Australian Government
Department of Finance

Regulatory Policy, Practice & Performance Framework

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Minister's Foreword

Senator the Hon Katy Gallagher
Minister for Finance, Minister for Women,
Minister for the Public Service



The Australian Government is committed to a modern public service that puts people and business at the centre of regulatory reform.

Australians interact with regulation every day. Regulation provides equitable access to public services, promotes competitive markets, ensures systems — such as banking systems — work effectively, and protects Australia and its people from harm. Whether going to the doctor or driving their car, Australians rely on regulation to ensure fair markets and services.

Regulatory complexity is on the rise and Australians and businesses find many services hard to navigate and understand. New regulations may fail to consider the whole system, adding to this complexity and uncertainty.

By most measures, Australia's regulations are well trusted and world leading. In this rapidly evolving environment, there is opportunity to enhance existing checks and balances to identify regulatory issues early, and to bolster trust in government and government services.

The Australian Government's revitalised regulatory reform agenda is modernising regulation through digital design, innovation, and stewardship to ensure it is fit-for-purpose for Australia and its people. Greater public engagement and better use of data by Commonwealth entities is leading to better regulation. Similarly, further investment in digital technology is reducing the costs of compliance and improving regulatory outcomes.

The Australian Government has recently legislated Stewardship as an Australian Public Service (APS) Value. This will help the APS better serve Australians by building its capability and institutional knowledge to support the public interest now and into the future.

This Regulatory Policy, Practice & Performance Framework (Framework) takes the APS Value of Stewardship from principle to practice, empowering regulators and policymakers to drive meaningful regulatory reforms that deliver the better services promised under our APS Reform agenda.

The Framework complements the Australian Government Data and Digital Government Strategy, providing stronger foundations for a forward-looking and agile approach to the use of technology in government.

The Framework sets out the expectation that Commonwealth entities continuously maintain their regulatory systems throughout the regulatory life cycle and achieve outcomes cost-effectively for Australians and businesses.

Thank you to the representatives from the Department of Finance that led the work on this Framework. Thank you also to the engagement of key leaders of Commonwealth regulatory agencies in the Framework's development, helping to bring their experience and knowledge to whole-of-government regulatory reform.

Vision

The Australian Government is modernising regulation and improving regulator performance through data, innovation, and stewardship to: ensure regulation is fit-for-purpose in a digital era; protect against regulatory failures; and improve productivity.

This Regulatory Policy, Practice & Performance Framework (Framework) supports the Government's commitment to Australian Public Service (APS) reform by building trust in government and its institutions and by putting the community and businesses at the centre of regulatory policy and services.

Introduction

Regulations are sets of rules established by government authorities to deliver better economic, social, and environmental outcomes for Australians and businesses.

Regulation ensures Australians have access to public goods and services, promotes competitive markets, fosters investment and innovation, and protects Australia and its people from harm. It places requirements on people and businesses, creating certainty, facilitating growth, and building community confidence.

Regulation:

- Protects the public interest by ensuring safety, fairness, stability, and accountability.
- Ensures efficient delivery of public services, resources, and government processes.
- Establishes appropriate compliance approaches for desired regulatory outcomes.
- Promotes trust in market systems and incentivises investment.
- Improves the community's sense of safety and wellbeing.

A regulatory system encompasses:

- regulations
- the regulator, including its tools, processes, resourcing, and operations
- regulatory policymakers, who continuously monitor and reform the system
- the regulated community.

Current practice and opportunity

In many respects, Australia's regulators and regulations are world leading and help make Australia a great place to live and to do business. Rapidly shifting economic environments, consumer preferences, and technological innovations — including the rapid rise in the use of artificial intelligence (AI) and automation — pose new challenges and opportunities for regulators to manage. Agility and innovation in regulatory design and delivery will foster a more dynamic and productive economy while ensuring Australia's regulatory system is modern and fit-for-purpose.

Future regulatory responses to emerging issues, particularly in technology and cyber security, will need to be carefully considered in context with existing regulatory systems to avoid duplication and unnecessary regulatory burden that compromises productivity and reduces competition.

There is opportunity for a more holistic, coordinated approach to regulatory policy, practice, and performance to prevent regulatory issues culminating in regulatory failure. Such failures cause widespread harm to national wellbeing with effects on the health, security, sustainability, cohesion, and prosperity of Australia. Effective checks and balances enable early identification of problems and continuous improvement of regulatory systems.

