

# **UNECE 11<sup>th</sup> MARS Group Meeting**

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## **Challenges for Market Surveillance Authorities, New Regulatory Developments.**

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# Challenges for Market Surveillance Authorities

## Challenges for Market Surveillance (MS) Authorities, New Regulatory Developments.

- Regulating the regulators- a new Code.
- Some background and examples of service improvements complementing the code.
- The new MS package- Challenges for MS authorities.
- Questions.

# Regulating the Regulators

## UK Government Basis for Regulating regulators.

- Reducing Regulatory Burdens- supporting compliance.
- Designing Service and Enforcement Policies that best suits the needs of Businesses and other regulated entities.
- Open and constructive relationship with those regulated.



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# Regulators Code

New UK Government Regulators' Code, April 2014.

Consists of 6 main components:-

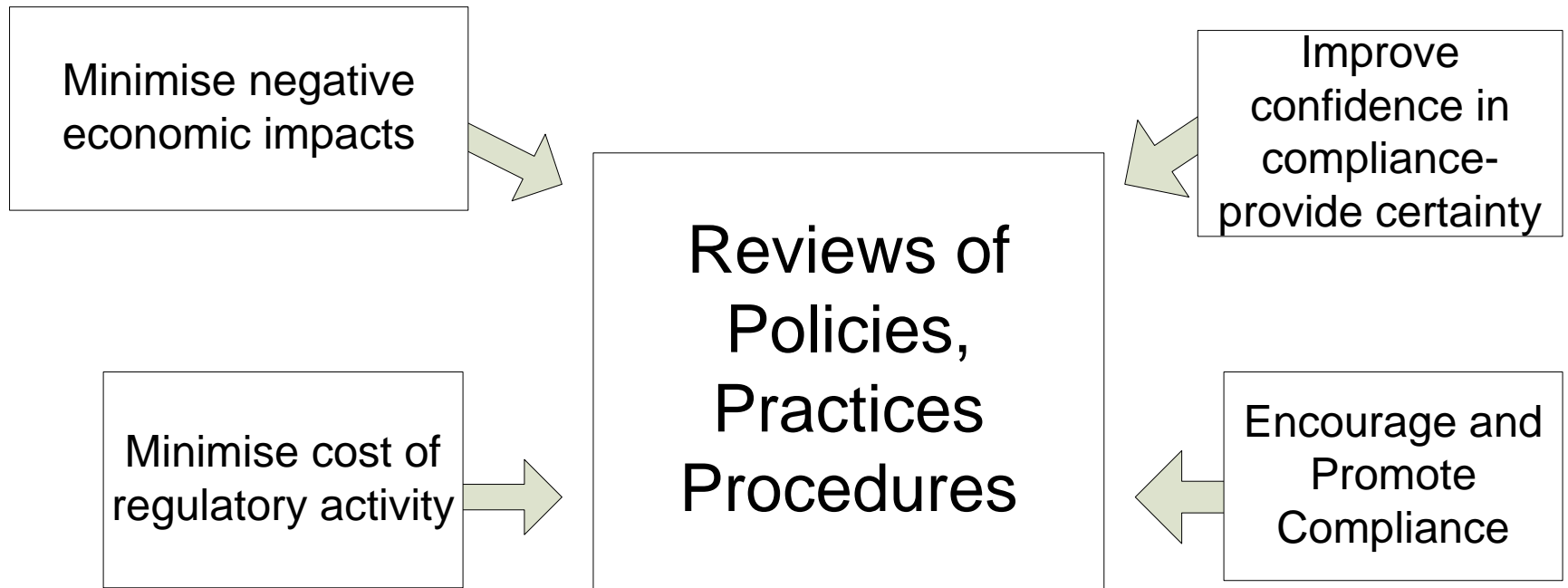
**Component 1:-** Regulators should carry out their activities in a way that supports those they regulate to comply and grow.

