



Department for
Business & Trade

Case study: Using SSM (and a sprinkle of VSM) to consider how to regulate a construction product

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Office for Product Safety & Standards

- [OPSS](#) became the National Regulator for Construction Products in 2021 following a recommendation in the Hackitt report
- We use a **risk and evidence-based approach** to regulate in order to protect people from product-related harm.
- We carry out proactive and reactive interventions looking at both individual businesses and/or the whole sector if the matter is national, novel or contentious
- We support Trading Standards to regulate at local level and fund them to regulate at some ports
- We own and act in accordance with the [Regulators Code](#)

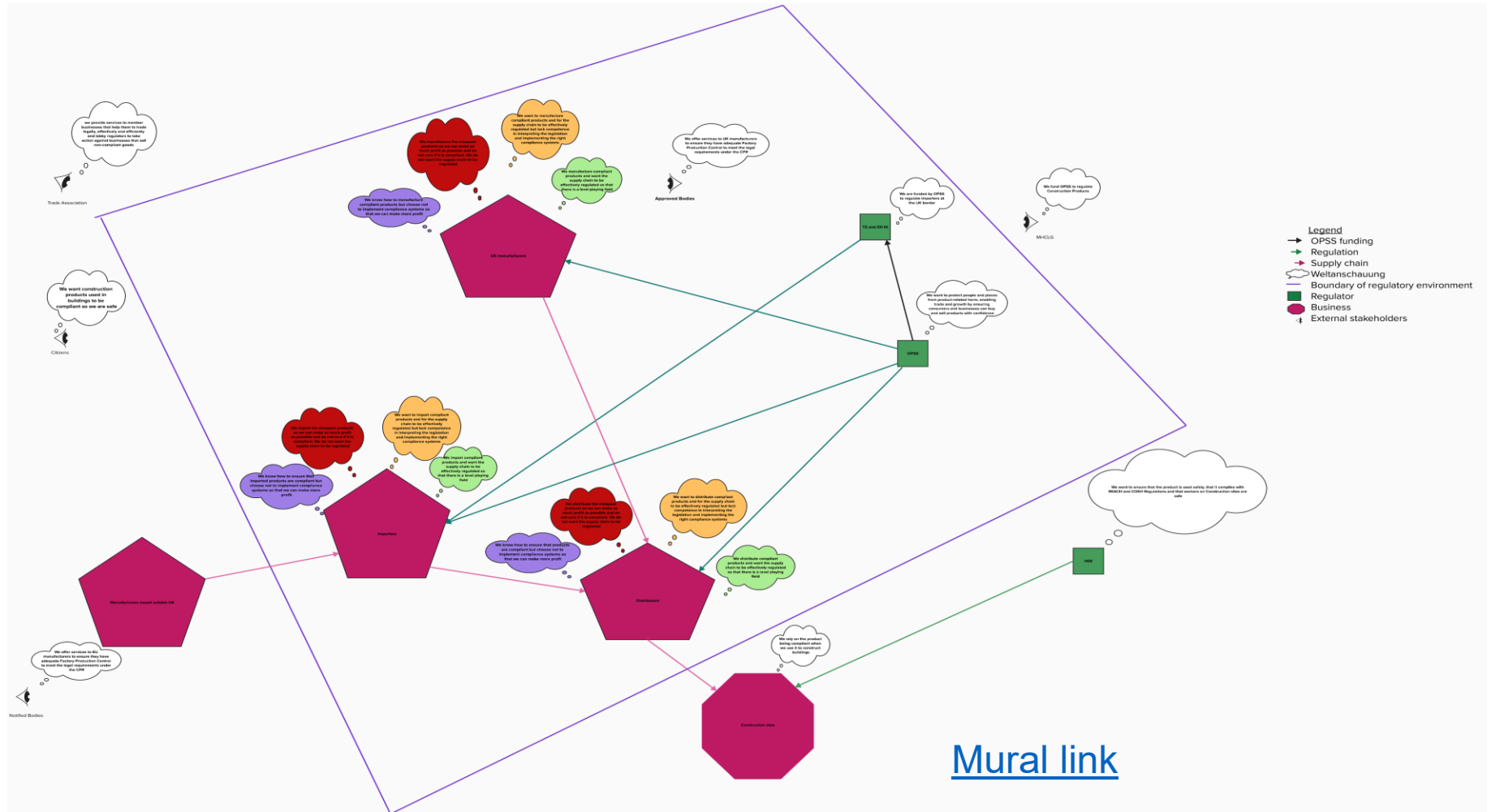
Business personas



Figure 4 Four personas mediated by competence and culture

- **Advocates** – With a high level of competence and a healthy culture, the advocates are likely making decisions in a supportive, capable environment.
- **Try Hards** – A healthy culture creates a strong desire to follow the regulations and remain compliant. Challenges exist in having the required competence to interpret the regulatory landscape and apply correctly to the given situation.
- **Game Players** – With high levels of competence and an unhealthy culture, the organisational environment might promote ways to manoeuvre around regulations to gain competitive advantage.
- **Uncooperatives** – Characterised in the Hackitt Report as organisations with a culture of a 'race to the bottom', and in our research, a culture of doing less than the 'bare minimum'. These organisations might therefore have fewer incentives to invest in building competence in the long term.

Rich picture



Culture

The regulation of construction products is a highly sensitive political issue in light of the Grenfell tragedy and there is an appetite across the political spectrum to ensure that the sector is more highly regulated

There has been very little enforcement activity under the CPR by the local regulators and there is no centralised database for enforcement actions, as a result there is an assumption that “bad actors” feel that they can bypass the regulations without consequence”

Compliance with the legislation requires the use of standards and conformity assessment processes that are very complex and hard to understand for both the regulators and business.

The current legislation is seen to be in need of reform in light of Grenfell and “safer and more effective rules that are easier to understand and enforce” are needed. MHCLG are currently collating responses to a Green paper

There are cultural issues across the sector described in the Hackitt report as “a race to the bottom” where cost takes precedence over quality

Non-compliance

There were 4 pieces of independent evidence to show that the imported products were non-compliant. All sources showed non-compliance with REACH Regulation but only 3 sources showed non-compliance with the CPR.

10 items were listed on EU Safety gate that were non-compliant with REACH legislation

There was no evidence to show that UK manufactured products were non-compliant but as this product has the highest level of AVCP (AVC1+) within the manufacturing process it could be seen to be a “higher risk” product

There is a dearth of data surrounding non-compliant construction products so targeting proactive work based on evidence and risk is difficult

