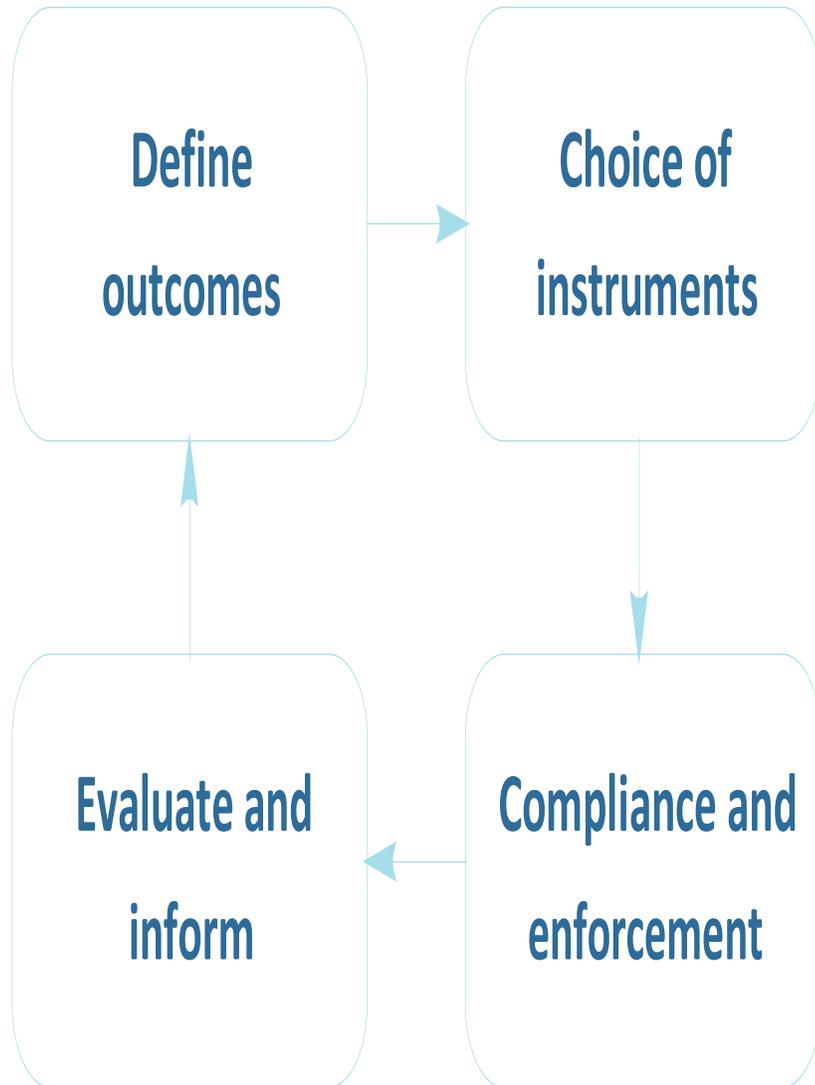


Purpose of Regulation

- Protection of people, wildlife, habitats and resources
- Objectives:
 - Prevent harm and reduce/mitigate risks
 - Set level playing field
 - Address illegal activities
 - **Address specific failures**
 - **Assess and secure compliance – compliance assurance**
 - Impose sanctions when necessary
- Achieved by using a **risk-based approach** to determine appropriate
 - **Direct interventions** (command and control)
 - **Other interventions** to influence and change behaviour



Define outcomes

- Legislative and **policy drivers**
- **Environmental priorities** and **best practice**
- **Sector** and **geographical** circumstances

Choice of instruments/interventions

- Choice based on the nature of **the environmental impacts and the risks** - **effective?**
- **Availability** and **mix of instruments/interventions** - **efficient?**

Compliance and enforcement

- Prioritise resources for **highest risks**, including hazardous activities and poorest performing operators
- Focus on the **management systems** which underpin the operator's performance.
- Monitor performance against **standards** and ensure use of appropriate **monitoring systems and techniques**.
- Take action to **remedy non-compliance** including enforcement and prosecution where necessary

Evaluate and inform

- Assess how well **environmental outcomes** and **management performance** are being delivered.
- **Review legislation** and change/develop new
- **Information on environmental performance** of business (and regulator) made widely available.