A systematic approach to regulation will promote the system-wide practice of stewardship and empower policymakers and regulators to proactively identify and address regulatory issues together. This will ensure regulation is fit-for-purpose for modern Australia, while also building community trust in Australia's regulatory systems.

Purpose of this Framework

Establishing this whole-of-government Framework, supported by a suite of tools and targeted programs, will drive better regulatory policy, practice, and performance, supporting the delivery of fit-for-purpose regulation. The Framework will support policymakers and regulators to better assess changes in the regulatory environment and continuously adapt to emerging opportunities and risks together.

Who is this Framework for?

This Framework applies to Commonwealth entities that perform policy and/or regulatory functions, recognising many agencies may perform both. For the purposes of this Framework, the below distinction is made between the two functions:

1. **Policymakers** – Commonwealth officials that are responsible for:
    - The design of regulation, including primary legislation made by the Parliament or legislative instruments made by ministers or authorised persons.
    - The management of regulators and/or regulatory systems.

    This includes regulators that perform policymaking functions.

2. **Regulators** – Commonwealth officials that perform regulatory functions, including standalone regulators and those within departments. Regulatory functions include:
    - educating on;
    - administering;
    - monitoring;
    - driving compliance with; and
    - enforcing regulation.

While policymakers and regulators have different roles in the regulatory life cycle, these roles are interdependent and complementary.

Regulators hold unique insights into the effectiveness of regulation, how regulation works in practice, and emerging challenges and opportunities in the fields they regulate. Regulators sharing their knowledge and experience with policymakers can inform better regulatory design. Conversely, policymakers are responsible for designing regulatory frameworks, from institutional and governance design, through to powers and functions of regulators, to enable effective delivery. Policymakers are also responsible for sharing the broader government context and priorities with regulators, while ensuring regulator independence is maintained.

A well-functioning collaborative relationship between policymakers and regulators drives better regulatory policy, practice, and performance for Australia and its people.

This Framework provides policymakers and regulators with 6 principles to ensure regulation is fit-for-purpose. Considerations for policymakers and regulators are highlighted throughout this Framework.

Additionally, this Framework is an important resource for regulated entities, those affected by regulation and their representatives, as all have a role in driving better regulatory policy, practice, and performance.

How to use this Framework

The Framework is a better practice approach to regulation, to drive modern, fit-for-purpose regulation that achieves intended outcomes.

Policymakers are expected to apply the Framework's principles when:

- assessing the need for regulation
- developing new policy proposals, ministerial, and Cabinet submissions
- designing regulation
- monitoring and evaluating the effectiveness of regulatory systems.

Regulators should align the implementation of regulation and regulatory management with the 6 principles. This should be appropriately scaled to their role, regulatory posture, specific legislative objectives, functions, and environment.

The Department of Finance is adopting a stewardship approach by working closely with agencies to embed the Framework principles into agency operations. For more information, please contact RPPPFramework@finance.gov.au.

Supporting tools

The Framework is supported by a suite of tools that aim to support policymakers and regulators achieve the Framework's purpose and principles, including Resource Management Guide 128 for Regulator Performance (Regulator Performance Guide (RMG 128)). The Framework underpins the best practice approach and principles for regulator performance outlined in RMG 128.

> Regulators should continue to follow the principles and reporting requirements outlined in the Regulator Performance Guide (RMG 128).

The Framework also complements the Government's Policy Impact Analysis Framework and the 7 Impact Analysis questions, while focusing further on regulatory-specific issues.

Tools will continue to be developed in consultation with stakeholders to drive better regulatory policy, practice, and performance. This may include how to apply the 6 principles across the regulatory life cycle, guidance for regulatory governance arrangements, regulatory relationship management, and regulatory capture.

The objective of this Framework

The core objective of this Framework is to provide principles to drive fit-for-purpose regulation and regulatory systems.

Fit-for-purpose

Fit-for-purpose regulation drives competition, productivity, and investment, and protects Australia and its people from harm now and into the future, creating certainty, building trust, and facilitating growth.

This means that regulations meet their objectives and equip regulators with the powers, functions, resources, and enablers to regulate effectively. Fit-for-purpose regulation keeps pace with changes in technology, industry practices, and community expectations, and adapts accordingly.

