



WHAKARATONGA IWI

FIRE
EMERGENCY

NEW ZEALAND



Regulatory Compliance

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Purpose

At Fire and Emergency New Zealand, our legislation and regulations give us significant regulatory compliance responsibilities, and stronger enforcement powers to support our interventions in cases of non-compliance. The professionalism and dedication of our frontline staff has earned us respect and trust throughout New Zealand's communities. While this is often because of our response activities, we are also recognised for the ever-increasing role we play in reducing risk and making communities safer by preventing incidents.

Risk reduction is central for us as a new national organisation under new legislation. It was a key intent of the reforms that established us, and it is embedded in our legislation, the Fire and Emergency New Zealand Act 2017. A crucial part of how we reduce risk is helping communities prepare for emergencies, so that those incidents have less of an impact and the community recovers more quickly. In line with this, we have developed a comprehensive Risk Reduction Strategy, as well as a Regulatory Compliance Strategy.

The aim of this document is to provide a clear, consistent framework to guide regulatory compliance decision-making. It outlines our approach for Regulatory Compliance and the range of interventions we will use to support organisations and the public to meet their compliance obligations as defined in the relevant legislation, regulations, rules and standards. This document also describes what to expect during an investigation.

“We are always there to help protect communities. We work with them to help identify risks. We educate them about how to manage those risks. And we respond to assist them when there is an emergency.”

Kerry Gregory
Deputy Chief Executive
Service Delivery

What We Do

Fire and Emergency New Zealand is a regulatory agency – and is obligated to operate as such.

Internal and external attitudes towards regulation must be actively managed by Fire and Emergency.

Key elements of this are:

Internal awareness

- consistent understanding and approach from all Fire and Emergency personnel in alignment with our Regulatory Regime.

External assistance

- Placing emphasis on voluntary compliance by maintaining positive relationships with the community.
- Protecting the community by providing education and advice.

We do this by:

- responding to and investigating reports of non-compliance with our statutes and regulations,
- monitoring permitted activities,
- taking action when non-compliance is identified,
- analysing patterns of non-compliance and carrying out activities to reduce non-compliance issues that are persistent, widespread or serious.

Should education and assistance measures fail to be effective in reducing non-compliance then Fire and Emergency is required to escalate to enforcement actions such as:

- issuing infringements,
- prosecutions,
- their regulatory compliance tools.

As a regulatory agency Fire and Emergency is responsible for promoting and monitoring compliance. Relevant enactments include:

- Fire and Emergency New Zealand Act 2017,
- Fire and Emergency New Zealand (Fire Permits) Regulations 2017,
- Fire and Emergency New Zealand (Fire Plans) Regulations 2018,
- Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018,
- Fire and Emergency New Zealand (Local Advisory Committees) Regulations 2018,
- Fire and Emergency New Zealand (Offences) Regulations 2018.

Principles of Regulatory Compliance

We have adopted a set of guiding principles that underpin our approach to Regulatory Compliance and are part of our ongoing Strategy.



Transparency

We provide clear information and explanations to stakeholders about the standards and requirements they must comply with. As a minimum standard of transparency, we ensure that all our compliance-related communications, such as pamphlets, permits, and warning letters, are written in plainly and clearly and are suitable and practical for their target audience.



Consistency

We ensure that processes and outcomes in regulatory compliance are consistent and predictable across the country. This means we take similar approaches in similar circumstances. It does not mean uniformity, as every situation is unique and must be considered fully. Our interventions are all within the scope of our legislative mandate and powers. To ensure we carry out our compliance responsibilities consistently, professionally, and efficiently, we ensure our people have the necessary skills and training, and that we have effective systems, processes, and policies to support them.



Fair, reasonable and proportional approach

Our compliance interventions and actions are appropriate for the situation and proportional to the risks posed and the seriousness of the non-compliance. We use our discretion lawfully and our decisions are justifiable.