The six biggest UK manufacturers are members of the same trade association

There is no evidence of non-compliance at distributor level

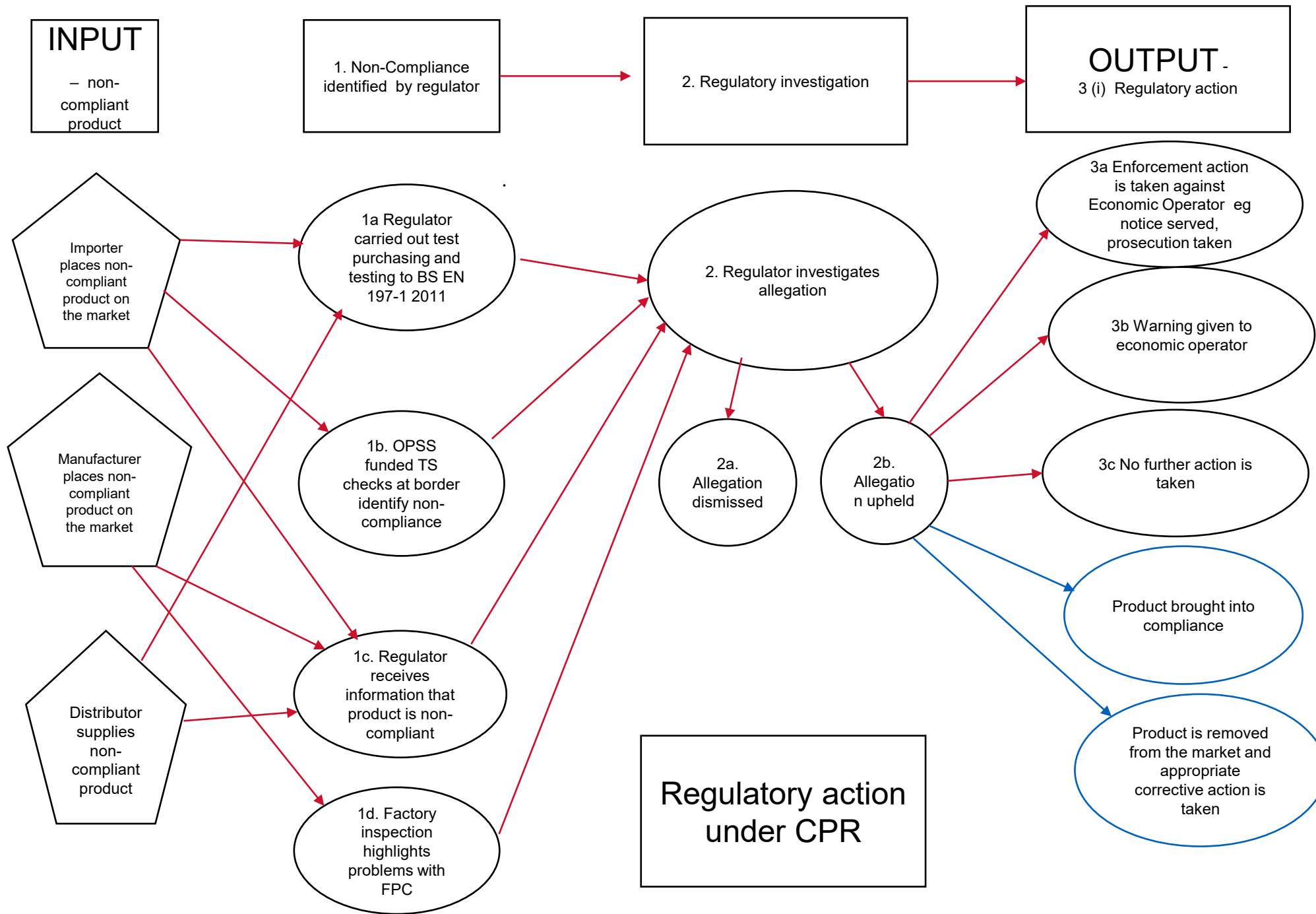
Regulation

Trading Standards (TS) and Environmental Health in Northern Ireland (EH NI) lack expertise and resources to carry out regulation