The Framework's 6 principles for regulation

The 6 principles set the standard for designing, implementing, managing, and evaluating regulation to ensure it is fit-for-purpose. The principles are:

1. Targeted and risk-based
2. Integrated in existing systems
3. User-centred
4. Evidence-based and data-driven
5. Reflective of the digital era
6. Continuously improved and outcomes-focused.

1. Targeted and risk-based

Regulation must be targeted, risk-based and proportionate.

What it means

An effective risk-based approach identifies and assesses risk factors to develop and implement targeted solutions — which could include regulatory and/or non-regulatory measures — relative to the risk profile. Examples of non-regulatory measures include community and industry education, or market-based solutions such as subsidies or taxes. A targeted solution promotes stability, security, and fairness.

Where regulation is assessed as an appropriate solution, it should:

- Provide pragmatic solutions to minimise regulatory burden, while ensuring the regulatory intent is being met and essential safeguards are in place.
- Enable regulatory intervention that is proportionate to the identified level of risk for an issue, drive compliance, and act as an effective deterrent.

Good regulatory systems enable a proportionate, risk-based approach to regulation through education, administration, compliance, and enforcement activities.

Putting it into practice

Policymakers should understand current and emerging issues and work closely with regulators and stakeholders to ensure regulatory systems, powers, and capabilities are in place to effectively address them.

Policymakers and **regulators** should:

- Establish checks and balances to identify potential issues early and minimise harm occurring. This includes considering emerging risks and their potential impact, and learning from local, national, and international experiences.
- Work collaboratively with stakeholders to design effective solutions that have the greatest positive impact to the broader community.
- Design regulatory solutions that enable regulators to assess the likelihood and severity of risks and respond in a proportionate, risk-based way for desired regulatory outcomes.

2. Integrated in existing systems

Take a whole-of-system approach by integrating, leveraging, improving, and modernising existing regulatory systems, where appropriate.

What it means

Taking a whole-of-system approach enables policymakers and regulators to consider the dynamic and interconnected nature of regulatory systems. Facilitating regulatory design to be more flexible, adaptive, and resilient in the face of changing circumstances, such as technological advancements or shifts in societal expectations.

Overlapping regulation and incompatible regulatory systems create confusion for individuals and businesses, duplication of effort for regulators, and can reduce the effectiveness of managing risk. Stability is enhanced and unnecessary complexity is minimised by ensuring new regulation is considered in the context of, and is integrated in, existing regulatory systems.

Putting it into practice

Regulation should leverage, integrate with, and modernise existing regulatory systems where possible.

Policymakers and **regulators** should:

- Map possible regulatory solutions against existing regulatory systems to identify potential overlap, disparities, and opportunities for alignment.

- By default, design new regulatory obligations to integrate with existing business systems, processes, and related obligations of regulated entities.
- Integrate and leverage existing regulatory systems, for example through the adoption of international standards.
- Collaborate with other regulators to ensure solutions effectively address the identified issue and achieve intended regulatory outcomes.
- Where a gap in regulatory systems has been identified, engage with other relevant policymakers and regulators to clearly define the regulatory need and workshop possible solutions, taking into account Government priorities and broader projects that may be leveraged.

3. User-centred

Regulation should put people and business at the centre through user-centred design and delivery.

What it means

Regulation is designed to meet the needs of the people and businesses it affects, and is targeted, effective, and easy to engage with.

User-centred regulation requires policymakers and regulators to understand the needs, behaviours, motivations, and preferences of individuals and businesses affected by regulations. This includes regulated entities, those who regulation is designed to protect, and other entities that support regulatory compliance, such as legal professionals.

Engagement with diverse groups must be prioritised throughout the regulatory life cycle, including First Nations peoples, culturally and linguistically diverse (CALD) groups, and those with accessibility needs.

Good regulatory design solves clear, well-defined problems and fosters changed behaviours, resulting in greater compliance and reduced need for enforcement.

Putting it into practice

Better regulation results from genuine consultation, including co-design of solutions where appropriate. Policymakers and regulators operate as joint stewards when developing and implementing regulation.

Policymakers and **regulators** should:

- Undertake good research and consultation with people, businesses, and stakeholders to build an evidence base of user needs.
- Use the evidence base to clearly define the regulatory problem to be solved and the need for change.