Smart Regulation Model

What is compliance?

WHAT

- Complying with environmental regulations and permits
 - meeting legal requirements in full ?
 - conformity with the law in such way that the intended outcome is realized ✓
- Level of compliance and risk
 - As near to 100% as possible - 100% all of the time is practically impossible
 - Level of risk - type, consequences, management - **Risk Assessment Matrix**
 - Acceptable/unacceptable - **Compliance-Enforcement Model**

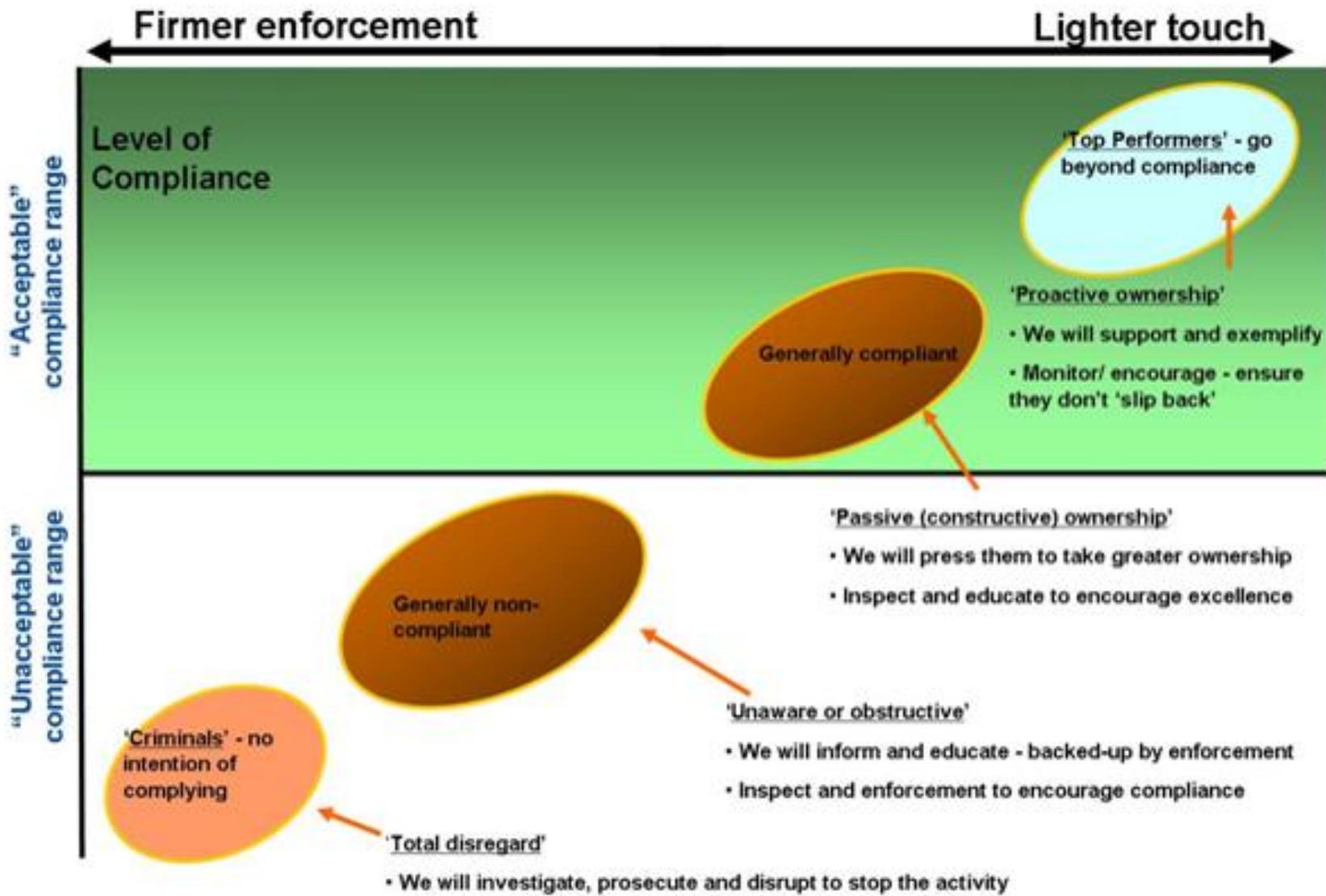
HOW

- Promotion - raise awareness & educate, advice & guidance, campaigns
- Checking and assurance – inspection and other interventions
- Enforcement pyramid - advice, informal warning, formal warning/caution, sanctions, prosecution

