

# India-UK Water Security Exchange Initiative - February 2016 Visit

Day 2 - Tuesday 16th February Regulatory  
Workshop (Part 1)

## Implementing UK Legislation

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# Introduction

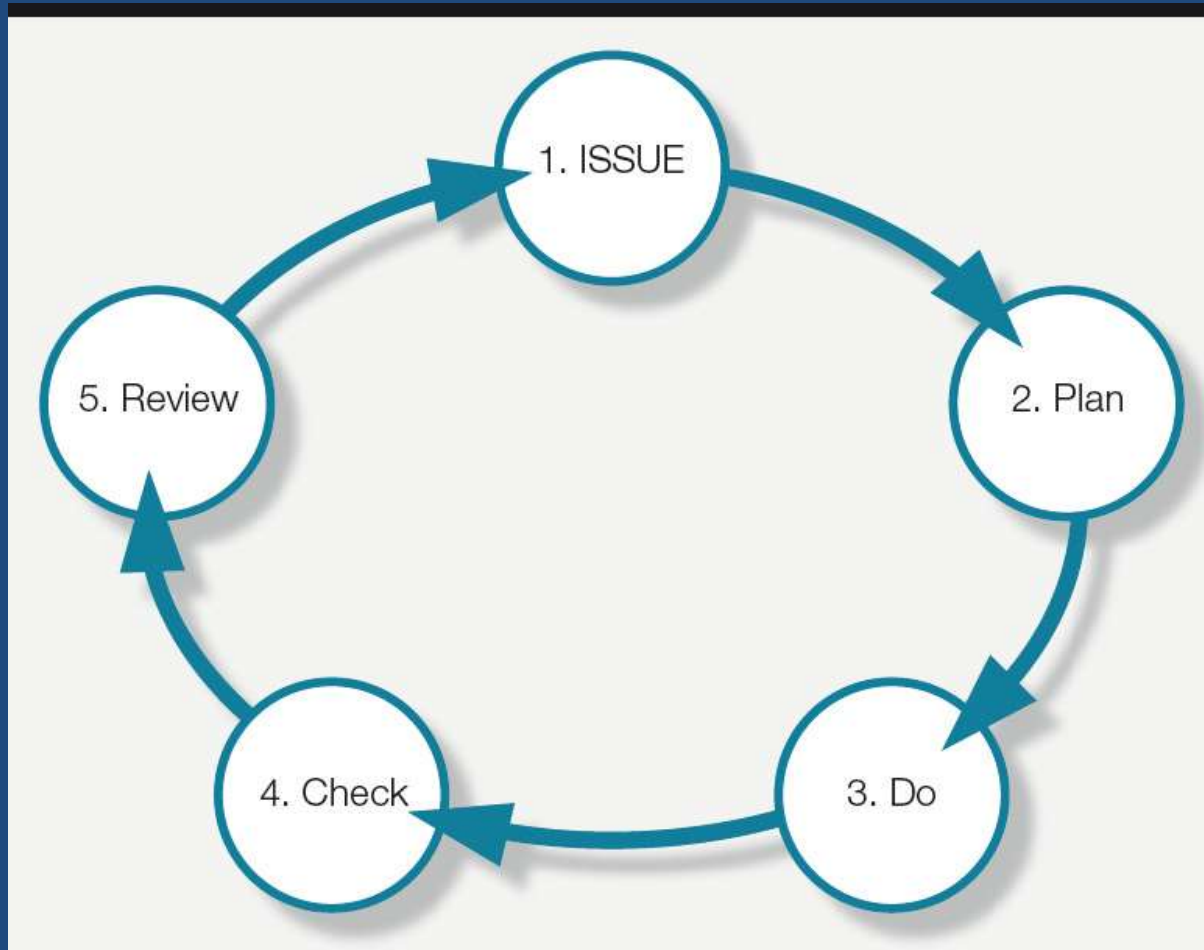
- **About Me**

- Marine Biologist
- 38 years a water quality regulator
- Practical & Policy experience
- Co- author of ‘Regulation for Water Quality – How to Safeguard the Water Environment’ <http://www.fwr.org/WQreg/index.htm>

