



Code of good regulatory practice

This code of practice can be used to develop effective regulations in the following areas:

- [Efficiency](#)
- [Effectiveness](#)
- [Transparency](#)
- [Clarity](#)
- [Equity](#)

Efficiency

Adopt and maintain only regulations for which the costs on society are justified by the benefits to society, and that achieve objectives at lowest cost, taking into account alternative approaches to regulation.

Efficiency guidelines:

- Consideration of alternatives to regulation: Regulatory design should identify and assess the most feasible regulatory and non-regulatory alternative(s) to address the problem.
- Minimum necessary regulation: When government intervention is desirable, regulatory measures should be minimal, and the least distorting, to achieve desired outcomes.
- Regulatory benefits outweigh costs: In general, select and implement proposals with the greatest net benefit to society.
- Reasonable compliance cost: The compliance burden imposed on society by regulation should be reasonable and fair compared to the expected regulatory benefit.
- Minimal fiscal impact: Regulators should develop regulatory measures that minimise the financial impact of administration and enforcement.
- Minimal adverse impact on competition: Regulation should have a minimal negative impact on competition.
- International compatibility: Where appropriate, regulatory measures or standards should be compatible with relevant international or internationally accepted standards or practices to maximise the benefits of trade.

Effectiveness

Regulation should be designed to achieve the desired policy outcome.

Effectiveness guidelines:

- Reasonable compliance rate: A regulation is neither efficient nor effective if it is not complied with or cannot be effectively enforced. Regulatory measures should contain compliance strategies that ensure the greatest degree of compliance at the lowest possible cost to all parties. Incentive effects should be made explicit in any regulatory proposal.
- Compatibility with the general body of law, including the statute which it amends, statutes which apply to it, and the general body of the law of statutory interpretation.
- Compliance with basic principles of our legal and constitutional system, including the Treaty of Waitangi, and with New Zealand's international obligations.
- Flexibility of regulation and standards: Regulatory measures should be able to be revised, adjusted and updated as circumstances change.
- Performance-based requirements that specify outcomes rather than inputs should be used, unless prescriptive requirements are unavoidable. This helps ensure predictability of regulatory outcomes and facilitate innovation.
- Review regulations systematically to ensure they continue to meet their intended objectives efficiently and effectively.

Transparency

The regulation making process should be transparent to both the decision-makers and those affected by regulation.

Transparency guidelines:

- Problem adequately defined: Identifying the nature and extent of the problem is a key step in the process of evaluating the need for government action. Properly done, problem definition will itself suggest potential solutions and eliminate others that are clearly not suitable.
- Clear identification of the objective of regulation: The policy goal should be clearly specified against the problem and have a clear link to government policy.
- Cost benefit analysis: Regulatory proposals should be subject to a systematic review of the costs and benefit. Resources invested in cost benefit estimation should increase as the potential impact of the regulation increases.
- Risk assessment: Regulatory proposals should be subject to a risk assessment, which should be as detailed as is appropriate in the circumstances.
- Public consultation should occur as widely as possible, given the circumstances, in the policy development process. A well-designed and implemented consultation programme can contribute to better quality regulations; identification of the more effective alternatives; lower costs to business and administration; ensure better compliance; and promote faster regulatory responses to changing conditions.
- Direct approaches to a problem: In general, adopting a direct approach aimed at the root cause of an identified problem ensures that a more effective and efficient outcome is achieved, compared to an indirect response.

Clarity

Regulatory processes and requirements should be as understandable and accessible as practicable.

Clarity guidelines:

- Make things as simple as possible while still achieving the regulatory objective.
- Plain language drafting: Where possible, regulatory instruments should be drafted in plain language to improve clarity and simplicity, reduce uncertainty, and to enable those affected to better understand the implications of regulatory measures.
- Discretion should be kept to a minimum, but be consistent with the need for the system to be fair. Good regulation should attempt to both minimise and standardise the exercise of bureaucratic discretion to reduce discrepancies between government regulators, reduce uncertainty, and lower compliance costs.
- Educating the public as to their regulatory obligations is fundamental in ensuring compliance.

Equity

Regulation should be fair and treat those affected equitably.

Equity guidelines:

- Obligations, standards, and sanctions should be designed so they can be imposed impartially and consistently.
- Regulation should be consistent with the principles of the New Zealand Bill of Rights Act 1990, and the Human Rights Act 1993, and meet the expectations of those affected by regulation regarding their legal rights.
- People in like situations should be treated in a similar manner. Similarly, people in disparate positions may be treated differently.
- Reliance should be able to be placed on processes and procedures of the regulatory system: A regulatory system is regarded as fair or equitable when individuals agree on the rules of that system, and any outcome of the system is considered just.