Collaborative

We work with other regulators, industry stakeholders and sector experts, and share information with them where possible, to ensure the best prevention and response services outcomes. In partnership with industry, we develop best industry practice guidelines proactively around fire safety and risk. We partner with other regulators in planning and implementing public education and promotional campaigns aimed at strengthening public awareness.



Targeted, responsive, and effective

Over time we develop and implement structured compliance assessment programmes to target priority areas where there is the greatest potential for unwanted and avoidable fire or other harm. Our interventions seek to minimise risk and harm, and to reduce or avoid future non-compliance. Our responses are effective and timely, and consistent with our legislative obligations.



Lawful, ethical, and accountable

We conduct ourselves lawfully and impartially, and in accordance with these guiding principles and with relevant policies and guidelines. We document and take responsibility for our statutory decisions and actions.



Informed and evidence-based

Our decisions are based on relevant intelligence and sound investigative practices and follow accepted best practice. A clear evidential basis is a primary factor in deciding whether to take enforcement action, along with the public interest test.



Encouraging Compliance

Our stakeholder community is broad and complex, and we cannot deliver our fire and emergency services in isolation from the community. We need to play a significant role in supporting other agencies to ensure that people, property, and the environment are protected from fire related risks.

Building and nurturing our stakeholder relationships, within our many diverse communities, will enable us to maximise the quality and value we offer to all New Zealanders.

Working with and for our communities and our regulatory sector to identify strengths, risks, and needs, helps us to support them to behave in safer ways and plan for emergencies or for instances where emergency assistance may be delayed.

Our approach to Regulatory Compliance provides an effective way of managing activities that might otherwise have a negative impact on public health, safety and well-being, or cause environmental damage. It is designed to ensure that specific activities are undertaken within established guidelines, rules, and standards.

Measures to guide, encourage and, if necessary, enforce those guidelines, rules, and standards are part of the methods that we will use to achieve our objectives. We will provide information to the public on what they must do, or not do. Where those rules and regulations are not voluntarily observed, a range of enforcement approaches may need to be used to achieve compliance.

We will ensure that the decisions we make are in accordance with the legislation and regulations and are reasonable and consistent.

Fire and Emergency New Zealand will primarily seek to improve compliance through:

- providing appropriate and useful information that is readily available to the public,
- designing and delivering targeted education and promotional programmes to increase awareness of compliance obligations,
- ensuring that our processes easy to use.

We will assist the public and the sector to comply by applying an appropriately proportionate response when we identify non-compliance.