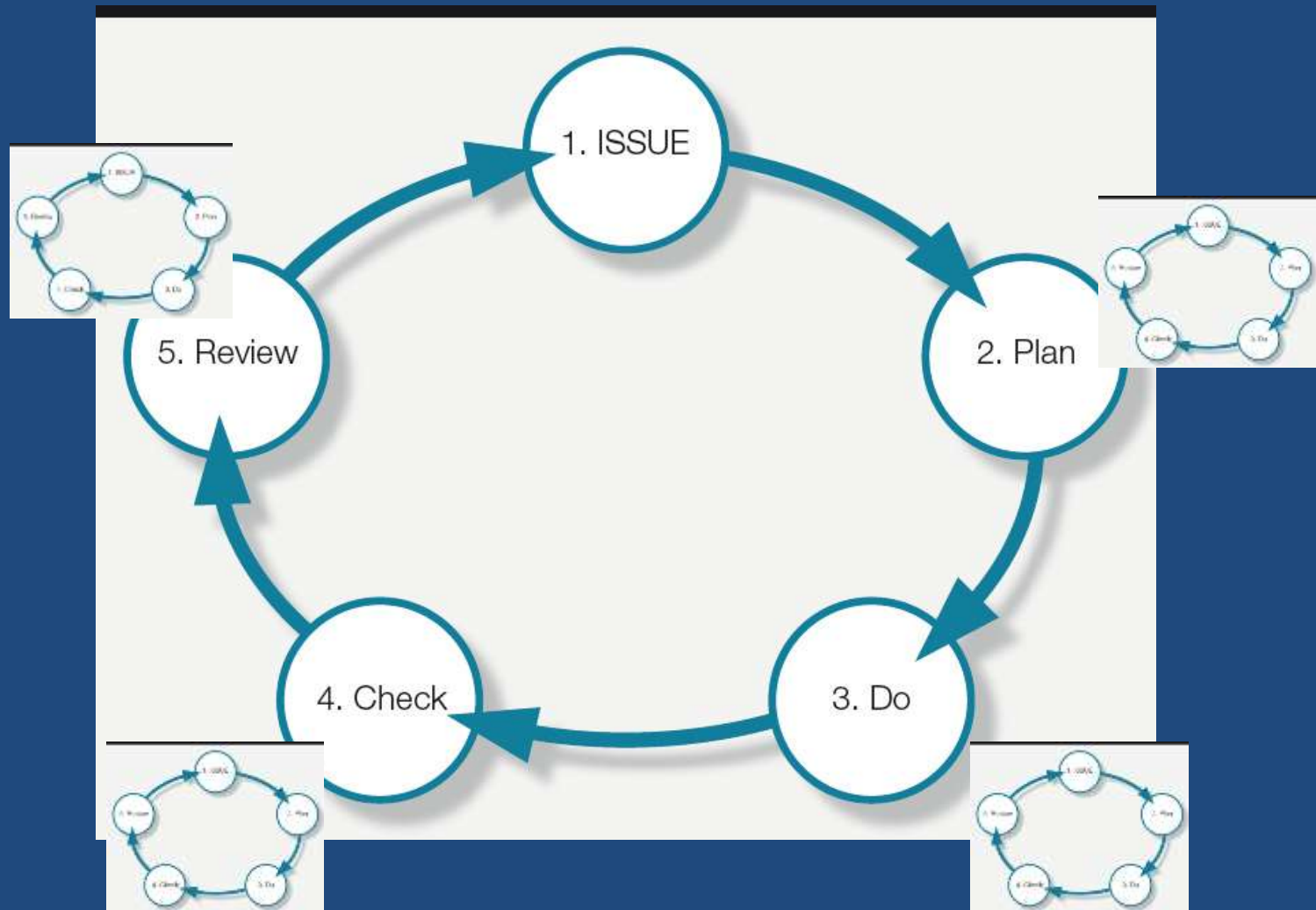
- **Today's Talk**

- “Key principles of effective regulation needed to achieve a high standard of water quality management and to protect water resources, human health and the environment”.
- Regulatory Cycle
- UK Law
- EU Directives
  - **WFD & daughters, IED**
- Delivery mechanisms for achieving obligations

# How to Succeed.....



# How to Succeed (2).....



# Interactions between EU & UK



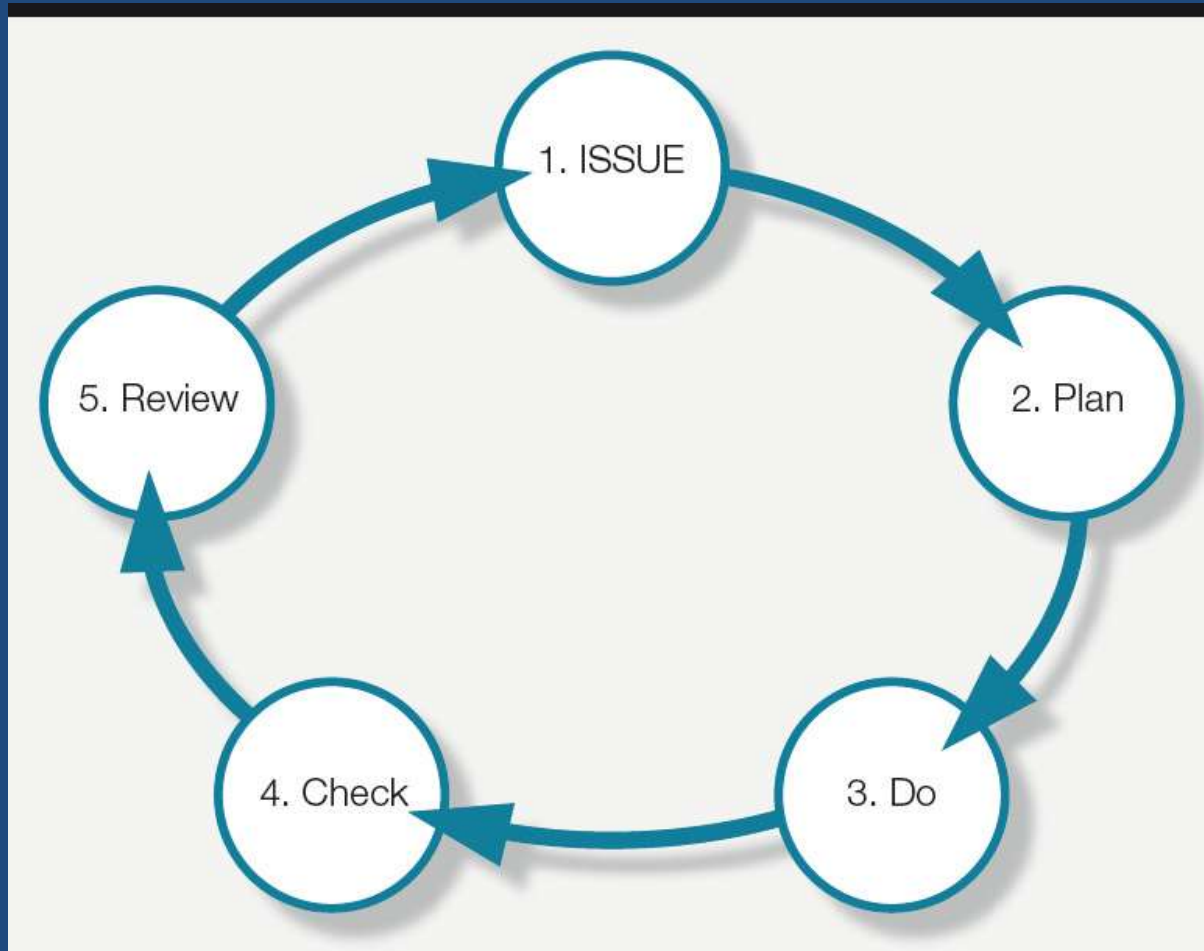
# EU Primary Law

- **EU Treaty**
  - **Member States** cede part of **sovereignty**
  - **Environmental Principles** (Art. 191)
    - Preserve, Protect & Improve environment
    - Protect human health
    - Use natural resources wisely
    - International collaboration, e.g. climate change
    - High level of protection; precautionary principle; preventative action; damage rectified at source; polluter pays.
  - **& Take account of**
    - Scientific & technical data; differing environments across the EU; costs & benefits; economic and social development of whole EU; & balanced development across Regions.