- Manage change for regulated entities effectively, by including transition periods for new or reformed regulation and setting clear expectations and timeframes.
- Work closely together when designing and implementing regulation to ensure it is pragmatic in meeting policy needs.
- Draft regulation that is clear and accessible to affected entities and people.
- Take into account the impacts of regulation across the supply chain and calibrate to the capacity of regulated entities to comply.
- Test proposed initiatives with regulated entities, stakeholders, and diverse groups to ensure regulation and its delivery is user-centred prior to implementation.
- Align communication and education strategies with user preferences, habits, behaviours, and accessibility needs.
- Ensure back-end regulatory processes are timely and transparent and that customer expectations are managed through service charters.

4. Evidence-based and data-driven

Regulation is most effective when it is data-driven and based on available evidence, and when its effectiveness and impact on business and the community is well understood.

What it means

Evidence-based regulatory systems plan for, collect, and use evidence throughout the regulatory life cycle to predict and evaluate the regulatory need and potential challenges, and deliver fit-for-purpose policy, practice, and performance outcomes.

The Government is building world class data capabilities through the Australian Data and Digital Government Strategy. A whole-of-system approach to regulation harnesses data sources effectively to build a strong evidence base, enhancing strategic, operational, and evidence-based decision making, while also minimising unintended consequences and mitigating risks. A strong evidence base also enables the critical evaluation of whether regulation achieves its desired outcomes — i.e. is effective.

Putting it into practice

An evidence-based and data-driven approach can be applied throughout the regulatory life cycle in the following ways.

When assessing and designing regulatory options, **policymakers** should:

- Build an evidence base from a variety of data sources to understand how a potential regulatory issue impacts businesses, individuals and the community.
- Consult early with the Office of Impact Analysis (OIA) to ensure evidence-based policy impact analysis supports the development and understanding of policy

options being provided to decision makers, which are well-designed, well-targeted and fit-for-purpose. This also provides clarity on outcomes and measures through design and development to inform post implementation evaluation.

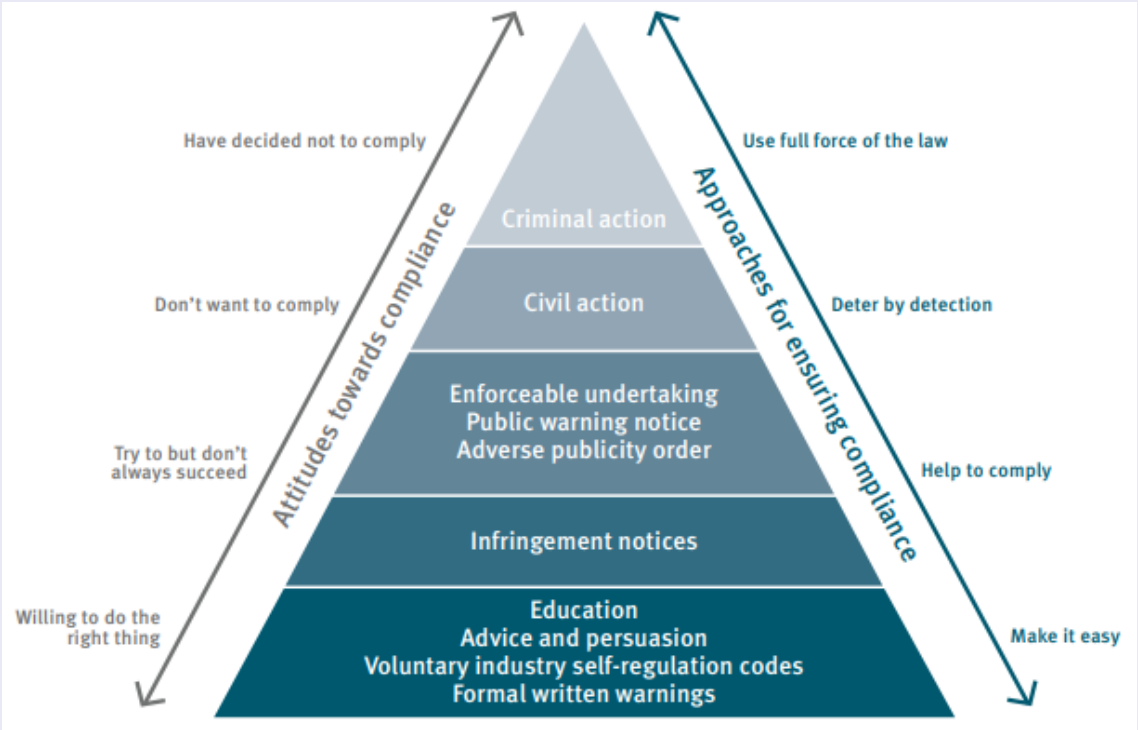
- Design regulation to enable the collection and sharing of relevant data which allows policymakers and regulators to understand effectiveness of regulation and its administration.