To be achieved by:-

- Avoid imposing unnecessary burden.
- Assess whether outcomes achievable by less burdensome means.
- Proportionate approaches.

# Regulators' Code

Component 1 cont:-



# Regulators Code

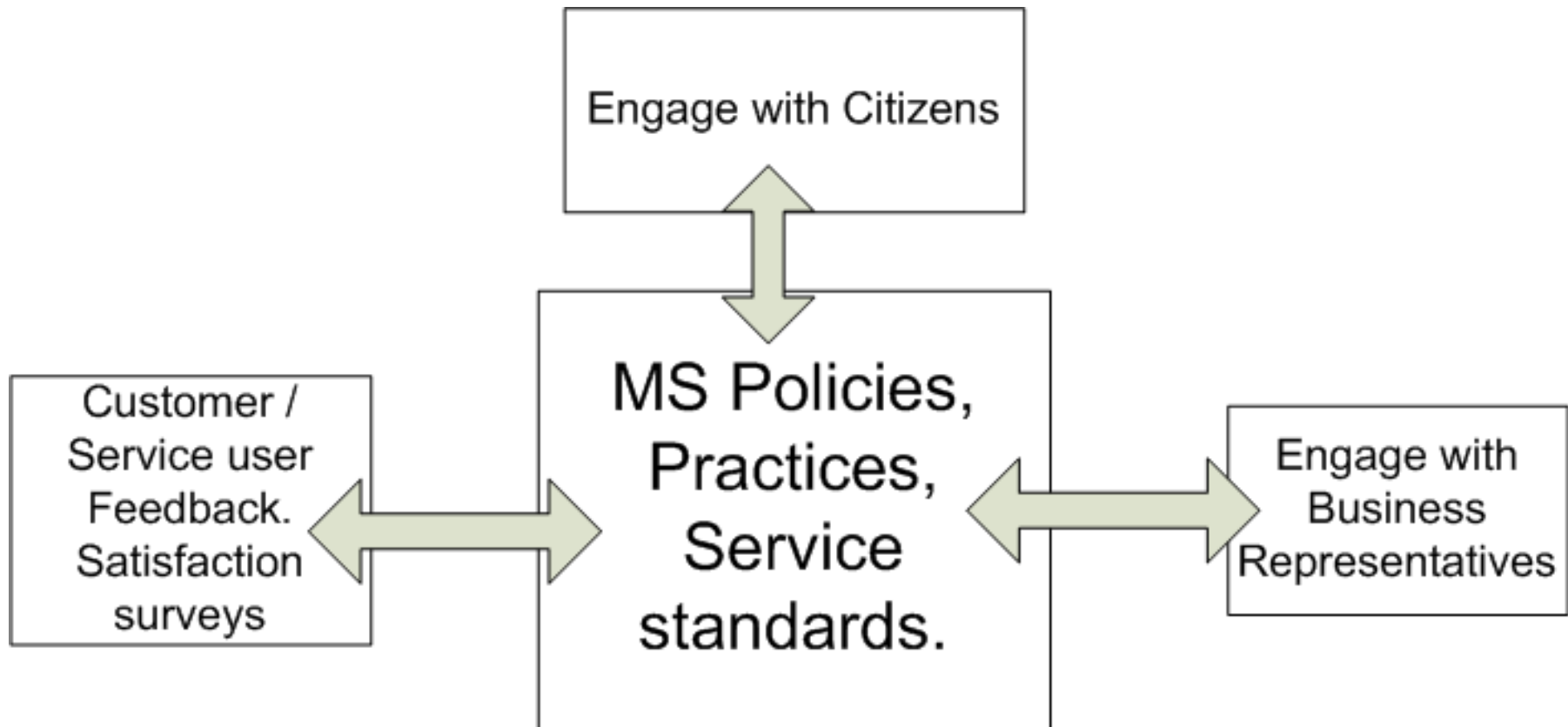
Component 1 cont:-

## **Human Resource- MS Inspectors**

- Possess the necessary knowledge and skills
- Have an understanding of those they regulate to enable them to choose proportionate and effective approaches
- Understand the statutory principles of good regulation and of this code

