

# BRIEFING PACK



## Feedback form

Please complete and return to [Regulatory.cycle@environment-agency.gov.uk](mailto:Regulatory.cycle@environment-agency.gov.uk) by 9am Wednesday 14 August 2024

### QUESTION 1.

**Do you agree with the proposals for 'Stage 1 - Pre-regulatory appeal discussion'?**

**Please provide any comments relating to this response.**

REA supports the addition of the Stage 1 Pre-regulatory Appeal Discussion. We agree that this step opens an opportunity to resolve any misunderstandings without using further resources via a full Regulatory Appeal.

However, we suggest that regulated customers are given 21 calendar days from the date of the regulatory decision to raise concerns with the original decision maker. The 14-day rule could prevent individuals from filing a complaint, especially if they are on holiday when they receive the notice of a decision. In addition, notifications of regulatory decisions can be received sometime after the inspection has been carried out and additional time may be needed for internal investigations before deciding to proceed with the appeal.

There also may be cases where the pre-regulatory appeal discussion is not appropriate for the circumstances, wasting resources for both parties. We recommend including an option for companies to skip Stage 1 if they feel the pre-regulatory discussion is not needed. The reason for skipping Stage 1 could be included in documentation and evidence provided to the regulator via Stage 2.

### QUESTION 2.

**Do you agree with the proposals for 'Stage 2 – Regulatory Appeal'?**

**Please provide any comments relating to this response.**

We also support the proposed format of Stage 2, the Regulatory Appeal.

Given the start of the 21-day timeline for submitting a Stage 2 regulatory appeal begins at the 'Stage 1 decision,' it is important to clarify to the regulated customer that Stage 1 has ended and invite them to escalate their appeal to Stage 2. The proposals say that the

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regulators will use a template to explain their decision and the next stage. This template should include clear instructions on how to escalate an appeal to Stage 2 and a specific deadline for submitting the Stage 2 appeal. It should also include contact information for an impartial person who can answer questions for them as they prepare their Stage 2 appeal.

While we agree that a 21-day deadline for submitting a regulatory appeal is good in theory and should remain the baseline procedure, some regulatory appeals are incredibly complex and require substantial data and evidence collection. Therefore, we believe the EA should build in a procedure for extensions depending on the complexity of the case. To avoid partial decisions, the EA should develop a process for requesting an extension so that all regulated customers can request extra time for evidence gathering when needed. While timeliness is important, it is also imperative that the regulatory appeals process is fair and thorough.

## **QUESTION 3**

**Do you consider that this process meets the requirements of the Regulators Code?  
Please provide any comments relating to this response.**

We believe the proposed framework does meet the requirements of the Regulators Code, and that our suggestions would improve its compliance with the Code.

Section 2 of the Regulators Code states that “Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision” and “Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.” This supports our suggestions in Question 2.

Section 2 of the Regulator’s Code also states that “Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.” This supports our suggestion in Question 4.

## **QUESTION 4**

**Do you have any other comments to make regarding the regulatory appeal process?**

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**Please provide any comments relating to this response.**

It would be useful to build in an opportunity for feedback from the regulated customer at the end of Stage 1 and the end of Stage 2. The proposals state that “We will undertake a periodic review of all appeals submitted and the outcomes. This will allow us to identify and share any lessons learnt, update any guidance and training.” These reviews would be more robust and useful if the regulator collects feedback directly from regulated customers who are participating in the Regulatory Appeals process. This feedback could be collected via a satisfaction survey issued to the regulated customer at the end of each stage and focus on the process, rather than the outcome. This suggestion is supported by Section 2 of the Regulators Code which requires regulators to regularly invite, receive and take on board customer feedback.

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