Risk Assessment Matrix



		Consequences				
		Insignificant (1) No injuries / minimal financial loss	Minor (2) First aid treatment / medium financial loss	Moderate (3) Medical treatment / high financial loss	Major (4) Hospitalable / large financial loss	Catastrophic (5) Death / massive financial loss
Likelihood	Almost Certain (5) Often occurs / once a week	Moderate (5)	High (10)	High (15)	Catastrophic (20)	Catastrophic (25)
	Likely (4) Could easily happen / once a month	Moderate (4)	Moderate (8)	High (12)	Catastrophic (16)	Catastrophic (20)
	Possible (3) Could happen or known it to happen / once a year	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely (2) Hasn't happened yet but could / once every 10 years	Low (2)	Moderate (4)	Moderate (6)	Moderate (8)	High (10)
	Rare (1) Conceivable but only on extreme circumstances / once in 100 years	Low (1)	Low (2)	Low (3)	Moderate (4)	Moderate (5)



Compliance-Enforcement Model

Compliance Assurance

Intervention by regulator

- Regulatory advice, guidance etc
 - Risk appraisal
 - Inspections and audits
 - Actions to address non-compliance
- Compliance promotion)
) Compliance checking and enforcement)

Compliance management by operator

- Operator self-regulation eg internal audits
- Data and information to demonstrate regulatory and corporate compliance
- External (third party) audits including EMS verification

Compliance assurance schemes – involve regulator and/or regulated

- Regulatory eg MCERTS, Farm Assurance Scheme
- Externally verified EMS eg ISO 14001, Sector Schemes eg CIA Responsible Care
- CSR/ESG – governance and reporting on performance including on compliance

Compliance checking

- Essentially the regulator checking the regulated by:
 - Observing, assessing and reporting the operator's compliance
 - Including by using information provided by the operator
 - Taking appropriate 'enforcement' action
- Inspection – Routine, Unannounced, Spot,
- Auditing – Regulatory/Permit conditions (Full, Sample)
- Monitoring returns, Verified/Certified (MCERTS)
- Reporting back and mandating actions for operator to improve compliance eg improvement plans
- Enforcement action, if required

Risk Appraisal Tool - EA OPRA

- Operational Risk Appraisal (OPRA)
- **'Inherent Risk'** of activities carried out by the operator
 - Scale (size) of operation)
 - Complexity of operation) Inherent Risk
 - Location (Proximity)) of Operation
 - Polluting emissions)
- **'Managed Risk'** – the operator's performance in managing risks
 - Attitude – Co-operative, Pro-active, Complies?
 - Competence – Awareness, Skills, Training, Fit for purpose
 - Compliance history – Previous performance
 - Observed performance – current/ongoing performance
- **Self assessment tool** & regulators annual **risk rating** (used to help set charges)

Resources and capacity

The effectiveness of compliance assurance is dependent on:

- **Legislation, policies and guidance being fit for purpose**
 - Quality of legislation – comprehensive, joined up, risk based, **clear objectives**
 - **Clear requirements** for compliance set out in law and guidance
- **Operator resources – capacity to comply**
 - Awareness and knowledge of requirements
 - Competence of staff and ongoing training
 - Use of structured management systems
- **Regulatory resources – capacity to check compliance**
 - Number and types of permit
 - Inspector numbers and competences
 - Inspection programmes > priorities/targeting > risk based frequencies
 - Data and information on compliance from operators and third party sources

Tools, techniques and technology

Available interventions (typology)

- Direct/command & control eg inspections
- Economic instruments eg emissions trading, taxes, charges, penalties
- Information based, intelligence led eg campaigns, citizens, investors
- Partnerships/joint working eg collaborative projects
- Self regulation eg use of EMS such as ISO 14001, EMAS
- Support and capacity building eg advice and guidance, sector initiatives