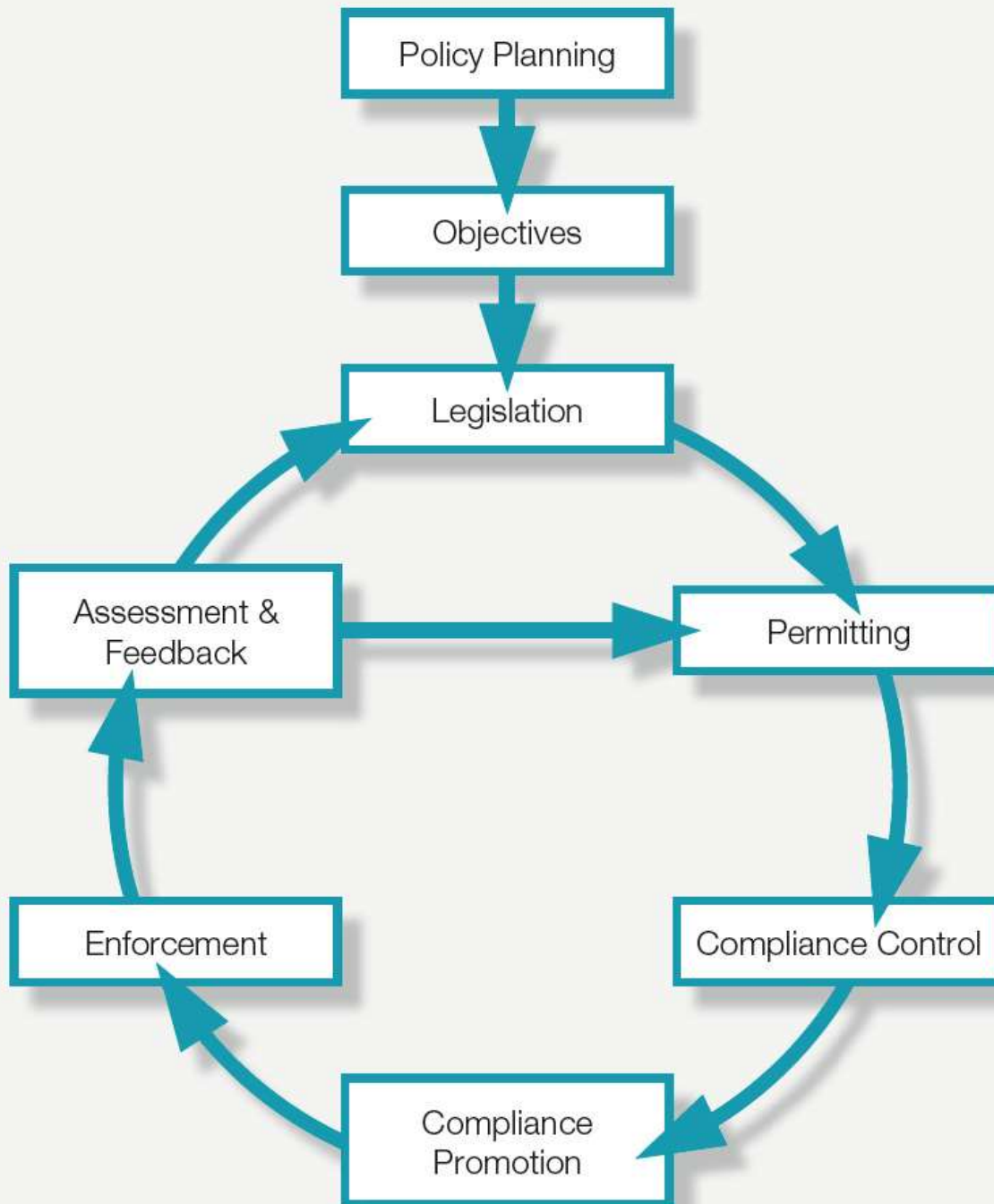
# EU Secondary Law

- EU Regulations
- **EU Directives**
- EU Decisions
- **National implementing measures**
- Progress monitored by European Commission
- Infringement procedures – European Court of Justice
  
- Member States engage with European Commission in drafting new legislation for approval by EU Parliament, and implementation by MS.
- High degree of MS “ownership”
- NOT “imposed by Brussels”.

# The EU Regulatory Cycle....







# THE REGULATORY CYCLE

# EU Policy to Delivery- Roles and Accountabilities

## EUROPEAN UNION

- EU Issue Analysis
- EU Laws
- EU Reporting
- EU Enforcement

## MEMBER STATES

- Transposition
- National Policy
- Implementation
- Enforcement
- Reporting

## REGULATOR

- Delivery Procedures
- Delivery Planning
- WQ Compliance
- Permits
- Charges
- Permit Compliance
- Enforcement
- Reporting

## OPERATOR

- Initial Proposal
- Pre-application dialogue
- Permit Application
- Permit Subsistence
- Permit Charges
- Compliance Reporting
- Response to non-compliance



# UK Pollution Control Law

- **Primary UK law**
  - **Act of Parliament**
  - E.g. Environment Act 1995
    - Institutional & empowering - establishes Environment Agency, & SEPA
    - **Sections** -High level Duties and Powers of Environmental Regulators
    - **Schedules** – Details of these
- **Secondary UK Law**
  - **Regulations** (Statutory Instruments)
  - Within Duties & Powers of Regulator
- E.g. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003, S.I. 2003 No.3242.
  - Identifies Government and EA accountabilities for implementing WFD



# Environment Act 1995

## CHAPTER 25

### ARRANGEMENT OF SECTIONS

#### PART I

#### THE ENVIRONMENT AGENCY AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

##### CHAPTER I

##### THE ENVIRONMENT AGENCY

##### *Establishment of the Agency*

Section

1. The Environment Agency.

##### *Transfer of functions, property etc. to the Agency*

2. Transfer of functions to the Agency.
3. Transfer of property, rights and liabilities to the Agency.
4. Principal aim and objectives of the Agency.
5. General functions with respect to pollution control.
6. General provisions with respect to water.
7. General environmental and recreational duties.
8. Environmental duties with respect to sites of special interest.
9. Codes of practice with respect to environmental and recreational duties.
10. Incidental functions of the Agency.