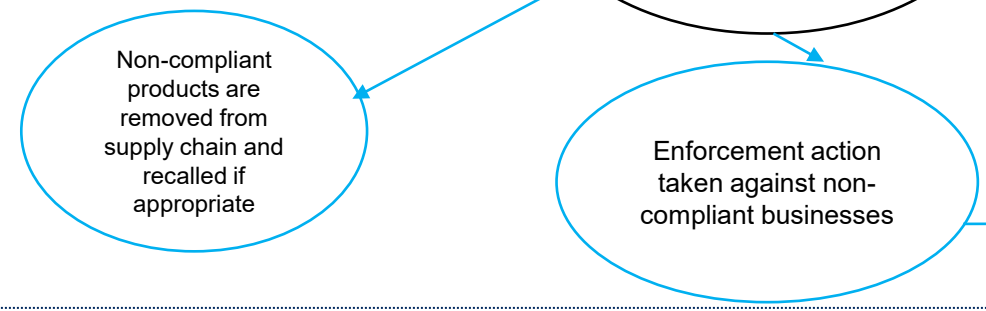
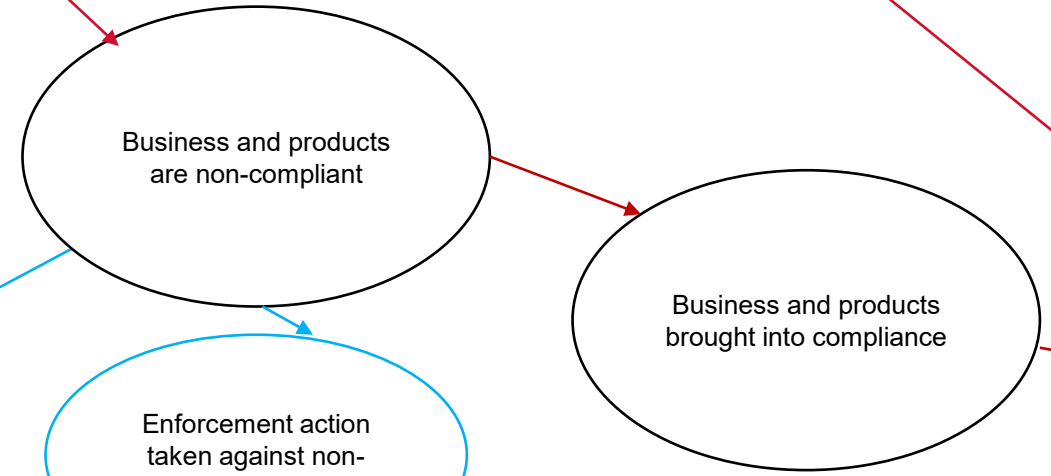
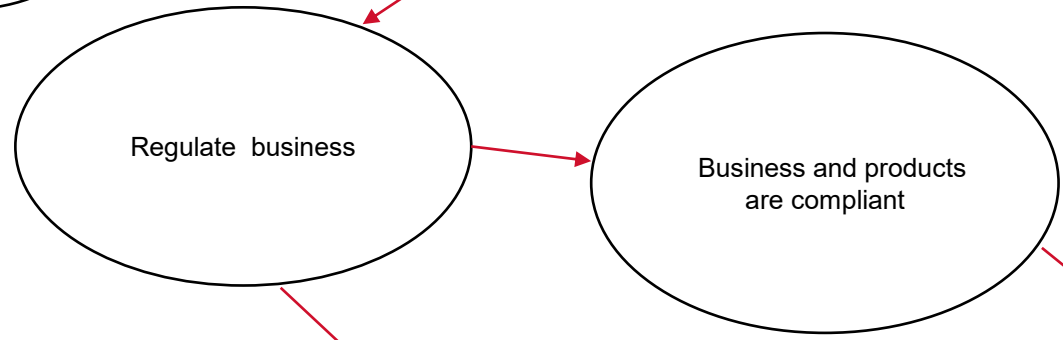
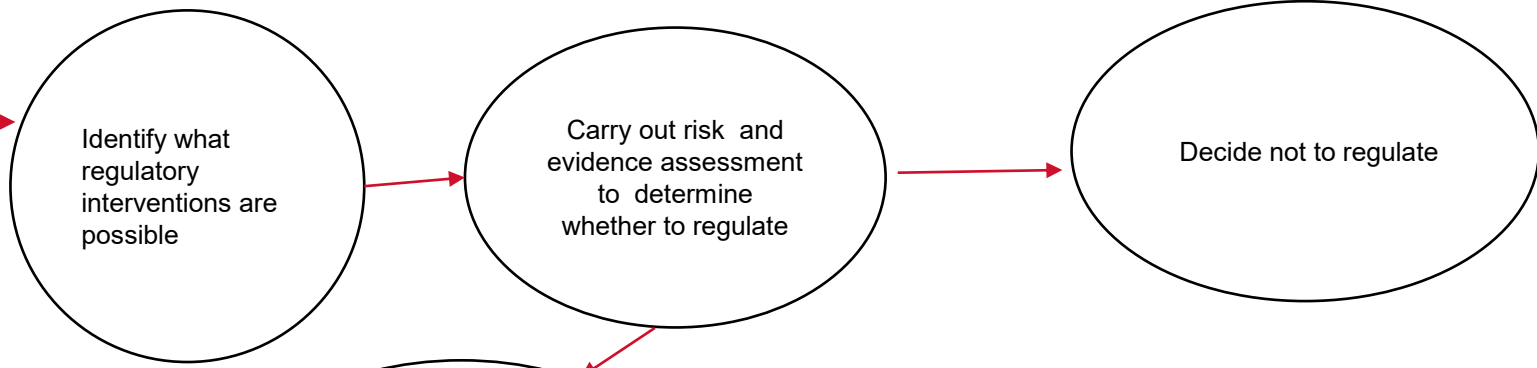
OPSS funded TS ports work is not currently requiring TS and EH NI to inspect construction products