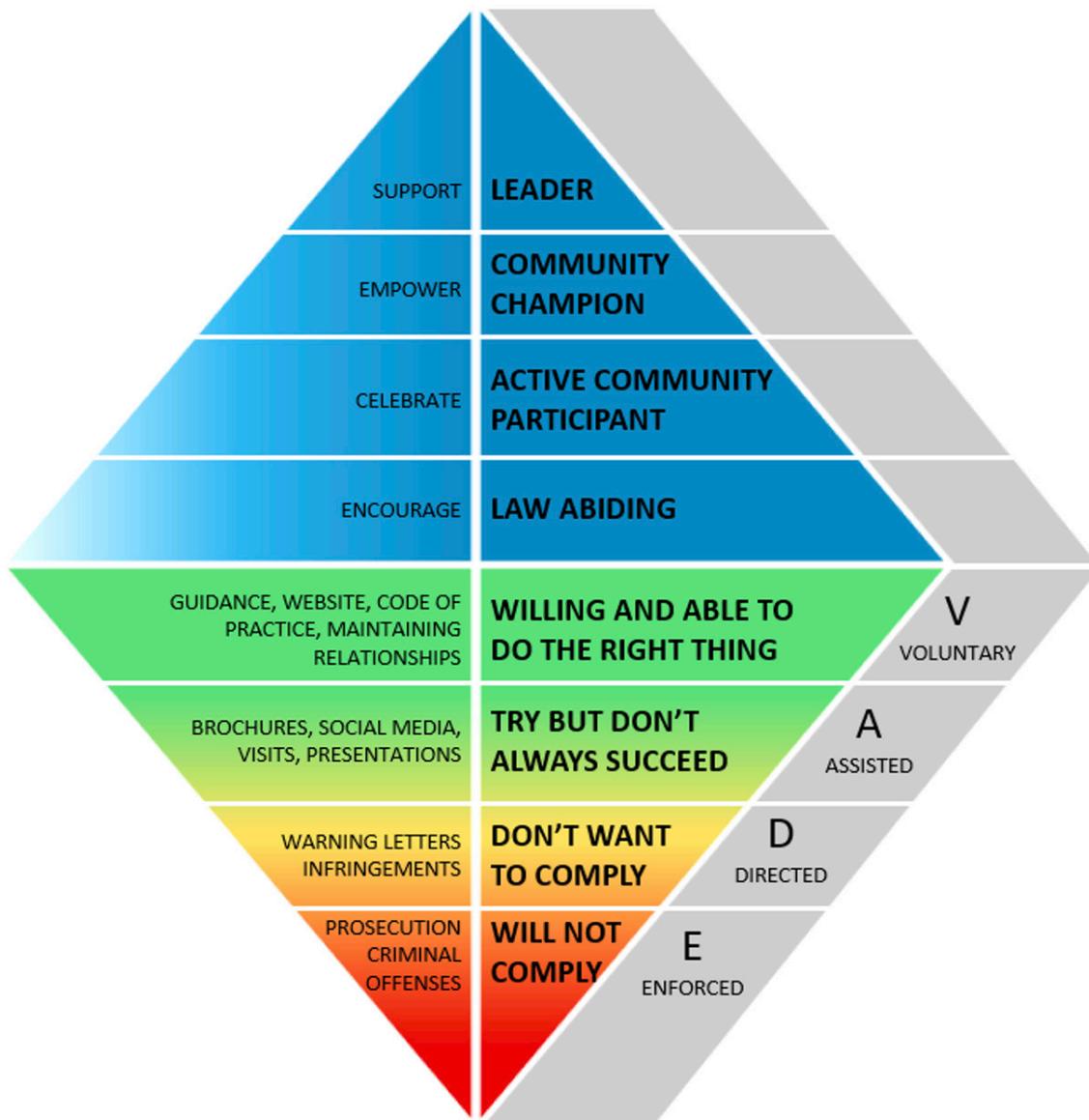
Fire and Emergency Regulatory Diamond

The Fire and Emergency NZ Regulatory Diamond is based on the Braithwaite Triangle, which symbolises our graduated risk-based approach to regulatory compliance, but allows for the public and organisations to become community champions who advocate for safety and good practice. The source of the Diamond is the Ayres and Braithwaite Regulatory Enforcement Pyramid.

The Diamond is a step-by-step model, but there is room for high risk. Serious cases may be immediately addressed using the enforcement actions within the legislation.

