice functions in regulation.

Summary

Different disciplinary perspectives and knowledge expand our everyday notion of advice. Advice giving and taking is rarely an event and more often a process constructed toward a particular outcome or problem involving change. A range of sources supports the view that regulatory advice giving occurs in normative and social contexts as well as the more hierarchical structures of state legislation. There is competition between different regulatory orderings in the taking of advice and a complex web of interactions that support the adoption of advice.

Below are listed some of the conclusions of the review.

The following characteristics of advice are important:

- The giving of information alone is unlikely to change behaviour. Affective and motivational factors also play a part.
- Advice giving can be defined as promoting change and positive outcomes.
- Advice taking is about learning but learning itself is not cost neutral and advice takers will want to see a return based on the relevance of their learning in terms of the correct processes to use.

- Advice taking leading to decisions might well be mediated through a number of 'advisors' including colleagues and families. Advice takes place in a social and normative context and may not be an event but a process.
- Advice most likely to change behaviour will probably have some face-to-face or personal contact element, in order to negotiate differences.
- Whilst advice might be disseminated at the individual level, the regulatory target is the changing of individual and organisational behaviour. This might better be achieved by designing advice to interact with organisational change.
- Guidelines as a discrete advice type offer useful methodologies in advice construction.
- Who is the advice taker? How is their role framed by the regulator? What is the assumed degree of their independence and autonomy in the regulated sector? The review above suggests a more active advice taking role rather than a passive role of 'downloading' advice.

If advice is to lead to improved compliance an awareness of processes of advice particularly the interaction of advice takers within their normative and social contexts is needed. Thus far, the discussion has not identified the content of advice, which is the focus of the next section.

4. A broad need for advice

There are a number of sources used by Hampton to support the notion of a need for advice. Hampton cites the Mandelkern report and its observation regarding 'the proliferation of pieces of legislation' making it 'difficult for citizens to understand all the law that affects them' (Mandelkern 2001: 43). The challenge or a part of it, for regulators is one, as Mandelkern recognised, of improving

'the **coherence**, the **clarity** the **form** and the language of regulations...improving **practical access** to the rule of law and the search for legal information (and finally improving the) **understanding of the rule of law** by the user or the beneficiary of the regulation. This presupposes the existence of appropriate intermediaries and agencies' (Mandelkern 2001: p. 41).

The problem of regulatees not understanding the law and regulations is well-documented (Better Regulation Executive 2007a; Black 2002b; Department of Trade and Industry 2006; Fairman and Yapp 2005; Hutter and Jones 2006; Kagan and Scholtz 1984; Organisation for Economic Co-operation and Development 2004; Yapp and Fairman 2006). The Mandelkern report was optimistic on the contribution that information technology could make to the understanding of law.

Difficulties with understanding legal texts – particularly for those sectors of society with the greatest problems – should provide the public authorities with an incentive to make a special effort (in consultation with the competent agencies) to provide appropriate educational tools (on the Web for example). (Mandelkern 2001: p. 53)

A further study cited by Hampton sees the advice issue as extending further than the difficulties of not understanding the legislation to a more generalised lack of skills in being able to achieve compliance. An educative approach would lend itself to an understanding of regulatory goals. Hampton cites the study by Fairman and Yapp (Fairman and Yapp 2005) of food providers and their responses to a component of the regulatory regime known as 'hazard analysis'. In this case advice had been given to some regulatees through educational sessions with local authority enforcement agencies.

Education is vital in allowing the SME to "make sense" of what is being required of them and incorporate requirements into the running of their businesses. Data from the compliance decision process supported the concept that educative approaches may assist companies to internalise principles and rules (Fairman and Yapp 2005 p. 513)

Regulatees, Fairman and Yapp argued, needed information on systems approaches to risk and techniques of monitoring such systems, however,

smaller organisations typical of the fast food industry lacked appropriate resources.

Hampton demonstrates there is a need firstly, for understanding of the legal requirements. Secondly, the Fairman and Yapp example illustrates the need for an understanding of principles, rules and systems relevant to risk management, compliance and self-regulation.

The need for advice identified by Hampton represents a 'lack' of advice (Wang, et al. 2005) rather than identifying what the needs for advice are. It is perhaps more helpful to look at the conditions necessary for compliance rather than try to manipulate the abstract notion of a need for advice. In doing this we move from an individually orientated view of advice to one that takes in the interaction of advice with affective, systemic, social and organisational processes.