# Regulators Code

**Component 2:-** Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.



# Regulators Code

- Component 2 cont:-

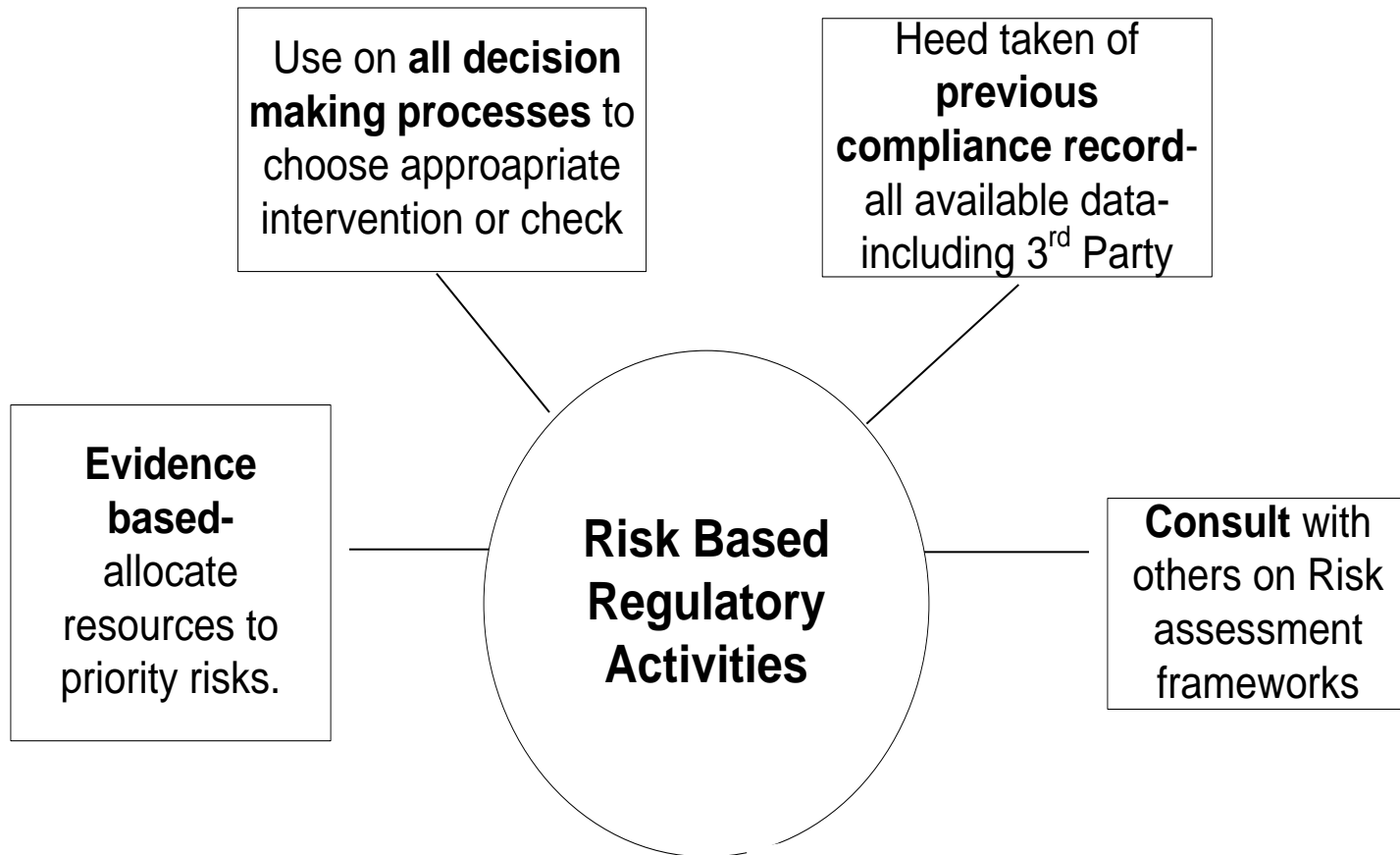
## **Responding to non compliance:-**

1. Clear advice on action required with reasons. Regulators should provide an opportunity for dialogue to ensure they acting in a way that is proportionate and consistent.
2. Explanation of a route to an appeal against a regulatory decision or failure to act in accordance with code. Such route to appeal must be publicised.
3. Published complaints procedure regarding the conduct of the regulator {complaints against the service}.



# Regulators Code

**Component 3.** Regulators should base their regulatory activities on risk.



# Regulators Code

**Component 4:-** Regulators should share information about compliance and risk.

- Principle of 'collect once- use many times'
- Where law allows- secure mechanisms of sharing information to help target resources-minimise duplication.

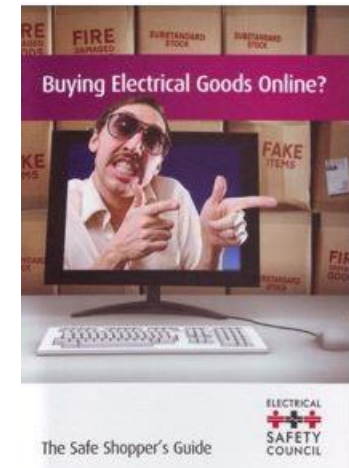
# Regulators Code

**Component 5:-** Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.



## Inspection Made Simple

This leaflet gives basic details on who regulates your business, how and why it is inspected, what you should do to prepare, and what steps you can take afterwards.



# Regulators Code

component 5 continued

<b>Guidance and Advice</b>	Advice and Guidance focused on assisting. Legal requirements distinguished from good practice
	Publish guidance- clear, concise. Use media appropriate to audience.
	Create environment- the regulated have confidence in advice AND feel able to seek advice without fear of triggering enforcement action.
	Consult with users- does the guidance meet needs?
	Collaborate with other regulators where the regulated have multiple regulators to resolve disagreements.

# Regulators Code

**Component 6:-** Regulators should ensure that their approach to their regulatory activities is transparent.

## 1. Publish set of clear service standards

- Including- how they communicate with businesses and how they can be contacted.
- Their approach to providing guidance and advice.
- Their approach to checks on compliance
- Their enforcement policy- how they respond to non-compliance
- Fees and charges
- How to comment and complain about the service + appeal route

# Regulators Code

Component 6 continued:-

- Human Resource mechanisms in place to ensure inspectors comply with service standards.
- Publish on a regular basis details of performance against the service standards including results from feedback e.g. customer and business satisfaction surveys, complaints against the service and appeals.

# Regulators Code

## Monitoring the Effectiveness of the Regulators' Code

- Benchmarking
- Performance measures?
- MSA Statistics.

# Prioritising Regulatory Outcomes

## Measuring Regulatory Performance

Moving from Regulatory outputs to outcomes.

