

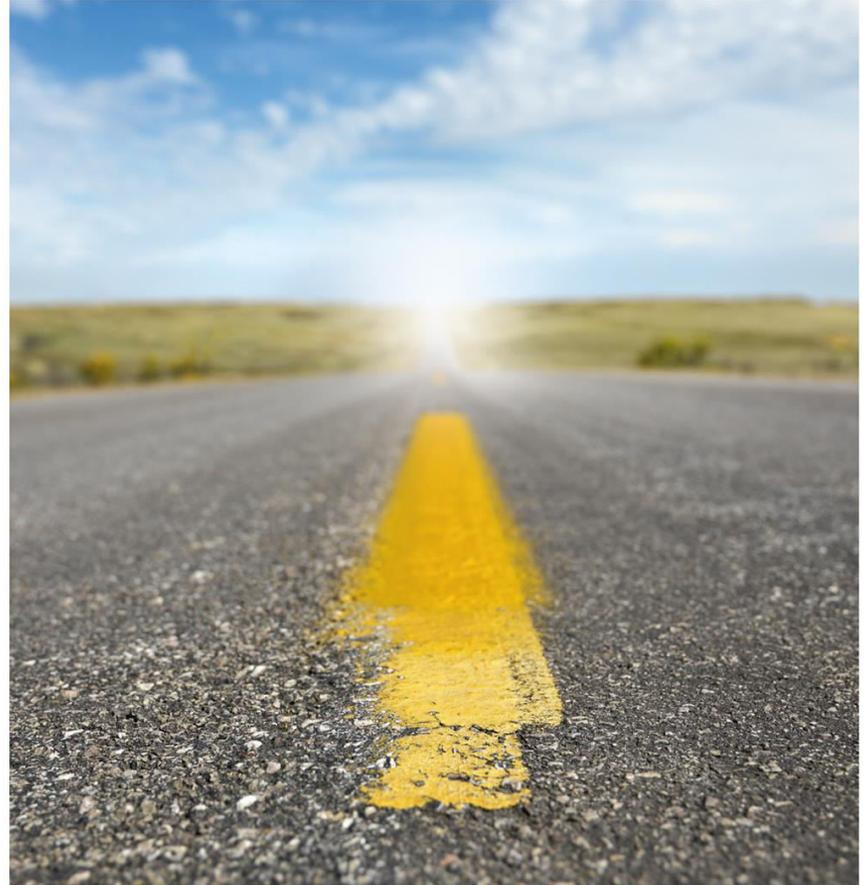
Injury Schemes Seminar

Road to Recovery



**Actuaries
Institute**

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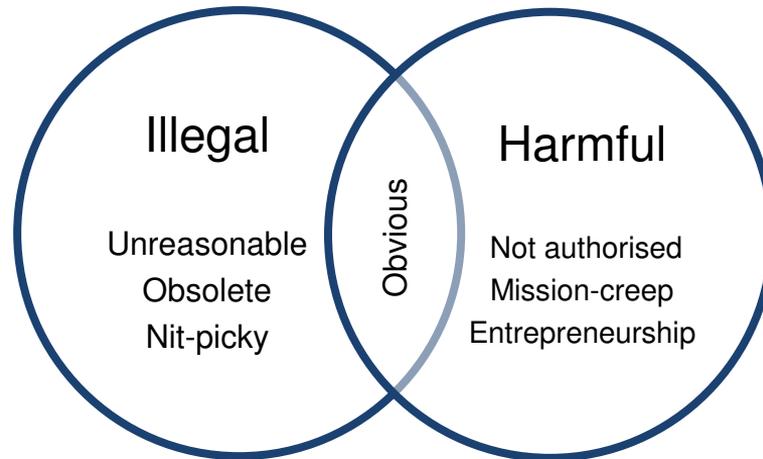
The challenges and benefits of risk-based regulation to achieve scheme outcomes

**© Andrew Nicholls, Executive Director
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*This presentation has been prepared for the Actuaries Institute 2015
Injury Schemes Seminar.
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responsible for those opinions.*

The craft of regulation: achieving public value through others

- The risk-based approach – a focus on harms to achieving outcomes



Source: Sparrow 2008

The craft of regulation: achieving public value through others

- Risk-based versus rule-based regulation
- Instrumental choices

Examples of “hard” regulation

- investigations and enforcement (penalties)
- auditing
- licencing
- monitoring/reporting/name and shame
- approvals/authorisation