Conditions for advice – OECD inspector toolkit

What are the conditions for compliance and when might regulatees consider that advice is necessary? The Organisation for Economic Co-operation and Development (OECD) identify as potential obstacles to compliance, levels of knowledge, levels of acceptance and the normative commitment of regulatees (they refer to the Target Group or TG) as shown in the table below.

Table 2: levels of knowledge, acceptance and commitment in compliance

<p>Knowledge</p> <p>Does the target group (TG) know/is the TG likely to know the legal requirements?</p> <p>Are the legal requirements too extensive?</p> <p>Does it take a lot of effort to get acquainted with the legal requirements?</p> <p>Clarity</p> <p>Is or are there any doubts about the applicability of the rules?</p> <p>Are the legal requirements too vague or too complicated for the TG? Do people understand what is meant by them?</p> <p>Does comprehension of the rules require unjustified expertise from the TG?</p>
<p>Level of acceptance</p> <p>Does the TG group consider the regulatory approach and requirements reasonable?</p> <p>Can the TG feel committed to the issue that is addressed through a particular policy/requirement or are there differences of opinion?</p> <p>Can the TG contribute to the policy implementation (e.g. through self-regulation)?</p> <p>Are the lawmaker's intentions clear and correctly formulated and are there loopholes in the law?</p>
<p>Normative commitment by the target group</p> <p>Does this TG generally comply properly with the legal requirements?</p> <p>Does this TG always follow authority's demands?</p> <p>Are there habits/traditions in this TG that can conflict with the requirements?</p> <p>Does this TG have specific expectations of the authorities?</p> <p>(Organisation for Economic Co-operation and Development 2004: pg 36)</p>

The OECD schema evokes the earlier exploration of advice, not only as informational, but also as an affective and normative process. Understanding how advice might interact with compliance suggests that advice might be sought not only in terms of increasing understanding but

also of exploring the legitimacy of the regulatory approach and the normative environment for compliance.

Further, issues of legitimacy and competing normative frameworks are not the only sets of conditions in which advice might be relevant to compliance. Viewing the relationships of advice at the individual level and organisational levels creates an awareness of how advice might interact also with organisational processes and systems.

The interim report of the UK Retail Enforcement Pilot (Department of Trade and Industry 2006) is concerned with increasing compliance and identifies detailed description of sets of abilities related to organisational/management processes seen as necessary for compliance. The abilities are set out as either technical or motivational. The table below summarises the abilities and related motivations schematically but briefly⁴.

Table 3: Indicators of compliance

Indicators of compliance
Technical ability to identify non-compliance within the business and relate regulatory requirements to their own business practice
Managerial motivation to identify and monitor non-compliance
Technical ability to identify necessary changes
Managerial ability, resources and motivation to implement the necessary changes
Managerial ability to review and monitor the necessary changes
(Department of Trade and Industry 2006: p. 66)

⁴ The reader may wish to refer to the report itself available at:

http://www.cabinetoffice.gov.uk/regulation/documents/rep/interim_report.pdf

It is apparent that where the intention of advice is to support compliance it interacts in a complexity of individual, attitudinal, motivational, normative, group and organisational factors and processes. This context would influence how regulators might approach advice giving in particular identifying the appropriate form or forms of delivery for advice. The following case study fleshes out the above in a particular environment and context.

5. The case study

In 2006, the University designed learning materials for the Human Fertilisation and Embryology Authority (HFEA), a national regulator of assisted conception centres. This consultancy is used as a case study to expand understanding of the use of advice (Pollitt 2006: p.263; Yin 2003). That this is an opportunistic case study arising out of other work is recognised and conclusions drawn should not be regarded as generalisable - or not generalisable, to other regulatory sectors. The conclusions may hold directions for further research and study. Using the experience of creating advice materials in a particular sector encourages a deeper understanding of the contextual location of advice and its aims. The HFEA was established in 1991 to regulate the use of embryos and embryo research in the UK. This has since widened to the licensing of embryo storage and stem cell research. The historical regulatory tools of the HFEA have been licensing, inspection and the use of corrective licence conditions or revocation of the licence in the event of non-compliance. A Code of Practice containing guidance on good practice in assisted conception, storage and research supports compliance. Recently there have been significant changes that affect both the sector, patients, the regulator, its legislative foundation and compliance processes.

The learning materials provided to the HFEA are used to support the Person Responsible (PR) in applying to the HFEA for a licence to carry on

and supervise an enterprise concerned with assisted conception or associated research falling within the remit of the legislation.