No border profiling was being carried out

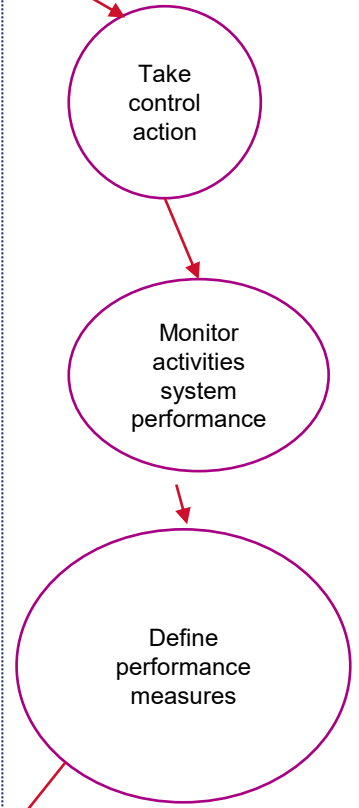
There is confusion in enforcement powers that are used at the border



INPUT xxx
is supplied
by an
economic
operator
within the
UK supply
chain



Regulation

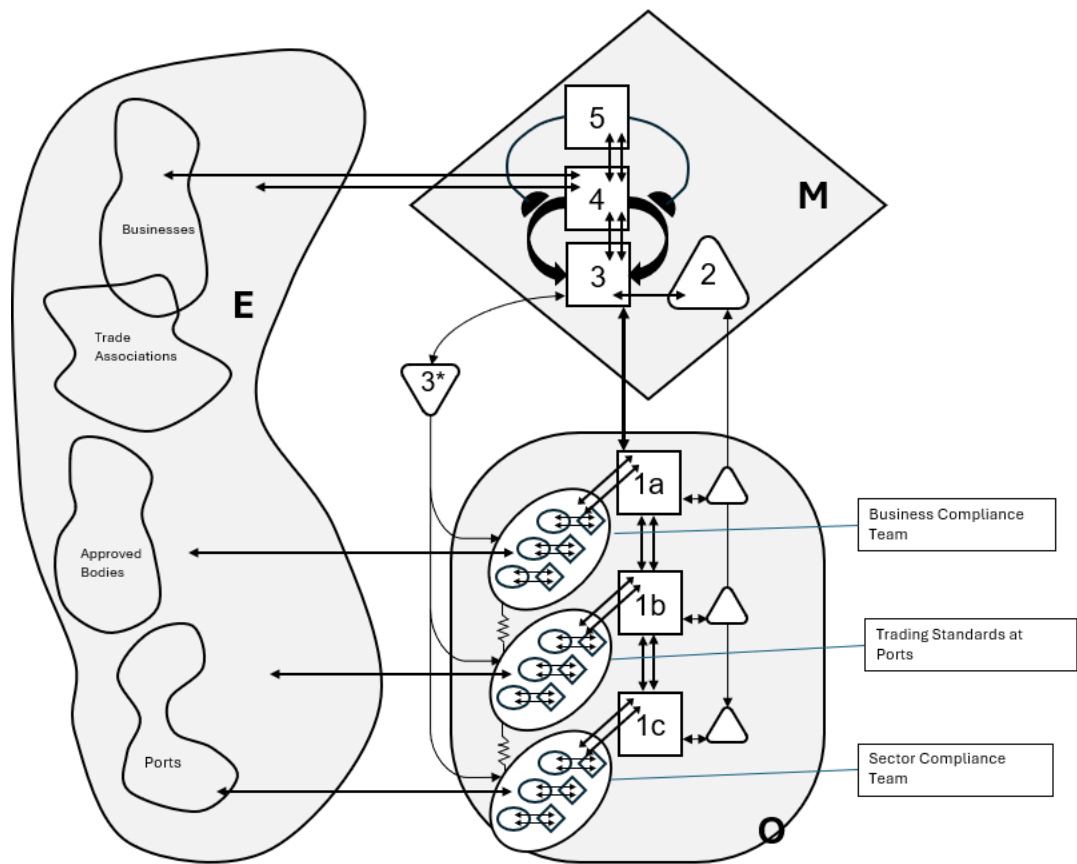


OUTPUT – xxx is regulated - only compliant products are supplied to end users and enforcement action is considered where there is non-compliance