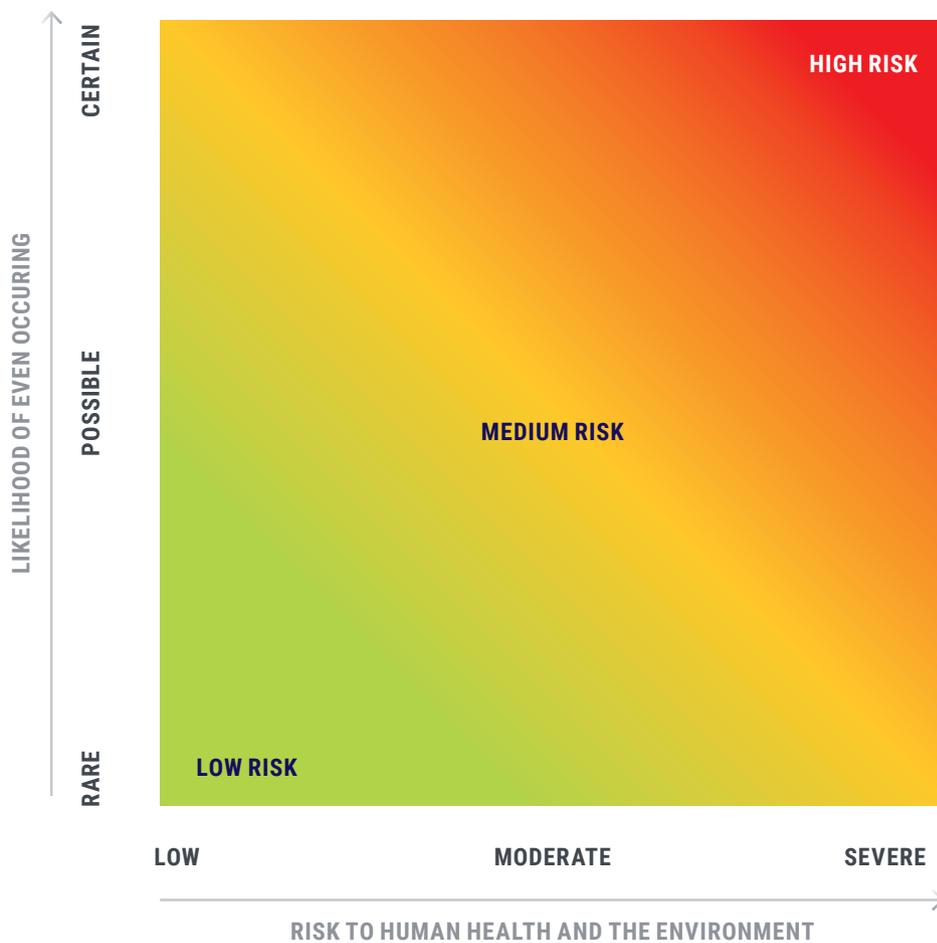
The Diamond approach enables us to aim to drive people further up the diamond and create an environment where people become self-monitoring of behaviours within their communities. Wearing a seatbelt is an example, we are full of active community participants and champions who feel comfortable to tell others to 'put your seatbelts on'.

Trust and respect in Fire and Emergency across communities and industry will be strengthened by this approach as they remain at the heart of the model. Risk will be reduced through education and targeting unwanted behaviour.



Risk Assessments

The risks associated with non-compliance are assessed using the following risk matrix. This model calculates the likelihood of non-compliance occurring and the consequent magnitude of harm to people, property, and the environment, including cultural, social, and economic effects.



Fire and Emergency's Approach to Non-Compliance

A proportionate, risk-based approach

Fire and Emergency's Regulatory Diamond approach symbolises our graduated risk-based approach to regulatory compliance.

Risk reduction is a large part of the Fire and Emergency model for protecting communities, as well as keeping firefighters safe. The approach is based on the recognition that:

- most individuals and organisations understand that preventing and/or reducing risks is important and are therefore willing to comply with the relevant requirements,
- some people will comply only reluctantly, and only because of the potential for their behaviour to be detected,
- some people will not comply at all.

This means we can take a range of approaches to support compliance. We will use data and intelligence, and our insight, knowledge and understanding to select the most appropriate interventions for promoting voluntary compliance and responding effectively to non-compliance. We have a range of regulatory tools available.

While we are fully prepared to escalate our responses to enforcement action, when appropriate we will apply an education and assistance first approach, and are keen to work with the sector and the public to secure and strengthen their compliance where possible.

Promoting and supporting voluntary compliance

Our priority is to focus our efforts on assisting compliance, by removing barriers to compliance and by strengthening our education, information, and engagement with people and organisations who are willing and trying to comply.

By working with communities and organisations we can also highlight and promote examples of excellence.

Identifying non-compliance

We have a structured, systematic, and focused approach to identifying non-compliance across the spectrum of fire protection and safety legislation.

We receive information from external partners, agencies, members of the public or our personnel concerning fire safety risk. All information and intelligence will be considered, and we will respond with intervention where appropriate.

Managing non-compliance with a continuum of interventions

When we have identified non-compliance, we will carry out a comprehensive assessment and select the most effective intervention, one that is proportionate to the level of risk and appropriate to the overall circumstances.