Advice in times of change:

Giving advice at times of change is a first key function revealed by the case study. UK government advice ((Better Regulation Executive 2007b: p. 33) has noted the importance of advice at times of regulatory change but often, as is seen in the HFEA case study, regulatory change accompanies or is a product of other changes. The regulatory framework of the HFEA was changing due to the implementation of the EU Tissue Directive (European Parliament and the Council 2004) but the sector itself had gone through some deep-seated changes.

In 1991, 64 licensed clinics treated almost 10,000 patients, resulting in the birth of 1,443 babies. In 2004 85 licensed clinics treated 28,487 patients, resulting in the birth of 8,544 babies (Human Fertilisation and Embryology Authority 2005a). This success story reflects the technical and commercial consolidation of the sector with a majority of centres in the private sector but a significant number located within UK National Health Service (NHS) organisations. The sector has evolved rapidly over 15 years to become a globalised business network and professional sector engaged in continuous technological innovation. Accompanying this expansion has been the growth of professional organisations such as the British Fertility Society and active and vocal patient networks, for example Infertility Network UK and Ace Babes. Furthermore, children conceived through assisted conception also form a significant pressure constituency. These organisations have an internet presence, established international links and are active on issues of information, process quality, success rates, risks and costs. Alongside these changes, the Authority has extended relationships with stakeholders and created active international networks with other fertility regulators.

The Toft report (Toft 2004) investigated a number of adverse events in assisted conception centres. Substantial sections of the report addressed the function of the HFEA as an external control mechanism; what regulatory controls existed to ensure safety in centres? The analytical approach in the Toft report was to consider error or failure as part of a system or management failure. The system in this case included the regulator as a control (Reason 2000; Smith and Toft 2005).

In 2004 the EU Tissue Directive (European Parliament and the Council 2004) was passed into UK law. Global expansion of assisted conception underlined the need for worldwide standards of safety and quality in the transfer of tissue and gametes leading to the introduction by the EU of a regulatory framework:

(5) As tissue and cell therapy is a field in which an intensive worldwide exchange is taking place, it is desirable to have worldwide standards. The Community should therefore endeavour to promote the highest possible level of protection to safeguard public health regarding quality and safety of tissues and cells. (European Parliament and the Council 2004).

A regulatory requirement of the transposed directive was the existence in centres of a recognised quality management system (QMS). Although some assisted conception centres had already gained ISO 9001, an international QMS, this element of the Directive was seen by the sector as having benefits and drawbacks. On the one hand there was the expense of compliance but on the other there were advantages in bringing all organisations within the sector into line through a form of self regulation and thereby controlling reputation (Gunningham and Rees 1997: p. 390).

Regulated self-regulation

As a response to the EU Tissue Directive the HFEA together with the main professional groups devised a set of standards (Human Fertilisation and Embryology Authority 2006) based on ISO 9001 but adapted for the assisted conception sector. ISO standards are process based; an

important element of ISO QMS is its orientation to market feedback via customer and supplier monitoring. The move to a standards based form of regulation represented a regulated self-regulation (Ayres and Braithwaite 1992; Coglianese and Lazer 2003; Power 2003: p. 110), where centres themselves are responsible for monitoring processes and the regulator audits the monitoring, a 'control of control' (Power 1999 p. 66).

Quality assurance ideas, such as those represented in ISO 9000 and similar blueprints for "good" organizational process, have a fundamental bearing on the audit/inspection explosion because they posit the creation of a management control system. The design and operation of this system represents a model of organizational self-observation, and the external monitoring process involves the audit/inspection of this system of control and self-observation. Here is the very heart of the audit explosion as a qualitative shift in the lens of auditing from people, practices, and products to systems. (Power 2003 p. 189)

To summarise, advice as an instrument should recognise changes and attempt to engage with them and provide direction. The HFEA materials were therefore organised around four substantive areas:

1. the role of the person responsible

In the earlier discussion of advice the relationship between learning and motivation was seen as important in securing organisational change. In the HFEA situation the advice/learning materials were aimed at the Personal Responsible as part of the licensing process. The PR therefore had a stake in demonstrating understanding and compliance. However, the sector itself encouraged a questioning stance toward accepted practice - technological and clinical change is volatile. Discussions with HFEA managers and the review of reports from the professional associations had indicated that clinical and scientific practice and the wishes of patients often were in advance of regulatory practice and that there was a need for flexibility. The HFEA had responded to this with several consultations with practitioners and with those using assisted conception services (Human Fertilisation and Embryology Authority 2005b; Human Fertilisation

and Embryology Authority 2005c; Human Fertilisation and Embryology Authority 2005d).