##### *Advisory committees*

11. Advisory committee for Wales.
12. Environment protection advisory committees.
13. Regional and local fisheries advisory committees.

##### *Flood defence committees*

14. Regional flood defence committees.
15. Composition of regional flood defence committees.
16. Change of composition of regional flood defence committee.
17. Local flood defence schemes and local flood defence committees.
18. Composition of local flood defence committees.
19. Membership and proceedings of flood defence committees.

# UK Pollution Control Law

## ENVIRONMENT ACT 1995

2003 No. 3242

## WATER RESOURCES, ENGLAND AND WALES

### The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

*Made* - - - - - *10th December 2003*

*Laid before Parliament* *11th December 2003*

*Coming into force* - - - *2nd January 2004*

The Secretary of State and the National Assembly for Wales, acting respectively in relation to river basin districts that are wholly in England and river basin districts that are wholly in Wales(a), and jointly in relation to river basin districts that are partly in England and partly in Wales, being designated(b) for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to matters relating to water resources, in exercise of the powers conferred upon them by that section, hereby make the following Regulations:

#### Title, commencement, extent and application

1. These Regulations—
  - (a) may be cited as the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 and shall come into force on 2nd January 2004;
  - (b) extend to England and Wales; and
  - (c) apply only in relation to river basins districts identified by regulation 4(1)(d).

#### Interpretation

- 2.—(1) In these Regulations—
  - “the Agency” means the Environment Agency;
  - “the appropriate authority” means—
    - (a) in relation to a river basin district that is wholly in England, the Secretary of State;
    - (b) in relation to a river basin district that is wholly in Wales, the Assembly; and
    - (c) in relation to a river basin district that is partly in England and partly in Wales, the Secretary of State and the Assembly acting jointly;
  - “the Assembly” means the National Assembly for Wales;
  - “body of water” means a body of groundwater or a body of surface water;

(a) The terms “river basin district”, “England” and “Wales” have the same meaning for this purpose as in the Regulations, and are defined in regulation 2(1).

(b) S.I. 2003/2901.

(c) 1972 c. 68.

(d) The river basin districts identified by regulation 4(1) do not include any that are partly in England and partly in Scotland.

# Water Framework Regulations 2003

# The Directive Process (1)

- **Issue identification**
  - EU Parliament, European Council of Ministers, or European Commission
  - European Commission drafts proposal
  - MS consultation
  - EU Parliamentary Committees – amendments to Commission
  - EU Parliament Approval
  - European Commission publishes in OJ
- **Transposition** into MS law
- **Implementation** to timescale
  - By MS Governments and their Regulators
  - MS Guidance to affected parties

# The Directive Process (2)

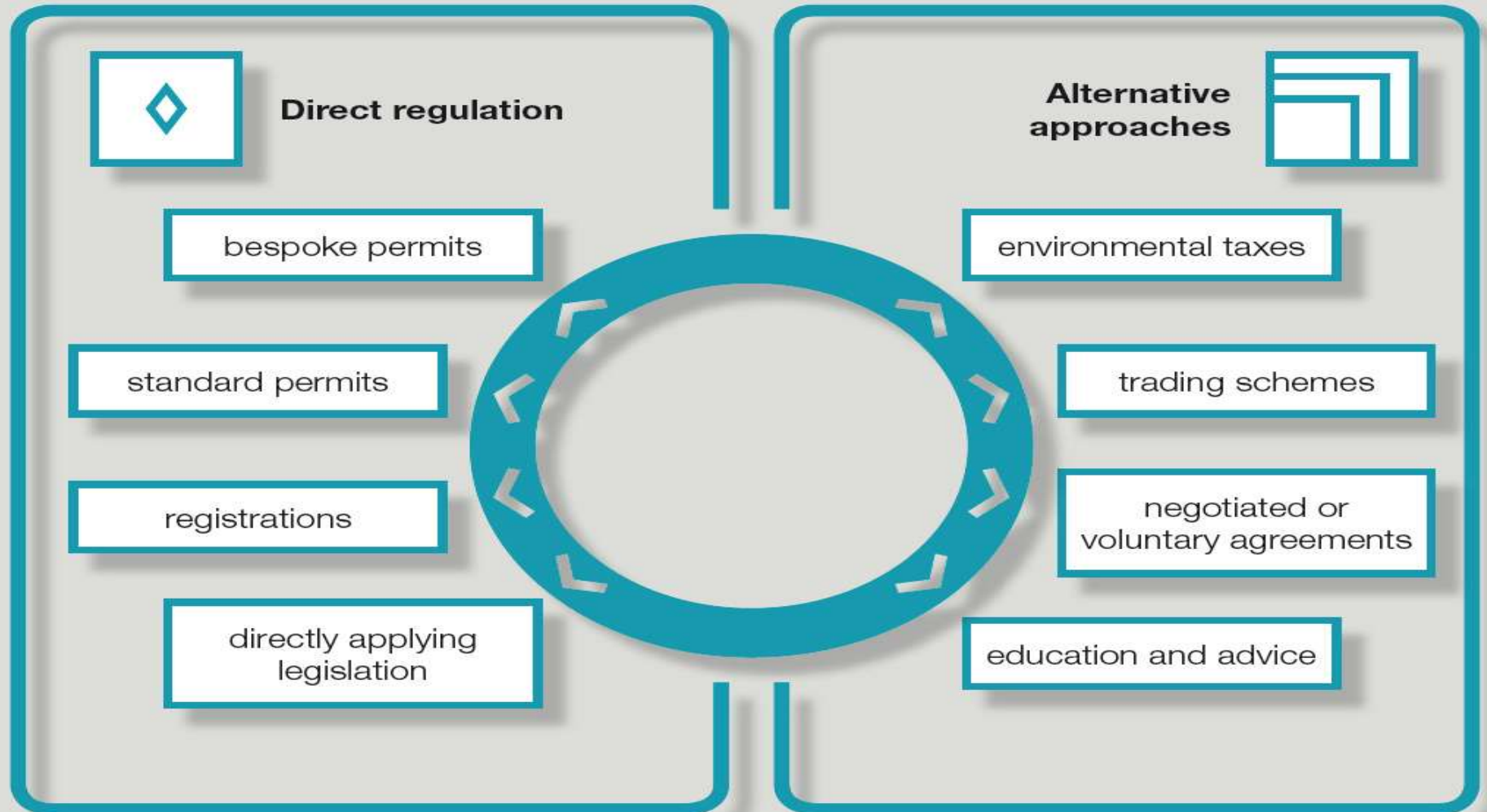
- **Implementation**
  - EC / MS Government / Regulator - Guidance & Advice
  - Identify MS scale & timing of action required to meet obligations
  - MS Implementation Plan
  - WQ Plans
  - Permits & Permit reviews
  - Permit compliance & Enforcement
  - WQ Compliance
  - Reporting
    - Operator to Regulator
    - Regulator to Government
    - Government to Commission