We have a range of possible enforcement tools to reduce risk and prevent continued non-compliance. This ranges from education, and support to encourage compliance through to an investigation and/or enforcement actions such, infringements or prosecutions. In some situations, we may also refer matters to a more appropriate agency, such as a local council or New Zealand Police.

Information Gathering

Good information gathering practices allow us to seek and obtain information for specific purposes. We will collect information to understand how or why events or breaches of regulation have occurred.

Fire and Emergency gathers information in compliance with the Public Service Commission Models Standards, and in accordance with the Fire and Emergency New Zealand Transparency Statement.

This information will be used to provide the best approach to events or non-compliance, be it further education, information and advice or when considering undertaking an investigation to escalate to enforcement action.

The depth and scope of information gathering or investigation will depend on the circumstances of the incident or breach.



Escalation and Enforcement Decision Making

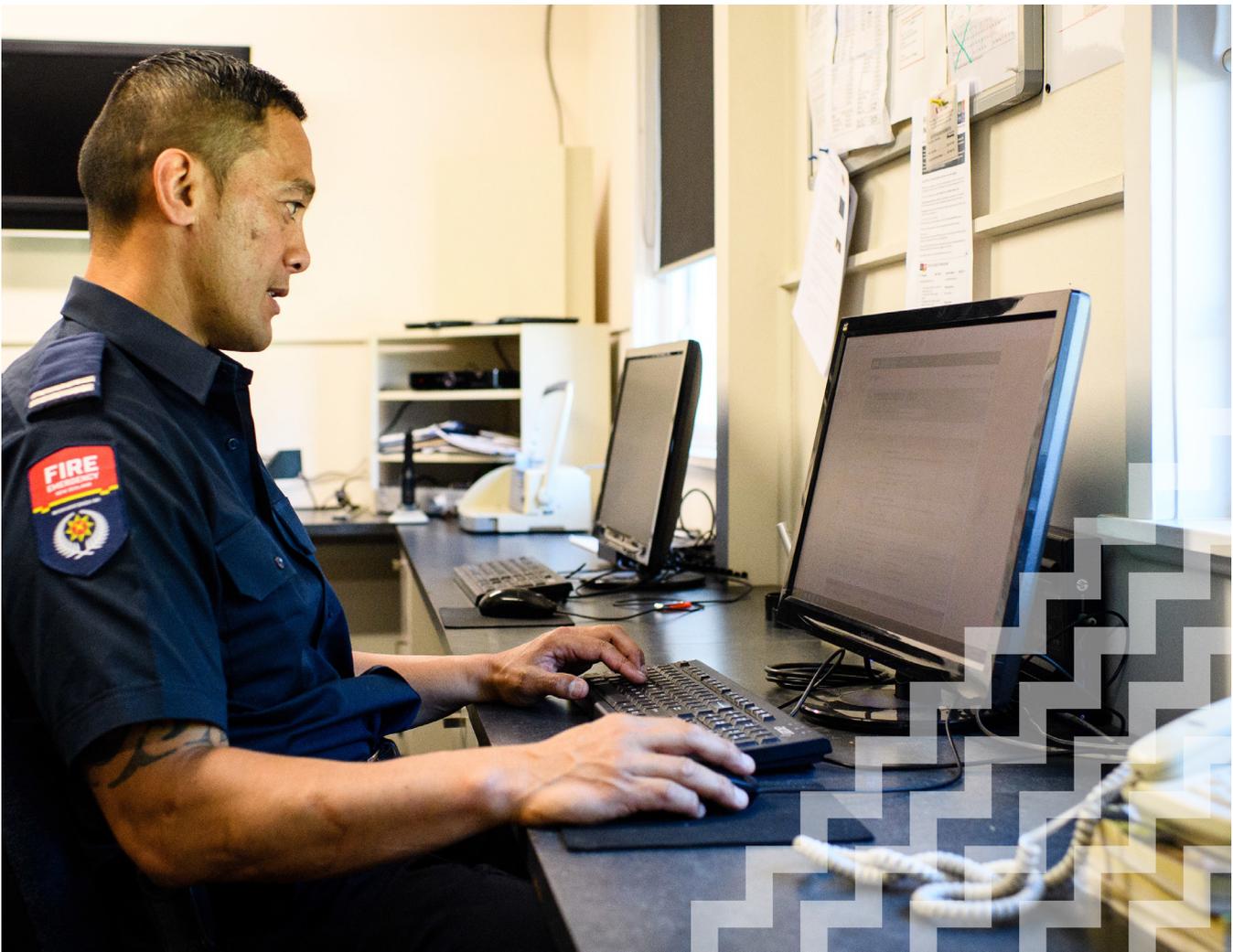
Enforcement decision-making can be complex. Fire and Emergency has an internal working group to ensure a consistent and measured approach.