Underpinning the advice materials was the notion of the pro-active licensed person, the Person Responsible as someone who would have the knowledge and value base to take forward regulatory thinking within the sector, to engage with the regulator and be able to argue the reasons for change, in fact, to work co-operatively with the regulator. This can be related to the earlier multi-disciplinary review of advice and the conclusion that if advice were to be successful in prompting change then it should attempt to also design in the process whereby that might happen and the individuals involved in that process.

2. the legal framework

Early meetings with PR's had recorded their difficulties with the legislation exacerbated by legal language. For most PR's their knowledge of the legislation was drawn from the Code of Practice, which did little to explain the ethical principles of the legislation (Jackson 2001; Lee and Morgan 2001; Warnock 1984). The ability to understand and work with the legal and ethical principles underpinning regulatory legislation has been identified as providing deeper compliance (Yeung 2004) and indeed the professional backgrounds of PR's, as clinicians, nurses or scientists, suggested a convergence of understanding if the underlying values were clearly articulated. Therefore, the materials did spend some time in considering the underlying ethics and values of the legislation.

As well, attention was given to issues of soft law and guidance where the greater negotiability of guidance needed to be teased out in order to support a more pro-active role. This was reinforced by stressing the dialogue that could be had with the regulator and examples were used where stakeholder dialogues had brought about change in significant areas. Where regulators have an interest in the economic and social progress of a sector they will promote dialogues on change.

3. the principles of a quality management system

Perhaps the most substantial and challenging task for PRs given their backgrounds was to oversee, where systems were not already in place, the adoption of a QMS. There was therefore an emphasis on the practical and theoretical elements of the QMS. This included organisational tasks such as consulting with the team and making sure that there was a joint and management responsibility for the QMS. To support this, interviews with established PRs were included in the audio materials giving their insights and experience of managing and supervising the quality system and the centre. Again, and with hindsight, this replicated part of the advising process encountered in the earlier review by proving legitimation and affirmation.

4. process mapping and risk including tools such as Root Cause Analysis and Fault Mode Event Analysis

The control of adverse events was seen as a priority by the regulator and by the sector. The HFEA had created a reporting system that shared adverse event experiences as part of building sectoral knowledge on risk. The QMS promoted processes for the monitoring and control of risk but stressing the outcome rather than a particular process. This then freed up the sector to work with emergent risk controls being enabled by knowledge of how to challenge the regulation through the flexibility of soft law.

Summary

The case study has presented the notion of the pro-active regulatee as someone who agrees with regulatory goals but who may not agree with the specific means of achieving that goal. As the sector experts they are often in the best position to judge the best means (Ayres and Braithwaite 1992: Chap. 4). Behind this pro-activity role was the idea of 'comply or explain' found in discussion of corporate governance. The regulatee can

explain how their approach meets the outcomes or simply comply (Better Regulation Task Force 2004: p. 8; Jackson 2004: p. 5).

The advice materials promoted the use of process and of internal control, but they could also be seen as a form of external control functioning to reduce the risk of non-compliance.

6. The discussion of advice and regulation

Cybernetic theories of regulation

A valuable viewpoint on advice is available through cybernetic theory. Cybernetics refers to a system of feedback, communication and controls. It should have 'a feedback loop in which a standard, a sensor, a discriminator, and an effector are present' (Beer 1981 cited in Green and Welsh 1988: 289). Cybernetics has been influential in regulation in the use of 'governor' theories, referring to forms of cybernetic control exercised by regulators to maintain a system in its optimal state. Regulatory standards and consequent actions have cybernetic validity if they use 'a director, a detector and an effector' (Hood, et al. 2001: p. 24-27; Hood, et al. 1999: p. 45-46).