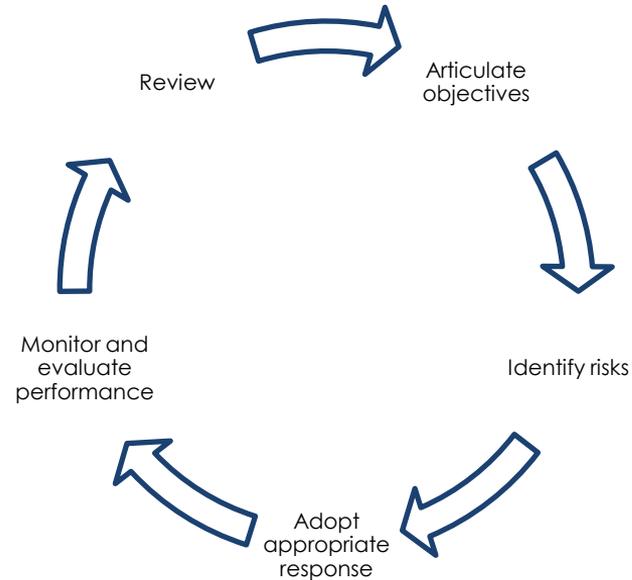
Examples of “soft” regulation

- education programs
- consumer information
- industry advisory and guidance
- standards
- funding and contracting
- industry research and development

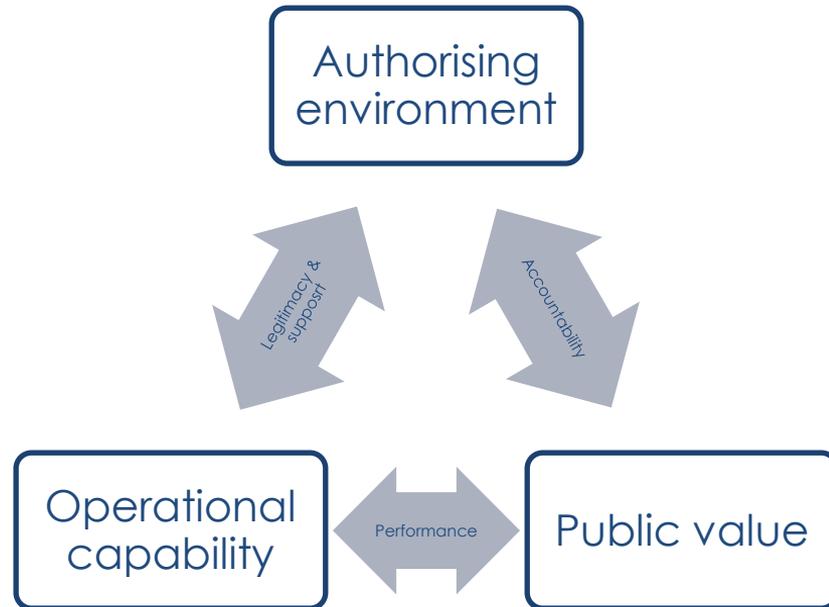
Source: Sparrow 2008

Crafting the right regulatory response

- Risk-based regulation allows for prioritisation and allocation of scarce resources
- Agility is the centre-piece
- Not the same as light touch – right touch for the risk



The rise and rise of risk-based approaches to regulation



Source: Moore 1995

- Governments under pressure to deliver public value for the community
- Governments turning to risk-based regulation to align performance with outcomes
- Perceived failure of traditional model

Risk-based approaches and the regulation of private insurance

- Some natural advantages for the regulator
- Long term delivery by private sector
- Changes in approach since HIH are embedded
- The nature of the industry
 - Scale and structure
 - Professionalism and accountability
- But there are some natural barriers to success of risk-based approaches – commercial versus public interest

Personal injury schemes and the difficult task of risk based approaches to regulation

1. Rule based and adversarial personal injury systems
2. Addressing commercial interests of insurers
3. Managing an 'end-to-end' system as a whole with many points of failure



Example of 'value chain' in CTP insurance

Moving to a risk-based approach: the experience of the MAA

- Pressure on the scheme has emerged in the last 5-7 years
- Previous regulatory model has been reviewed and a risk-based approach pursued
- Involved re-asserting objectives and a review of friction points
- Embedded approach in business plans and ongoing review

Moving to a risk-based approach: the experience of the MAA - continue

- Significant regulatory reform project (50 projects)
 - Review of regulatory instruments– focus on principles, balance of prescription and description
 - Build up of business intelligence capacity supported by key advisors
 - Customer improvement projects
 - Better research and analytics
- MAA better positioned to assert leadership and management of the scheme to driver performance and culture

Will the new risk-based approach stick?

- New approach has strong support of Govt and Board
- Allows MAA and insurers to play to respective strengths
- Not just about changes in instruments, but changes in behaviour
- Insurers being accountable for outcomes

Will the new risk-based approach stick? - continue

- But some level of scepticism from staff and insurers
 - addressed by high levels of engagement at every level
- Some insurers unsure:
 - How does it work in an adversarial, rule-based system?
 - Regulatory over-reach? Non-compliance with rules vs spirit of legislation?
 - Is this a new approach to partnership or a continuation of the game?
 - Pro-claimant vs customer-centricity? Does the regulator want both?
 - How will insurers know they are compliant?
 - Reconciling different approaches with different insurers

Conclusion

- More to do – on a journey that requires ongoing tending
- Risk-based regulation is harder work than rule-based but offers the prospect of better outcomes
- The challenge of a risk-based approach in an adversarial, rule-based designed system