When implementing regulatory systems, **regulators** should:

- Establish regulatory governance and management policies and practices, including regulatory postures and fit-for-purpose education, monitoring, compliance, and enforcement strategies that are evidence-based and data-driven.
- Put in place systems to collect relevant data, including 'near misses', from regulated entities and the community to inform evaluation of regulatory systems.

In managing regulation, **regulators** should:

- Consult the Regulator Performance Guide (RMG 128) for best practice advice on taking a risk-based and data-driven approach.
- Implement environmental scanning and data collection strategies which inform risk-based assessments and evidence-based education, monitoring, compliance, and enforcement decisions.
- While individual regulatory approaches will vary based on the relevant regulatory environment, an example of a risk-based regulatory approach in the Australian Consumer Law context is provided below.



Source: Compliance and enforcement: How regulators enforce the Australian Consumer Law, p. 12

5. Reflective of the digital era

Regulation should reflect the realities of the digital era and take full advantage of digital and technology capabilities and practices, while also ensuring equitable access to regulatory systems, including for those with low digital connectivity and literacy.

What it means

Regulation must reflect the risks and opportunities of digital-era practices and systems and adapt to the continuous changes posed by technological advancements.

Regulation should, where appropriate, be delivered digital first, both in the interactions between regulators and the community, and in the tools, practices, processes, and skills needed by regulators to perform regulatory functions. This should be balanced with accessibility considerations to ensure inclusive and equitable digital design.

Putting it into practice

Digital-era practices should be embedded in both the development of regulation and its implementation by regulators.

Policymakers should:

- Build a clear understanding of how regulatory issues are shaped by the norms established in the use of technology across the economy.
- Prefer the use of technology-neutral policy responses to regulatory issues and build digital capability to ensure regulation can easily adapt to user needs and future changes in technology.
- Design regulatory responses to reflect how the regulator will effectively use technology to achieve the outcome, including consideration of necessary resources and enablers.

Regulators should:

- Build the digital skills in regulatory functions to understand how risks inherent to the use of technology apply within the regulatory system.
- Design the services used by regulated entities to be available end-to-end digital, including collecting information once, providing timely notifications and proactive updates, and to be easily accessed from the places users already go.
- Adopt digital-era practices, including agile and iterative delivery, product and service-led design approaches, and multi-disciplinary teams of regulatory and digital expertise.

6. Continuously improved and outcomes-focused

A system-wide practice of stewardship to evaluate and improve regulation, ensuring regulatory systems are transparent and responsive to evolving regulatory environments and shifting expectations from government and community.

What it means

Regulatory stewardship enables better regulatory policy, practice, and performance by supporting policymakers and regulators to work together. Regulatory systems must be monitored and evaluated to minimise risks of regulatory failure and ensure they are fit-for-purpose, meeting the identified need and achieving desired regulatory outcomes — i.e. an outcomes-focused approach.

Putting it into practice

Regulation and regulatory systems should be designed to adapt to evolving needs. To achieve this, **policymakers** and **regulators** should:

- Collect data and collaborate across the APS, the community, and with local, national, and international agencies to monitor potential issues that may cause harm and assess the evidence base and need for regulation or reform.
- Have systems in place to receive stakeholder feedback and implement regular review cycles evaluating performance to inform continuous improvement of regulatory systems.
- Engage with other policymakers and regulators to identify broader regulatory issues that span across the wider regulatory system.
- When implementing regulation, lessons identified should be recorded and communicated — for example, through a regulatory issues register — to improve future approaches and achieve fit-for-purpose outcomes.

Contact

For any questions or comments about the Framework or supporting tools, please contact RPPPFramework@finance.gov.au.