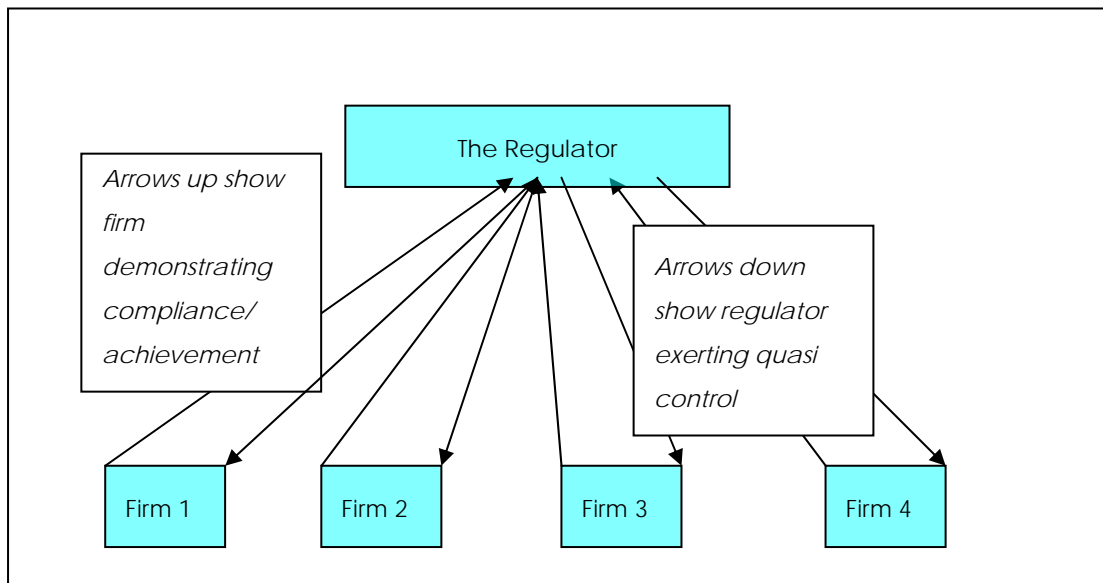
The director, standards for example, specify the desired performance or behaviour; detector refers to the means whereby the variance from the standard is discerned and the effector is the process where any variance or non-compliance is brought back into line with the director (the standard).

Quasi-controls

Activities of sub organisations become controlled when the dominant organisation (the regulator) is dependent upon certain activities to achieve its own goals. Cybernetic control as defined above is the most effective form.

Without compliant behaviour from the regulated firm the regulator cannot achieve its organisational goals and objectives. The diagram below summarises this.

Figure 2: Multiple organisation system to achieve regulatory goals using quasi-controls



Advice cannot be construed to have cybernetic validity but is arguably a 'quasi-control' (Green and Welsh 1988: p. 295). Green and Welsh define 'Dependence Restructuring' as a quasi control. This is where there is a dependence upon a resource necessary for the organisation (the regulator) to achieve its goals. A regulator is dependent upon the compliant behaviour of regulated firms to achieve its goals. It can of course use cybernetic control and correct deviation but this brings with it the risk of non-compliance and possible alienation or hostility from the regulated enterprise. Dependence restructuring refers to exchanging the relationships of dependence upon the resource. Advice therefore, can be seen as a way of restructuring the relationship with the regulatee by making the relationship more amenable to the full control of the standard. Advice restructures the relationship through processes operating at the

individual, organisational and societal levels. A theoretical way of seeing this might be in terms of Etzioni's theory of compliance (Etzioni 1961).

Advice would attempt to transform coercive or instrumental controls to ones of normative adherence to the regulation. This kind of restructuring may not only restructure the motivations of the regulatee but also provide new controls within the organisation/firm as a response to the advice; a sort of cybernetic control by proxy.

The contribution of a cybernetic analysis suggests that advice as a quasi control reduces the cost, in financial and effort terms, of regulatory controls. If it can promote a normative involvement by the regulatee advice might well be a superior form of regulatory control. On the other hand, where advice might promote greater self-regulation might this constitute a different source of risk?

Responsibilization is a process of governance, a form of social control, whereby subjects, and arguably independent organisations, are constructed as self-determining and self-regulating. Such subjects take on the responsibility for regulation but only because the state 'recasts its role from one of directly providing services and protection to fostering the institutional, social, and cultural conditions that support "entrepreneurship of the self" (Williams 2007: p. 233). Clarke also sees responsibilization as a form of abandonment by the state,

'responsibility appears as a smokescreen behind which the state is systematically divesting its responsibilities – to manage the economy, to safeguard citizens, and to regulate capital (Clarke 2005: p. 453).

Although there is no doubting the relevance of the responsibilization thesis it is not so clear-cut when applied to regulatees. Responsibilities of firms are longstanding, particularly responsibilities and obligations under law. It may well be the case, as was discussed earlier that there is an ignorance of how these should be discharged. Furthermore, whilst firms may have responsibilities it may be that regulators have tended to take on responsibilities that they cannot in fact meet and are not theirs. For

example, in attempting to use external surveillance and oversight as a means of controlling sectoral risk without emphasis on the need for internal controls.

Conclusion

This inquiry on advice concerned its definition, the experience of advice and the function of advice. Further, there was an interest in the relationship between advice and non-compliance.