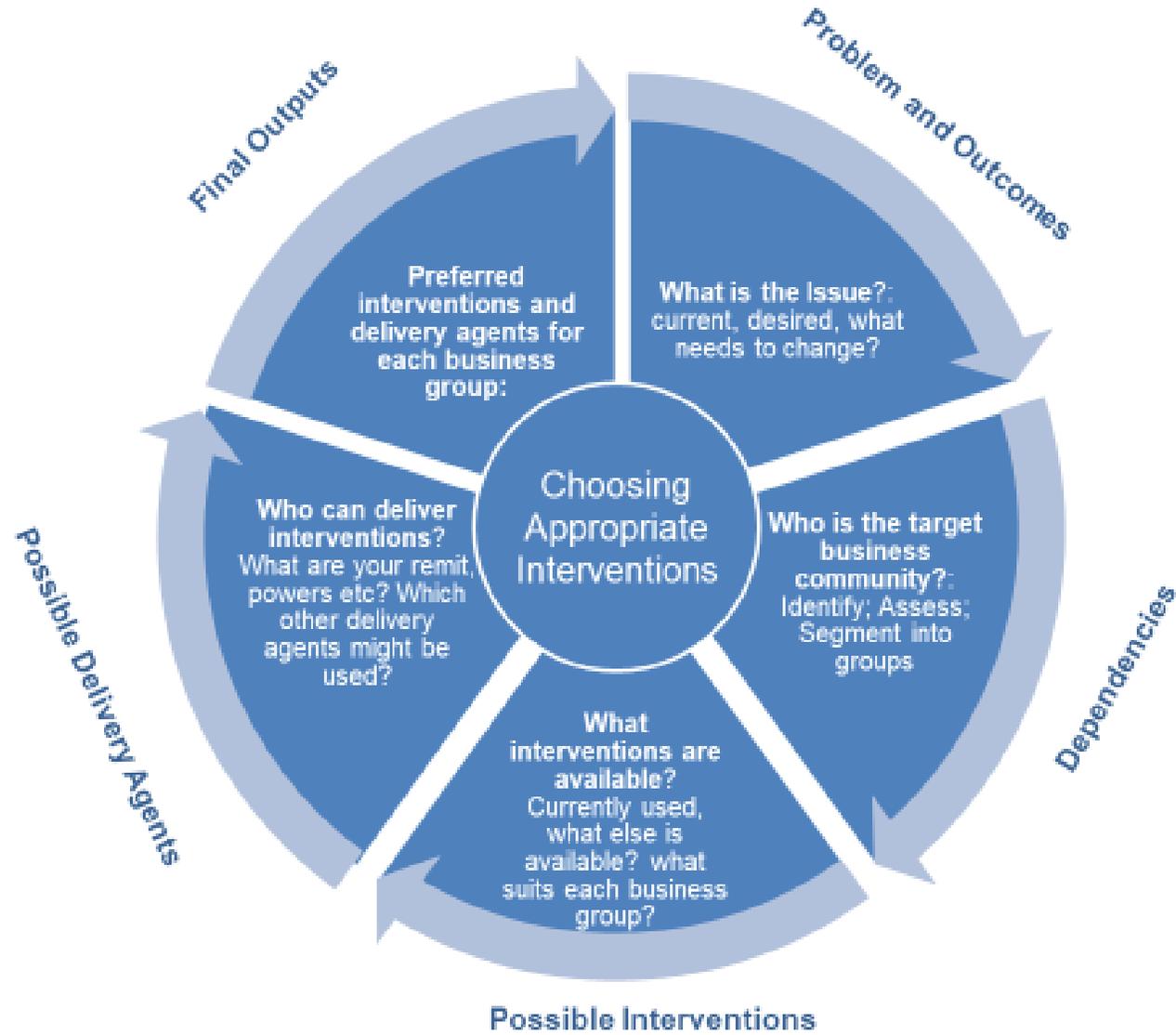
Choosing interventions

- Choices to influence behaviour
- Mix of interventions, direct and indirect
- Risk based modelling eg IMPEL Choosing Appropriate Interventions

Use of technology

- Increased data – accessing and turning into information on compliance
- Remote monitoring/sensing, shared data/networks, modelling tools





IMPEL Choosing Interventions Model