Examples:-

**Moving From Outputs:-** e.g. numbers of inspections, numbers of prosecutions, numbers of samples taken etc.

**To Outcomes:-** e.g. Businesses and Consumers- satisfaction level.  
Reduction in safety related incidents etc.

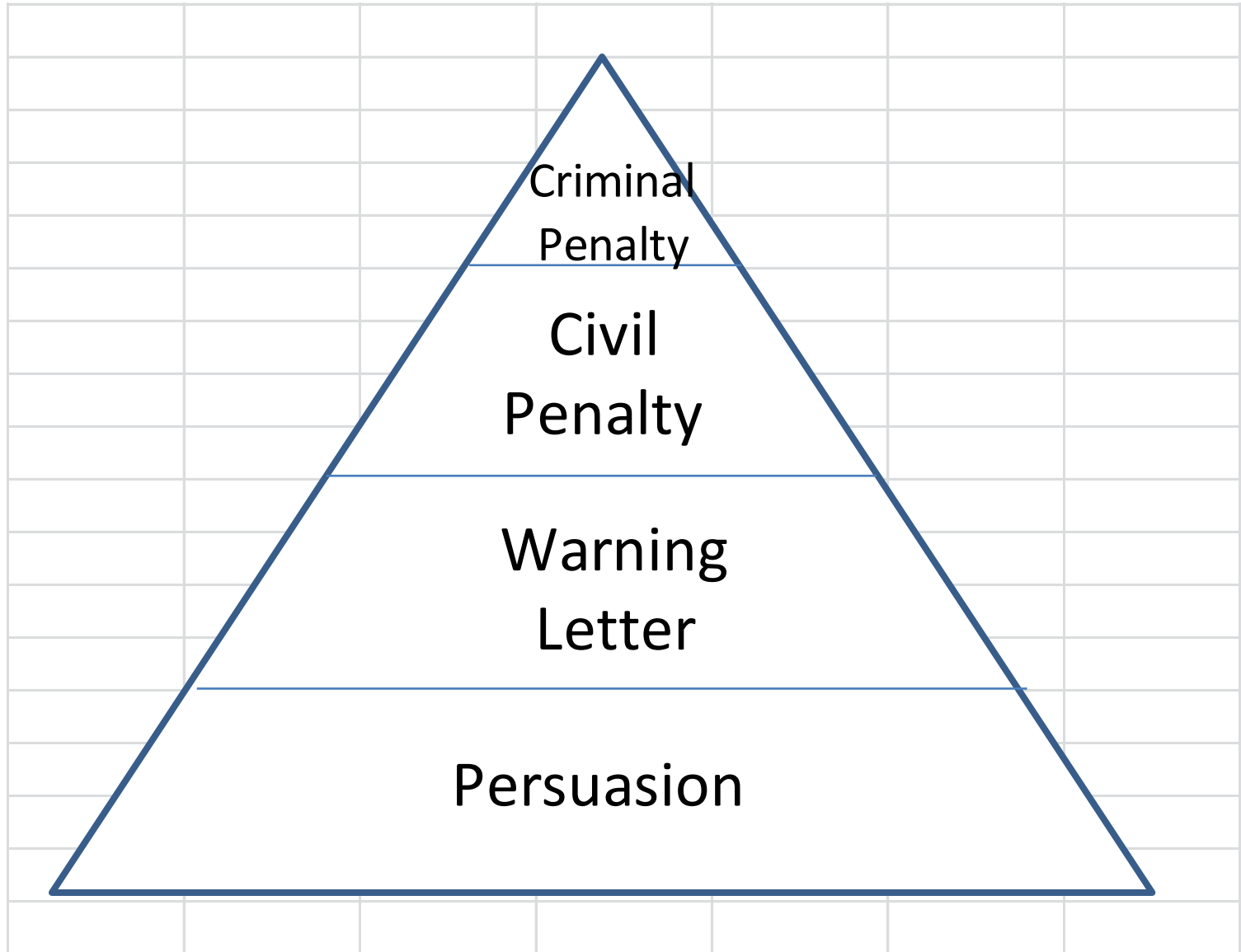


# Flexible Sanctioning. Adequate Powers.

## Sanctions

- Does the regulator have the tools to deal with the full variety of compliance responses?
- Concerns expressed during consultation period- new MS Package.
- Approach? Businesses seeing the light or feeling the heat.
- Inspection powers moving from spot checks to prior notification of visits.