Whilst the conclusion has been that advice can be defined as a process of change it is also apparent that the experience of advice might often mean that advice is less than effective. Advice initiatives by regulators may benefit from an early design assumption on how the advice is communicated, how it is mediated and by whom, taking the perspective that the experience of advice is more often than not with people rather than artefacts.

Ironically, the discussion has also put the case that non-compliance might be a preferred means of achieving change rather than compliance. The HFEA case study illustrated the benefits of an informed pro-active regulatee who could contribute and participate in the economic and regulatory development of the sector. As well, this pro-active regulatee would be enabled to challenge the regulator rather than simply comply. Pro-active regulatees would also contribute to sectoral learning, through networks that disseminate, and refine advice. If advice could produce a constructive non-compliance accelerating sectoral innovation and reform then it might also produce a greater compliance with the regulatory objectives supported by Hampton.

The theoretical framework of the paper has adopted the metaphor of a regulatory space in which advice is a tool to promote 'deep' compliance and responsibility. The traditional CAC hierarchies exist alongside other regulatory orderings as a space in which advice is given and taken. At the same time, the paper has also developed the idea of regulation as

governance; collaborative, and reliant on ' a host of non-governmental or other-governmental actors, ... in complex collaborative systems' (Salamon 2004: p.5). Thus taking advice as the central point of investigation has provided an empirical illustration of moving from hierarchies to networks, working with the public and the private, using negotiation, advice and persuasion and enabling those previously commanded.

References

- AGREE Collaboration** 2003 'Development and validation of an international appraisal instrument for assessing the quality of clinical practice guidelines: the AGREE project', *Qual Saf Health Care* 12(1): 18 - 23.
- Anderson, L. W. and Krathwohl, D. R.** 2001 *A taxonomy for learning, teaching, and assessing: A revision of Bloom's taxonomy of educational objectives.* ; New York, USA: Addison-Wesley Longman.
- Ayres, I. and Braithwaite, J.** 1992 *Responsive regulation: transcending the deregulation debate*, New York: Oxford University Press.
- Becker, G.** 1968 'Crime and punishment: an economic approach', *Journal of Political Economy* 72: 169-192.
- Bennett, R. J. and Robson, P. J. A.** 1999 'Intensity of Interaction in Supply of Business Advice and Client Impact: A Comparison of Consultancy, Business Associations and Government Support Initiatives for SMEs', *British Journal of Management* 10(4): 351-369.
- Better Regulation Executive** 2006 'Implementing Hampton: from enforcement to compliance': HMSO.
- 2007a 'A Code of Practice for Regulators - a consultation', in C. Office (ed): BRE.
- 2007b 'Regulation and business advice', London: Department for Business, enterprise and regulatory reform.
- Better Regulation Task Force** 2004 'Bridging the Gap - participation in social care regulation', London: BRTF.
- Black, J.** 2002a 'Critical Reflections on Regulation', London: Centre for Analysis of Risk and Regulation.
- 2002b 'Regulatory Conversations', *J Law & Society* 29(1): 163-196.
- Bloom, B. S.** 1956 *The taxonomy of educational objectives: the classification of educational goals*: Susan Fauer Company, Inc.
- Bonaccio, S. and Dalal, R. S.** 2006 'Advice taking and decision-making: An integrative literature review, and implications for the organizational sciences', *Organizational Behavior and Human Decision Processes* 101(2): 127-151.
- Boud, D. and Feletti, G.** 1991 *The challenge of problem based learning*, London: Kogan Page.