# The Directive Process (3)

- **Enforcement**
- **European Commission**
  - MS Transposition
  - MS Implementation
  - MS Reporting
- Non compliance – Reasoned Opinion → ECJ → Fines
- **MS Government**
  - Audits Implementation Plan
  - Directs Regulator
- **Regulator**
  - Reports WQ compliance
  - Checks permit compliance
  - Escalates sanctions for permit non-compliance causing WQ non-compliance



# Regulatory approaches to achieve desired environmental outcomes



# Key EU Directives (1)

- **Water Framework Directive**
- **Combined approach –Quality Objectives & Emission Limits**
- **Water Body identification & Classification**
- **No deterioration in Water Body Status**
- **River Basin Management Plans**
- **Programmes of Measures**
- **‘Daughter Directives’:**
  - EQS Directive
  - Urban Waste Water Treatment Directive
  - Freshwater Fish Directive
  - Bathing Waters Directive
  - (Shellfish Waters Directive)
  - Habitats Directive

# Key EU Directives (2)

- **Industrial Emissions Directive**
  - Replaces and extends Integrated Pollution Prevention and Control Directive
  - Major industrial processes
  - Minimise emissions to air, land & water using “Best Available Techniques (BAT)”
  - BAT Reference (BREF) Notes for each sector.
- Works in parallel with Waste Framework Directive & Water Framework Directive.
- Combined Approach

# Delivering Directive obligations

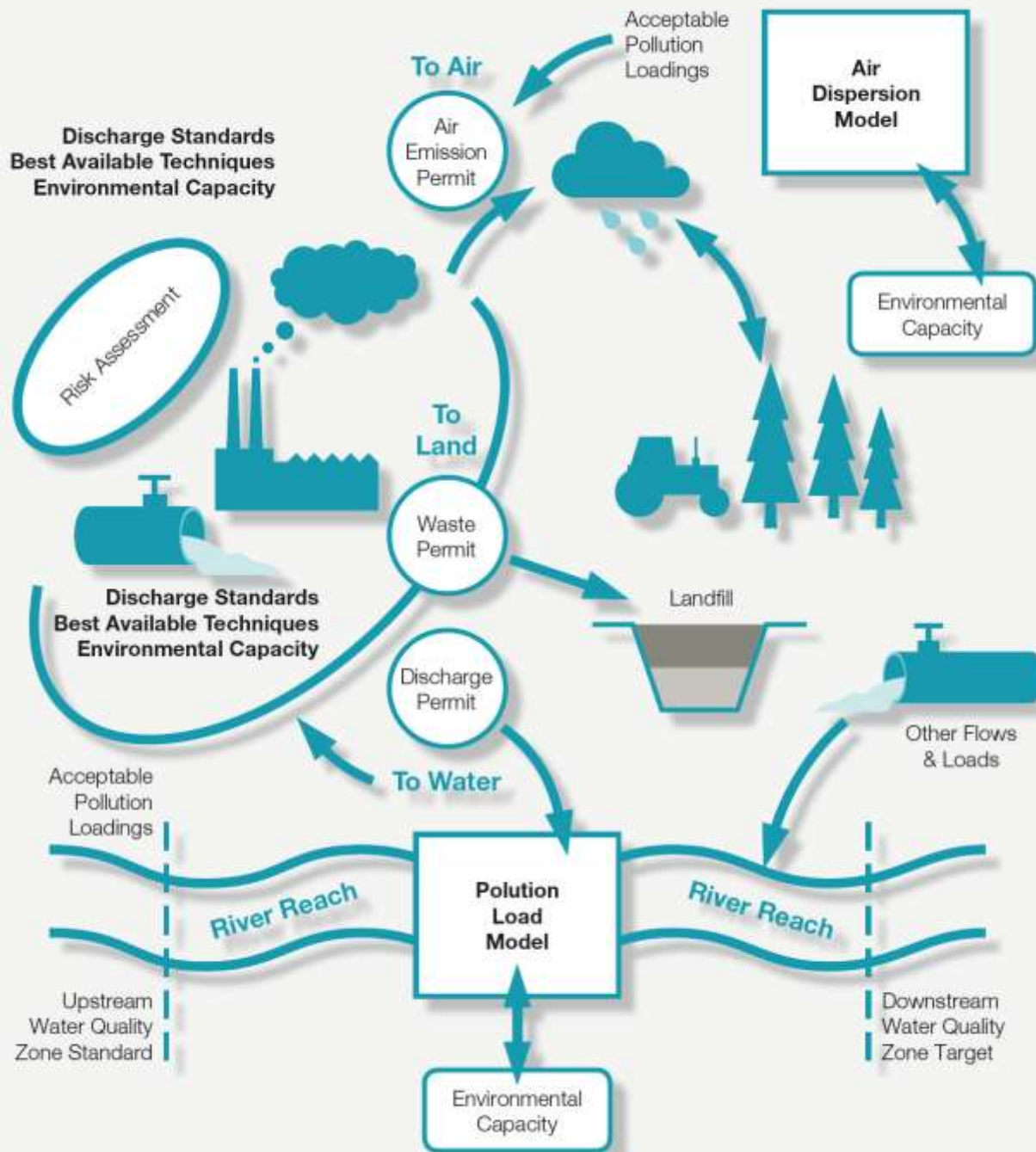
- **Water**
- Evidence based - Monitoring & modelling
- Discharge Permit reviews or imposition where improvement needed to meet EQS

And

- If subject to **IED**
  - Emission minimisation according to BREF requirements.
  - (Emission limits may be tighter than EQS)
  - Emission limits CANNOT allow failure of EQS.
- 
- **Environmental Permitting Regulations**
    - Activity Permits & Registrations
    - IED, Waste, Water, Groundwater, non-nuclear Radioactive Substances.