The decision to proceed towards enforcement action will be made by the working group. The working group ensure consistency of approach and decision-making with regards to regulatory actions.

All competing considerations will be assessed by the working group to assess risk and exercise judgement for a fair and transparent decision. These decisions will depend on the circumstances of the situation.

The working group will comprise:

- Regulatory Compliance Manager,
- Legal Team Representative (Regulatory Compliance nominated Fire and Emergency Lawyer),
- A District Manager or Community Risk Manager (or both) from the district presenting the case,
- An Independent National Risk Reduction Advisor/Wildfire Specialist Team member (depending on the nature of the incident).



Fire and Emergency's Response to Non-Compliance

The Fire and Emergency Regulatory Compliance regime covers all actions related to fire safety; from 'interfering with a fire alarm' to 'entering the site of an emergency' in breach of the Fire and Emergency New Zealand Act.

Interventions available to Fire and Emergency NZ include:

Information, education, and guidance

It is important for regulated parties to have good quality information and guidance on the requirements of the law and how to comply. We produce a wide range of information and educational resources to promote and support compliance with fire protection and safety regulation, in addition to supporting other agencies on the development of suitable resources for promoting safety, wellbeing and emergency management in the wider community. Guidance resources can take many forms including website information, FAQs, conferences, presentations, forums, alerts, newsletters, posters, standards, and codes of practice.

Directive, cautionary, warning, or notice to fix communications

A written or verbal direction may be used when a breach of one of our offences is identified but enforcement action is not considered necessary.

A directive notice may also be issued as part of an inspection report recommendation. Fire and Emergency New Zealand will keep a record of that advice. Such a communication may be used where there is:

- a moderate or nominal risk of harm (or risk based matter),
- a minor or short term lapse or occasional non-compliance (for administrative matters).

A *notice to fix/address* letter gives specific information as to what Fire and Emergency requires the recipient to do to address the issue and a timeframe and information how to notify us when remedial action has been completed.

Infringement

Infringement notices are a way of dealing with common breaches of the law where the impact of the person's action (or non-action) is not considered serious enough to warrant prosecution but their offending requires action to prompt a change of attitude or behaviour. Fire and Emergency may issue infringement notices without prior warning if there is a clear breach of the relevant enactment.

An infringement fee is the financial penalty associated with a specific infringement offence as prescribed in the respective regulations. Infringement offences have been established as part of our regulations, which prescribe the detail that must be included in our infringement notices.

Prosecution – offence and penalty

Fire and Emergency has a clear policy with respect to prosecutions, which are generally used in respect of serious or repeated offending. In deciding whether to prosecute, we consider the circumstances of the offending, the risk of harm or actual harm, attitude to compliance, and public interest. All prosecutions will be commenced and conducted in accordance with the Solicitor-General's Prosecution Guidelines 2013. Prosecution assists to promote respect for fire protection and safety and clearly communicates that our policy is to take the strongest enforcement action possible when such an intervention is appropriate.

More than one intervention may be appropriate and applied as a 'package of interventions'. For example, it may be appropriate to prosecute and publish educational material for the general public in response to an incident raising serious concerns.



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