- Brennan, C. and Ritters, K.** 2004 'Consumer education in the UK: new developments in policy, strategy and implementation', *International Journal of Consumer Studies* 28(2): 97-107.
- Carter, S., Mason, C. and Tagg, S.** 2006 'Lifting the barriers to growth in UK small businesses: The FSB biennial membership survey, 2006, Report to the Federation of Small Businesses' *Lifting the barriers*, London: Federation of Small Businesses.
- Clarke, J.** 2005 'New Labour's citizens: activated, empowered, responsabilised, abandoned?' *Critical Social Policy* 25(4): 447-463.
- Coglianesse, C. and Lazer, D.** 2003 'Management-Based Regulation: Prescribing Private Management to Achieve Public Goals', *Law & Society Review* 37(4): 691-730.
- Coppack, M.** 2003 'It all adds up', London: National Consumer Council.
- Coppack, M. and Brennan, C.** 2005 'The case for educated UK consumers: the National Consumer Council's consultation on consumer education', *International Journal of Consumer Studies* 29(5): 418-425.
- Department of Trade and Industry** 2006 'Interim Report of the Retail Enforcement Pilot': DTI.
- Etzioni, A.** 1961 *Comparative analysis of complex organizations : on power involvement and their correlates*, New York ; London: Free Press : Collier-Macmillan.
- European Parliament and the Council** 2004 'Setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells' *Directive 2004/23/23/EC*: EC.
- Fairman, R. and Yapp, C.** 2005 'Enforced self-regulation, prescription, and conceptions of compliance within small businesses: the impact of enforcement', *Law & Policy* 27(4): 491-519.
- Green, S. G. and Welsh, M. A.** 1988 'Cybernetics and Dependence: Reframing the Control Concept', *Academy of Management Review* 13(2): 287-301.
- Gunningham, N. and Rees, J.** 1997 'Industry Self-Regulation: An Institutional Perspective', *Law & Policy* 19(4): 363-414.
- Hampton, P.** 2005 'Reducing administrative burdens: effective inspection and enforcement': H.M. Treasury.
- Harvey, J.** 1996 'Promoting the development of effective information and advice services for rural areas: a framework for action in Scotland', Edinburgh: Scottish Executive.
- Hawkins, K. and Thomas, J. M.** 1984 *Enforcing regulation*, Boston Hingham, Mass.: Kluwer-Nijhoff

- Hood, C., Rothstein, H. and Baldwin, R.** 2001 *The government of risk: understanding risk regulation regimes*, Oxford: Oxford University Press.
- Hood, C., Scott, C. and James, O.** 1999 *Regulation inside government: waste-watchers, quality police, and sleaze-busters*, Oxford: Oxford University Press.
- Human Fertilisation and Embryology Authority** 2005a 'Facing the Future: annual report 2004/05', London: HFEA.
- 2005b 'Patient's Panel Feedback', in A. Meeting (ed), London: HFEA.
- 2005c 'SEED Report: a report on the Human Fertilisation and Embryology Authority's review of sperm, egg and embryo donation in the United Kingdom', London: HFEA.
- 2005d 'Tomorrow's children', London: HFEA.
- 2006 'HFEA Standards for assisted conception centres', Vol. version 1, draft Edition, London: HFEA.
- Hutter, B.** 1988 *The Reasonable Arm of the Law? the law enforcement procedures of Environmental Health Officers*, Oxford: Clarendon Press.
- Hutter, B. and Jones, C.** 2006 'Business Risk Management Practices: The Influence of State Regulatory Agencies and Non-State Sources' *CARR discussion papers*.
- Jackson, E.** 2001 *Regulating Reproduction: Law, Technology and Autonomy*: Hart Publishing.
- Jackson, R.** 2004 'Principles versus rules: experts have long disagreed over the best way to ensure effective governance. And, although debate continues, several areas of consensus have emerged.' *Internal Auditor* 61(5): 56.
- Kagan, R. and Scholtz, J.** 1984 'The criminology of the corporation and regulatory enforcement strategies', in J. Hawkins and J. Thomas (eds) *Enforcing Regulation*, Dordrecht: Kluwer-Nijhoff.
- Kuang, X., Weber, R. A. and Dana, J.** 2007 'How effective is advice from interested parties? An experimental test using a pure coordination game', *Journal of Economic Behavior & Organization* 62(4): 591-604.
- Lee, R. G. and Morgan, D.** 2001 *Human Fertilisation & Embryology: regulating the reproductive revolution*, London: Blackstone Press.
- Macrory, R.** 2006 'Regulatory Justice: Making Sanctions Effective', London: Better Regulation Executive.
- Mandelkern, D.** 2001 'Mandelkern Group on Better Regulation Final Report', Paris: EU.
- McBarnet, D. and Whelan, C.** 1991 'The Elusive Spirit of the Law: Formalism and the Struggle for Legal Control', *The Modern Law Review* 54(6): 848.