# Enforcement Pyramid



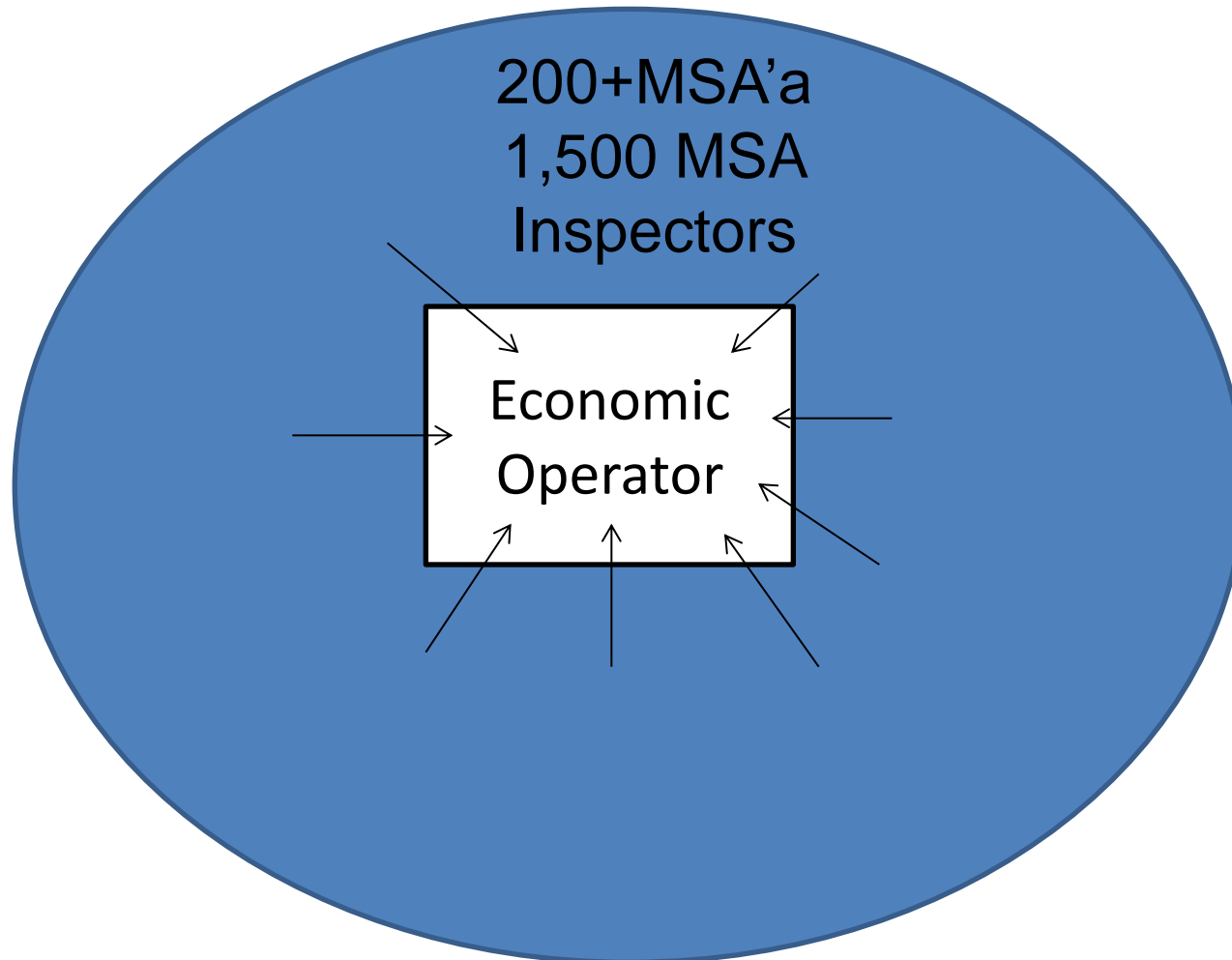
# Supporting Economic Vibrancy

- Strengthening how MSA'S work with and support businesses  
.Example:- (co ordination and cooperations) Home and Primary Authority.