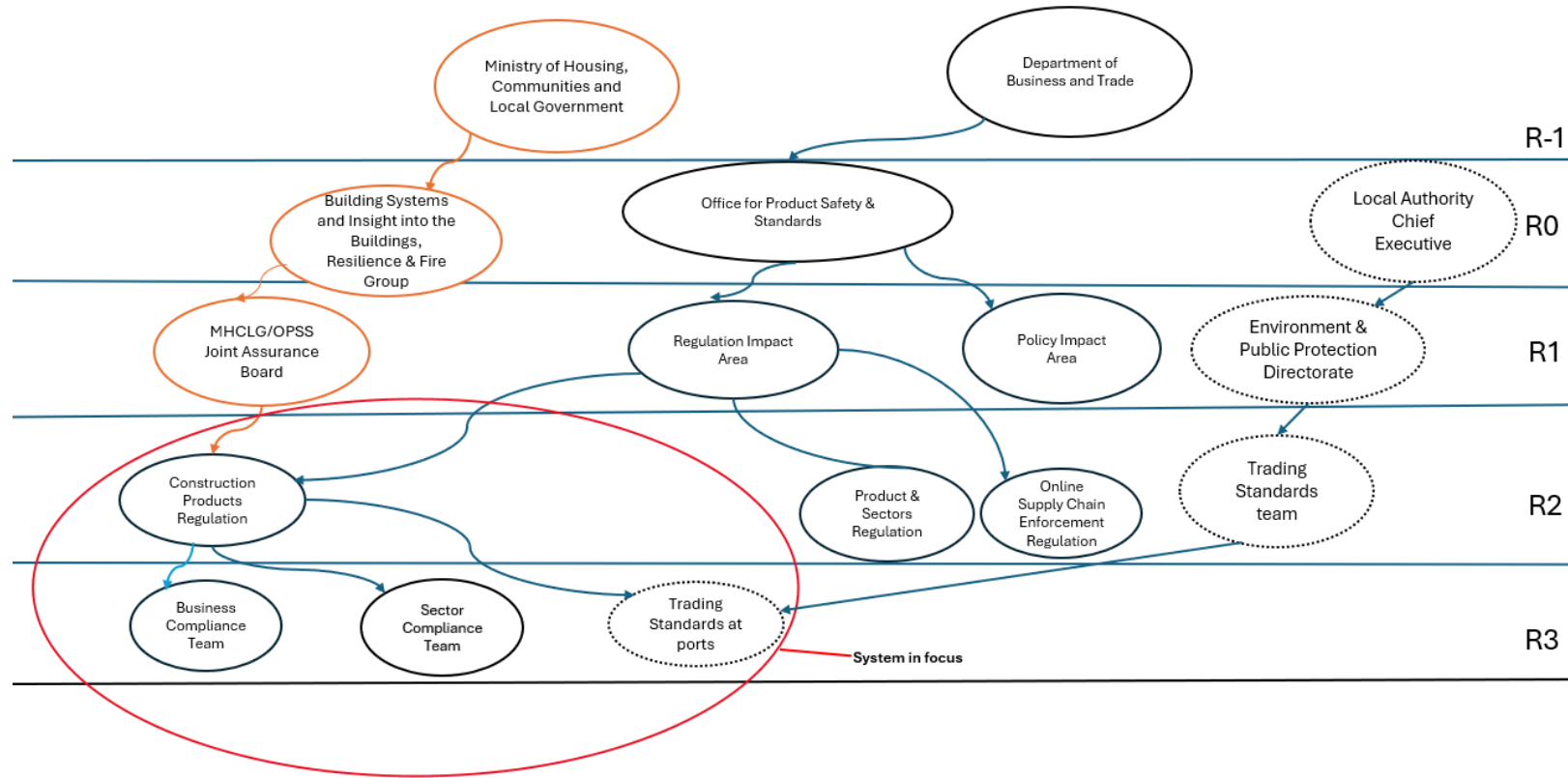
Purposeful Activity Model

Interventions

- OPSS to direct TS to identify and examine consignments as part of funded ports work
- OPSS to start border profiling product so shipments are flagged to TS for inspection
- Proactive inspection of importers by OPSS
- Proactive inspection of UK manufacturers by OPSS
- Test purchasing of product test to designated Standard



Recursive mapping showing Construction Products Regulators (system in focus)





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