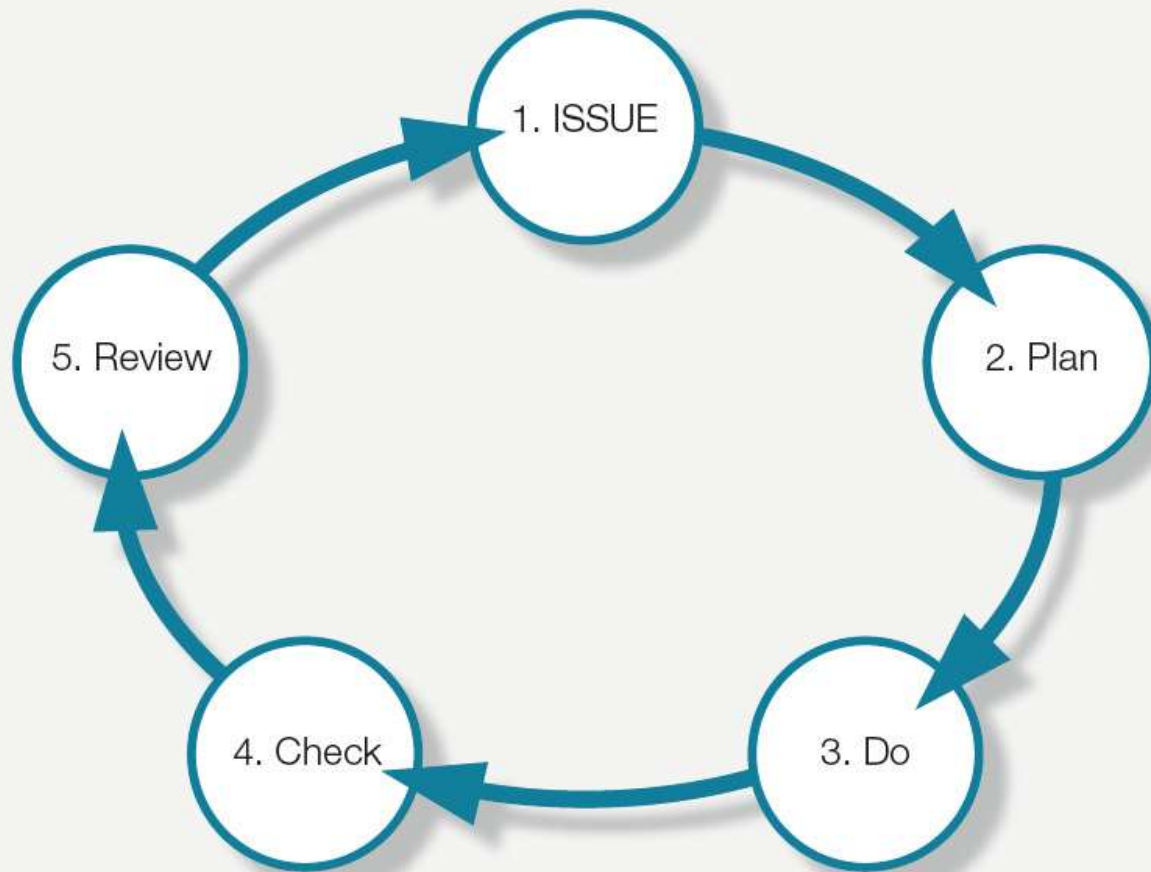
# Delivering Directive obligations

- **Environmental Regulators**
- Different legal & institutional frameworks in MS, and UK Devolved
- **England** - Environment Agency (EA)
- **Scotland** – Scottish Environment Protection Agency (SEPA)
- **Wales** – Natural Resources Wales (NRW)
- **Northern Ireland** – Northern Ireland Environment Agency (NIEA)
- **Ireland** - Irish EPA
- **MS** – mix of central and local government institutions



## Overview – Combined Approach to Environmental Protection

# How to Succeed.....



- WHAT?
- WHY?
- WHO?
- WHERE?
- WHEN?
- HOW?
- COST? & BENEFIT?
  - Money
  - Society
  - Environment