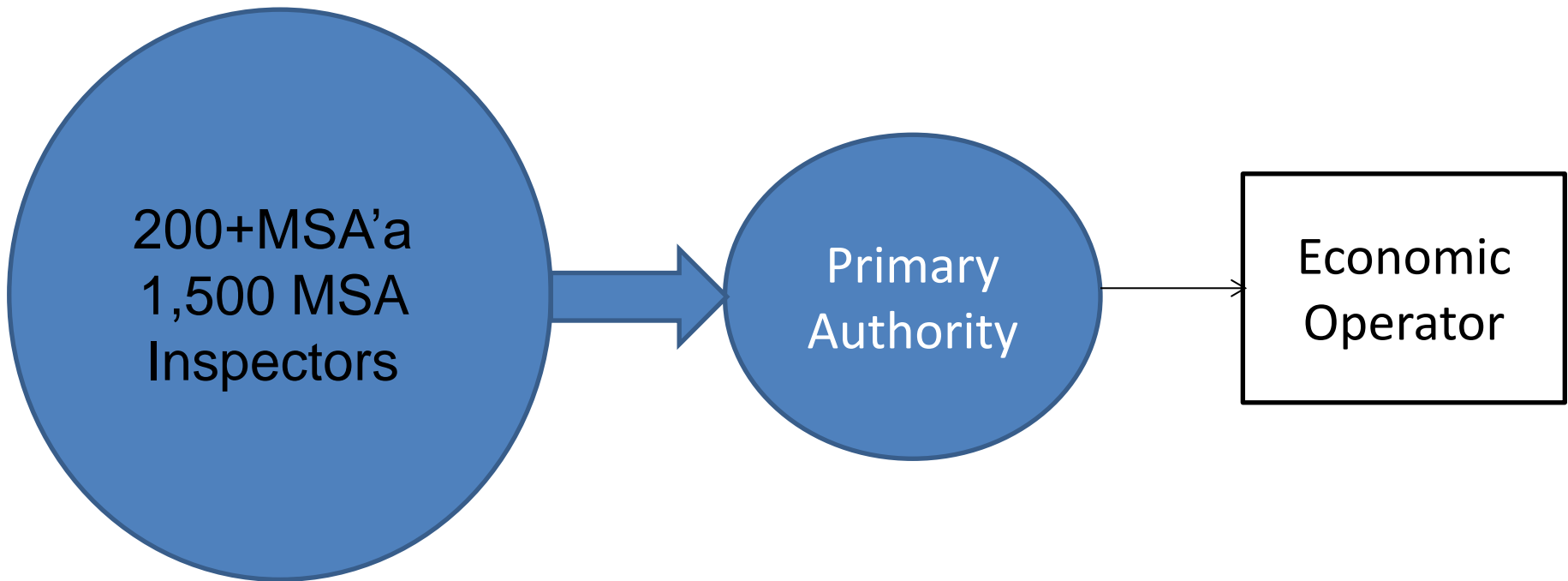


# Coordination and Cooperation

Uncoordinated approach



# Coordinated approach



# Coordination and Cooperation

## **Scope and Powers of Primary Authorities (PA).**

- Partnerships recognised by all regulators
- PA in best position to apply regulations to specific circumstances- robust and reliable advice which must be respected by ALL MSA's
- A national inspection plan can be imposed on all other MSA's
- Issues- enforcement action subject to control by PA
- Scope for cost recovery

# Market Surveillance Budgets

## Budget Challenges the biggest threat

- Budgets shrinking- expectations raising.
- Doing more with less staff and sampling
- Securing adequate funding.- profile+ effectiveness

### Developments

1. Role of Proceeds of Crime Legislation
2. Privitisation-Statutory function
3. Fee income.

# MS Package of Legislation

Finally:-

Challenges to MSA's- new MS package of legislation.

- Adequate funding.
- Penalties- harmonisation? Blacklist.
- Sampling.
- 3rd Party Audits.
- Accident data.
- ICSMS
- Performance benchmarking.



# Questions

Hvala.

Any Questions.

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Links to documents and information referred to:-

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

<https://www.gov.uk/government/organisations/better-regulation-delivery-office>