- Molenda, M.** 2003 'In search of the elusive ADDIE model' *Performance Improvement*, Vol. May/June:
<http://www.indiana.edu/~molpage/In%20Search%20of%20Elusive%20ADDIE.pdf#search=%22ADDIE%20Model%20%2Bhistory%22>.
- Organisation for Economic Co-operation and Development** 2004 'Assuring environmental compliance: A toolkit for building better environmental inspectorates in Eastern Europe, Caucasus, and Central Asia': OECD.
- Oxford University Press** 2006 'Concise Oxford English Dictionary', in C. Soanes and A. Stevenson (eds), Eleventh (revised) Edition, Oxford: OUP.
- Parker, C.** 1999 'Compliance Professionalism and Regulatory Community: The Australian Trade Practices Regime', *J Law & Society* 26(2): 215-239.
- 2000 'Reinventing Regulation within the Corporation: Compliance-Oriented Regulatory Innovation', *Administration & Society* 32(5): 529-565.
- Pollitt, C.** 2006 'Academic Advice to Practitioners; What is its Nature, Place and Value Within Academia?' *Public Money and Management* 26(4): 257-264.
- Power, M.** 1999 *The Audit Society: Rituals of Verification*, Oxford: Oxford University Press.
- 2003 'Evaluating the Audit Explosion', *Law & Policy* 25(3): 185-202.
- Ramsay, I.** 2006 'Consumer Law, Regulatory Capitalism and the 'New Learning' in Regulation', *Sydney Law Review* 28(1): 9-35.
- Reason, J.** 2000 'Human error: models and management', *BMJ* 320: 768-777.
- Reiss, A.** 1984 'Selecting strategies of social control over organisational life', in K. Hawkins and J. Thomas (eds) *Enforcing Regulation*, Boston: Kluwer-Nijhoff.
- Rogers, P.** 2007 'National enforcement priorities for local authority regulatory services', London: HMSO.
- Salamon, L. M.** 2004 'Training Professional Citizens: Getting beyond the right answer to the wrong question in public affairs education' *Annual Conference of the National Association of Schools of Public Affairs and Administration*, Indianapolis, Indiana.
- Schön, D. A.** 1973 *Beyond the Stable State. Public and private learning in a changing society*, Harmondsworth:: Penguin.
- Schunemann, H., Fretheim, A. and Oxman, A.** 2006 'Improving the use of research evidence in guideline development: 1. Guidelines for guidelines', *Health Research Policy and Systems* 4(1): 13.
- Scott, C.** 2004 'Regulation in the age of governance: the rise of the post-regulatory state', in J. Jordana and D. Levi-Faur (eds) *The politics of regulation: institutions and regulatory reforms for the age of governance*, Cheltenham: Edward Elgar.

- Senge, P. M.** 1990 *The Fifth Discipline: The art and practice of the learning organization*, London: Random House.
- SIGN** 2004 'Guideline development in fifty easy steps', Edinburgh: Scottish Intercollegiate Guidelines Network.
- Skinner, B. F.** 1954 'The science of learning and the art of teaching', *Harvard Educational Review* 24: 86-97.
- Small Business Service** 2006 'Annual Survey of Small Businesses: UK 2005', London: Department of Business, Enterprise and Regulatory Reform.
- Smith, D. and Toft, B.** 2005 'Towards an organization with a memory: exploring the organizational generation of adverse events in health care', *Health Services Management Research* 18: 124-140.
- Toft, B.** 2004 'Independent review of the circumstances surrounding four adverse events that occurred in the Reproductive Medicine Units at the Leeds Teaching Hospitals NHS Trust, West Yorkshire.' London: Department of Health.
- van Snellenberg, T. and van de Peppel, R.** 2002 'Perspectives on compliance: non-compliance with environmental licences in the Netherlands', *European Environment* 12: 131-48.
- Wang, F., Brennan, C., Galloway, A. and Hughes, A.** 2005 'Consumer Support Networks: assessment of need for consumer information and advice service', *International Journal of Consumer Studies* 29(2): 159-167.
- Warnock, M.** 1984 'Report of the Committee of Inquiry into Human Fertilisation and Embryology' *Cmnd ; 9314*, London: H.M.S.O.
- White, T. B.** 2005 'Consumer Trust and Advice Acceptance: The Moderating Roles of Benevolence, Expertise, and Negative Emotions.' *Journal of Consumer Psychology* 15(2): 141-148.
- Williams, T.** 2007 'Empowerment of Whom and for What? Financial Literacy Education and the New Regulation of Consumer Financial Services', *Law & Policy* 29(2): 226-256.
- Yapp, C. and Fairman, R.** 2006 'Factors affecting food safety compliance within small and medium-sized enterprises: implications for regulatory and enforcement strategies', *Food Control* 17: 42-51.
- Yeung, K.** 2004 *Securing Compliance: a principled approach*, Oxford: Hart Publishing.
- Yin, R. K.** 2003 *Case Study Research: Design and method*, 3rd Edition, Thousand Oaks, CA: Sage.