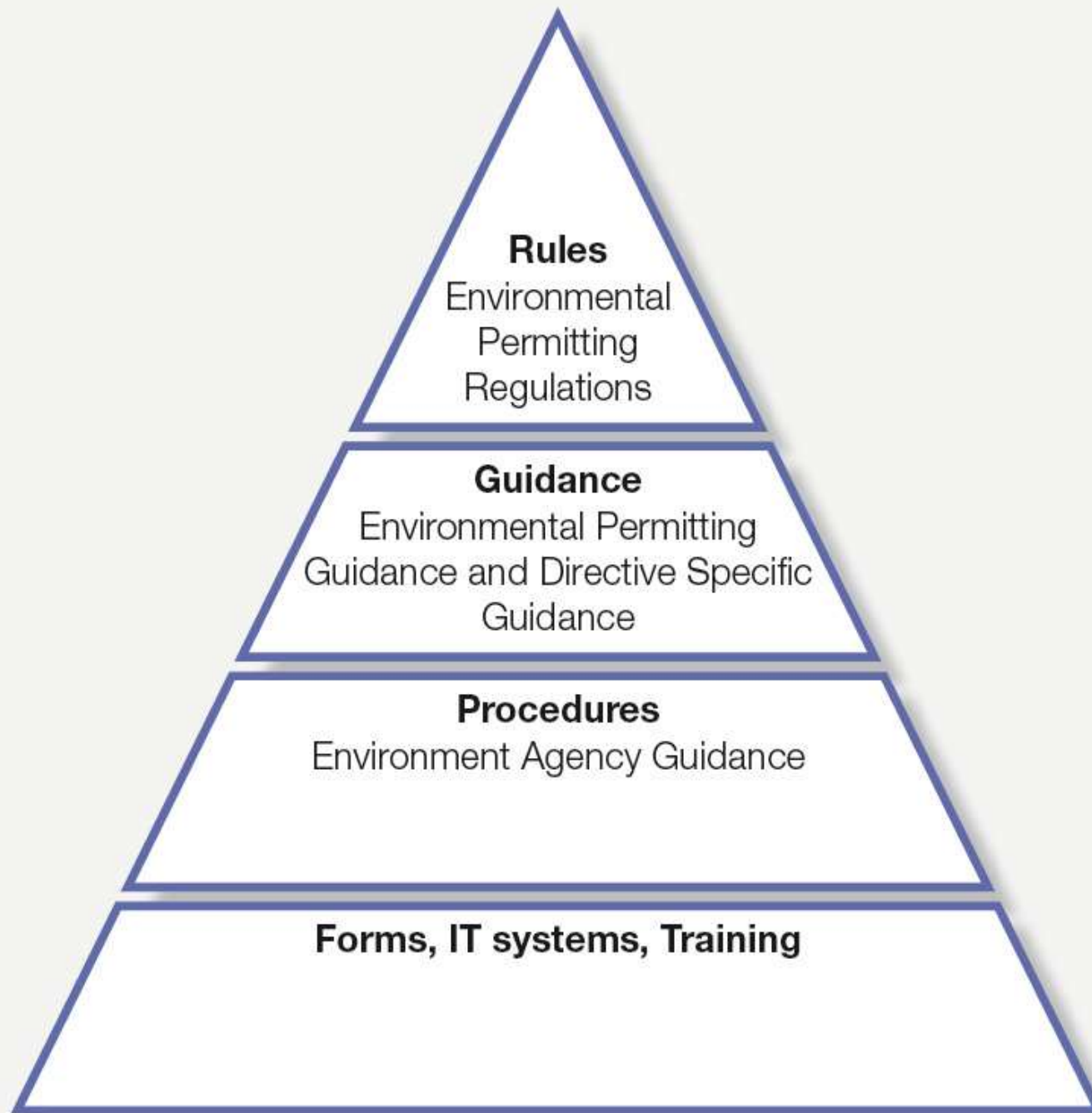
# PERMITTING

Permits legalise discharges, and require compliance with conditions which are intended to ensure that water quality objectives are met. Failure to comply can lead to criminal or civil sanctions.



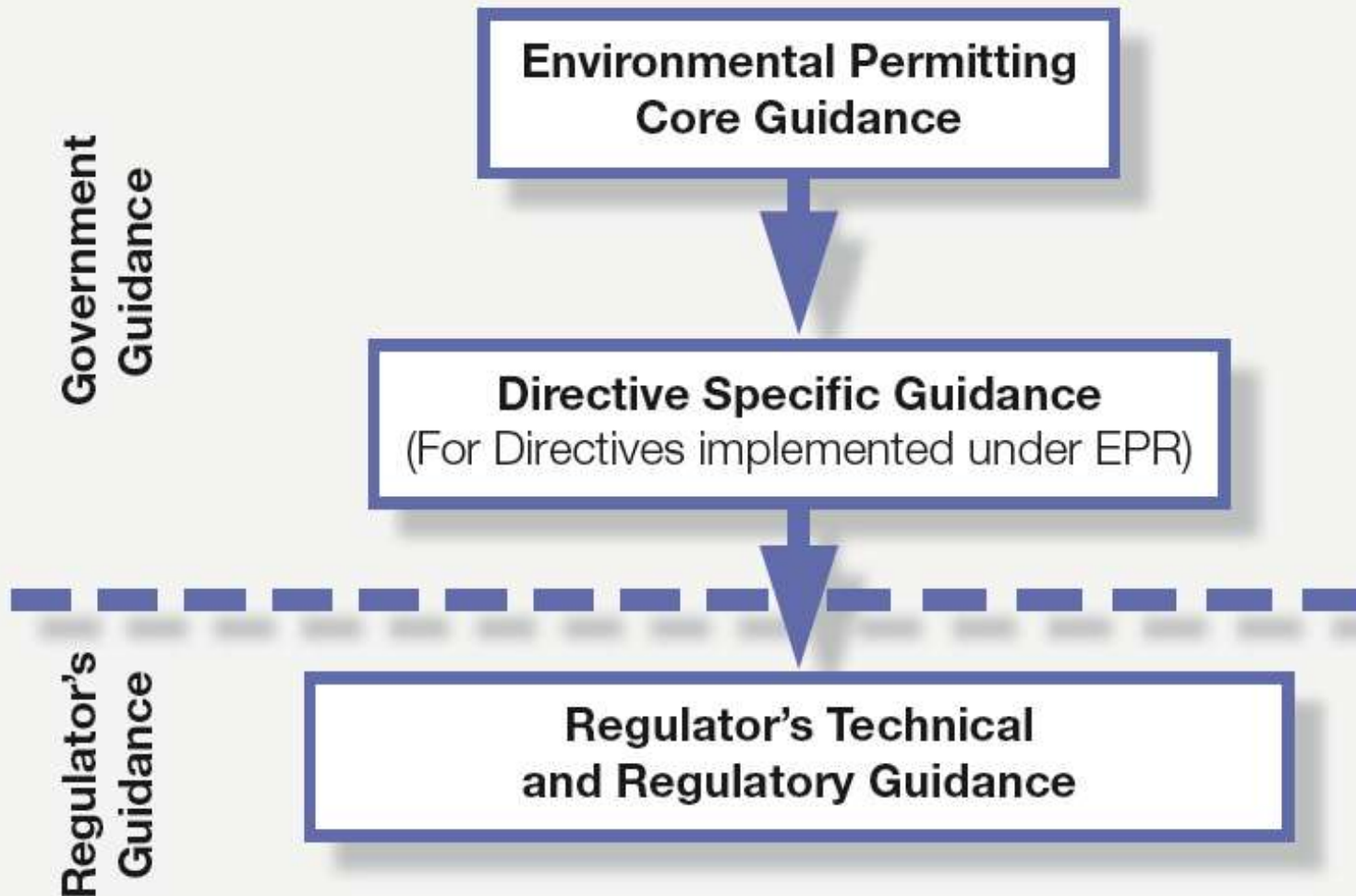
WHATEVER THE COMPLEXITY  
OF THE SYSTEM, IT IS ADVISABLE  
TO KEEP THE PERMIT REQUIREMENTS  
AS CLEAR AND SIMPLE AS PRACTICABLE.



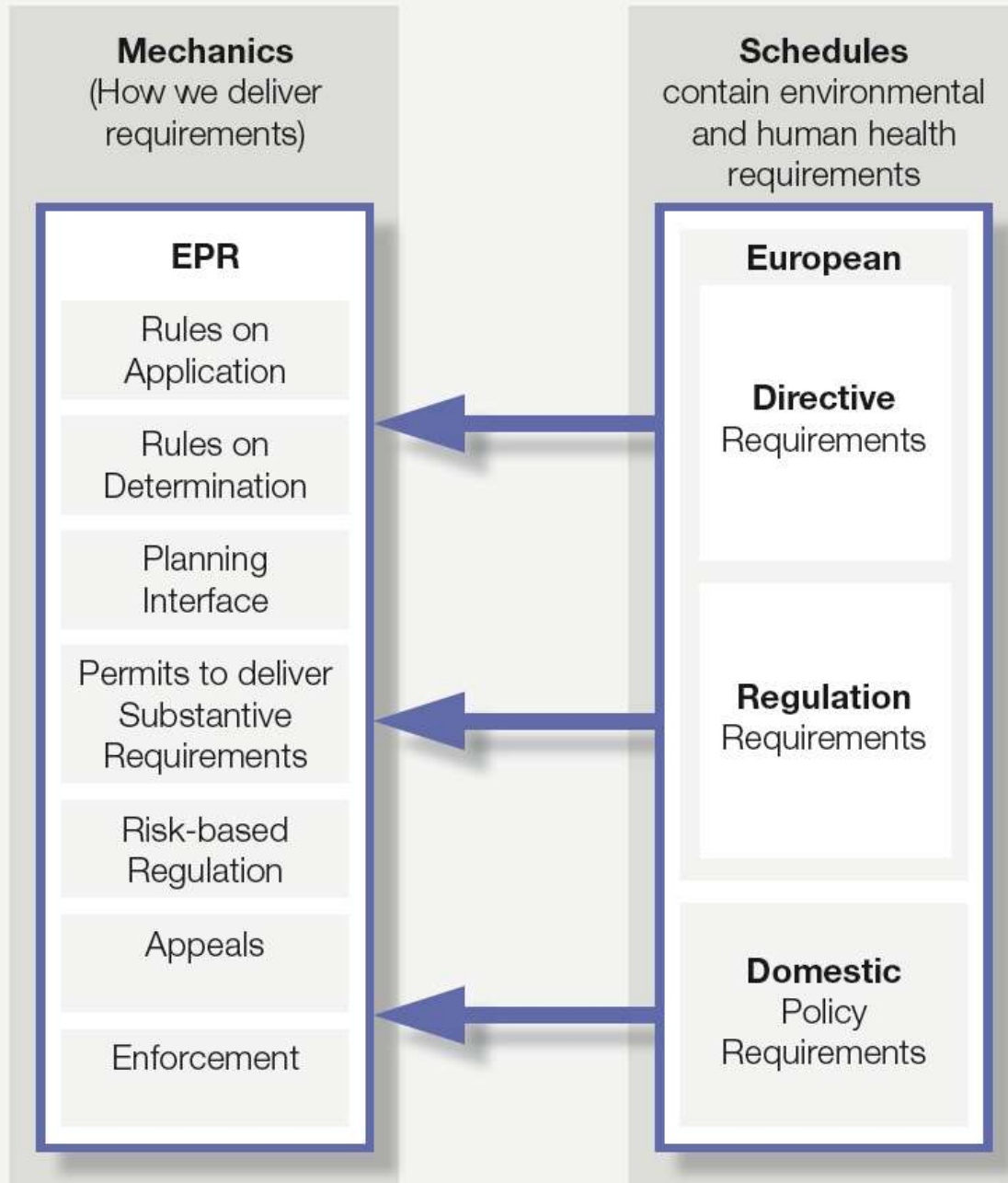


## ENVIRONMENTAL PERMITTING HEIRARCHY

# Environmental Permitting Guidance Hierarchy



# ENVIRONMENTAL PERMITTING REGULATIONS (EPR)



## CONCEPTUAL STRUCTURE OF ENVIRONMENTAL PERMITTING REGULATIONS

## European Union and Member State Policy and Law

### REGULATOR(S)

Planned Quality and Status  
Actual Quality and Status  
Local Development Plan

Advice and Guidance

Permit Determination

Permit Compliance Checks

(Enforcement)

WQ Compliance Checks

Report to Government / EU

### APPLICANT

Proposal

Pre-application Discussion

Application and Fee

Permit Requirements

Subsistence Charges

Monitoring

Reporting

## Overview - Permitting & Compliance

# Legislation & Guidance Sources

- **EU Law**
  - [http://europa.eu/eu-law/index\\_en.htm](http://europa.eu/eu-law/index_en.htm)
- **UK Law (*England*)**
  - <http://www.legislation.gov.uk/>
  - Permitting  
<http://www.legislation.gov.uk/ukdsi/2010/9780111491423/contents>
- **EU Guidance & Information**
  - [http://ec.europa.eu/environment/index\\_en.htm#](http://ec.europa.eu/environment/index_en.htm#)
- **UK Policy & Guidance (*England*)**
- <https://www.gov.uk/government/policies/improving-water-quality>
- <https://www.gov.uk/government/organisations/environment-agency>

# English WQ Permitting Law- Key Guidance

## **EPR Core Guidance**

- <https://www.gov.uk/government/publications/environmental-permitting-guidance-core-guidance--2>

## **EPR Water Discharge Activities Guidance**

- <https://www.gov.uk/government/publications/environmental-permitting-guidance-water-discharge-activities>

## **EPR Groundwater Activities Guidance**

- <https://www.gov.uk/government/publications/environmental-permitting-guidance-groundwater-activities>

## **EPR Permit Application and Compliance Guidance**

- <https://www.gov.uk/environmental-permit-check-if-you-need-one/overview>

## **ARCHIVED EA GUIDANCE**

- <http://webarchive.nationalarchives.gov.uk/20111124155429/http://www.environment-agency.gov.uk/business/default.aspx>