Better Regulation Victoria

# Implementing 'Better Practice' Inspections

A Playbook for regulators to design and optimise compliance monitoring inspections to become digitally ready

## Part A: Review your compliance monitoring foundations

VICTORIA State Government

# This Playbook has three parts

1

## Overview of this Playbook

This section outlines the context for this Playbook, its purpose, the benefits it will provide and how to use it to adopt 'better practice' compliance monitoring inspections in preparation for digital reform.

2

## Part A: Review the foundations of your compliance monitoring practice

Primarily for executives and managers responsible for strategy and compliance operations – Consider your regulatory approach, inspection mix and enablers to establish a baseline understanding. Use this to inform and support better practice compliance monitoring inspections.

3

## Part B: Designing better practice compliance monitoring inspection processes

Primarily for managers and reform officers responsible for reform and compliance operations – Assess your compliance monitoring inspection processes against 'better practice'. Use this section and the tools provided to identify and implement opportunities to move towards better practice to prepare for digital reform.

# This Playbook discusses 'better practice' compliance monitoring inspections in two parts

**OVERVIEW**

Use this Playbook to implement 'better practice' compliance monitoring inspections...

| WHAT | WHY | HOW |
|---|---|---|
| This Playbook outlines how to design and implement 'better practice' compliance monitoring inspections to guide you towards digital readiness. | Better practice results in a well-regulated environment with more effective regulation and more efficient use of resources. | Use both Part A and Part B of this Playbook to review your foundations and compare your current processes to 'better practice'. |

**PART A**

by reviewing the foundations that underpin 'better practice'...

- Understand your **regulatory approach**
- Consider related **activities and functions**
- Reflect on your strategic **inspection mix**
- Enable **continuous improvement**
- Consider your **strategic resource allocation**
- Review your **data and intelligence practices** to inform risk analysis
- Review your **digital systems and tools**

**PART B**

and comparing your current processes with 'better practice' to determine areas for improvement.

**UPSTREAM INTELLIGENCE INPUTS**

- Permissions and conditions
- Complaints and referrals
- Reporting and analysis
- Entity profile including past compliance
- Regulated entity notifications & reporting
- Industry notifications

**BETTER PRACTICE INSPECTION PROCESS**

**INSPECTION ACTIVITIES**

TRIGGER AND FOCUS → PLAN → CONDUCT → RECORD AND ASSESS → CLOSE OUT

COVERED IN PART B

**DOWNSTREAM ACTIONS**

- Remedial enforcement
- Investigations
- Sanctions

# Contents

# **Overview of Part A |** Taking a strategic view of your approach to inspections

The following slides help you to consider your broader regulatory approach and how this shapes the way in which you conduct your compliance monitoring program.

The way in which you approach and conduct your compliance monitoring activities should be informed by your strategic understanding of the harms that you regulate, and your approach to using all the regulatory tools at your disposal to minimise harm and improve regulatory outcomes. With an understanding of your overall regulatory approach, you can best review and optimise compliance monitoring activities, where you have discretion to do so.

**Part A covers the following concepts:**

### UNDERSTAND YOUR **REGULATORY APPROACH**

Review your legislative and policy settings, the harms that you regulate and your tools and approaches.

Consider how your compliance monitoring activities contribute to the delivery of your overall regulatory outcomes.

### CONSIDER RELATED **ACTIVITIES AND FUNCTIONS**

Consider activities that affect or are affected by inspections, including:

- Inputs and follow on activities
- Data and insights
- Strategic programs and approaches

### REFLECT ON YOUR STRATEGIC **INSPECTION MIX**

Be clear on the type and purpose of the inspections you conduct.

Reflect on your strategic mix of inspections.

### ENABLE **CONTINUOUS IMPROVEMENT**

Design your compliance monitoring systems so that you can report on their contribution to your overall regulatory outcomes.

### CONSIDER YOUR **STRATEGIC RESOURCE ALLOCATION**

Develop a strategic view of your inspections to determine how resources can be distributed to have the greatest impact.

Consider your resource allocation at the organisational, operational, and tactical level.

### REVIEW YOUR **DATA AND INTELLIGENCE PRACTICES** TO INFORM RISK ANALYSIS

Review your data management practices including information collection, storage and usage. Consider:

- Standardising how data is governed
- Consistent data categorisation
- Data analysis
- Data accessibility

### REVIEW YOUR **DIGITAL SYSTEMS AND TOOLS**

Review your current suite of digital tools and systems to consider whether you are using them to their full potential and how they could be used to support better practice inspections.

# **Regulatory approach** | Understand your regulatory approach

## REGULATORY APPROACH

How a regulator uses its regulatory tools and powers to achieve its objectives and to prevent or reduce harm.

## UNDERSTANDING YOUR REGULATORY APPROACH

A comprehensive understanding of your regulatory approach is important to ensure your regulatory tools are aligned to and working towards your regulatory objectives. Your overall regulatory approach will inform how you conduct inspections.

Review your regulatory approach, along with legislation, to guide you on the mix, role and purpose of your inspections as one part of your regulatory toolkit. The Towards Best Practice (TBP) Principles 1 and 2, and associated guidance in the TBP Handbook, can assist you to consider these factors.

Your regulatory approach will be underpinned by the effective use of data and information to inform the prioritisation of effort and use of tools.

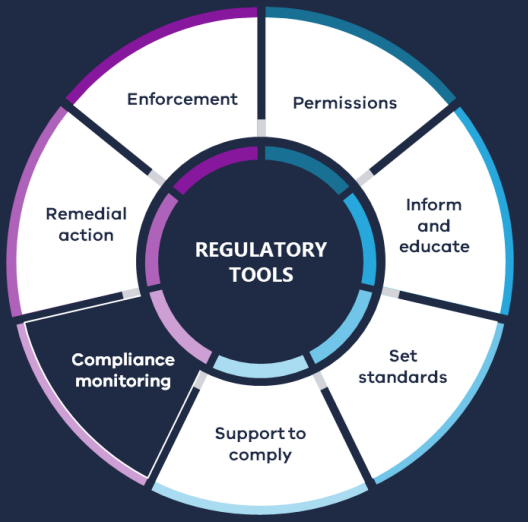
## INFLUENCES ON REGULATORY APPROACH

Your regulatory approach will be influenced by a range of elements, some of these may include:

- The specific powers and tools set out in legislation
- The type and nature of harms you manage, and how these might best be addressed through your regulatory powers
- The expectations and needs of stakeholders
- Ministerial Statement of Expectations
- The regulatory posture you have adopted.

[1] See Appendices for definitions of regulatory tools.
[2] See Appendices for detail on regulatory posture.

Compliance monitoring may be supported by the other regulatory tools[1] at your disposal. Effective, better practice compliance monitoring requires the thoughtful use of all tools available to you as a regulator to address non-compliance.




Consider your emphasis of effort and how your use of tools aligns with your strategy and regulatory approach.

# **Regulatory approach |** Consider how your compliance monitoring activities contribute to the delivery of your overall regulatory outcomes

Establish a clear purpose for your compliance monitoring activities and inspections, and how they contribute to achieving your regulatory outcomes. Regulators' objectives will likely differ according to their environment, legislative requirements, regulated entities, and other relevant factors, and therefore the role and purpose of inspections may also differ.

Below are considerations which can be used to inform the role and contribution of compliance monitoring programs. These will affect the design of your digital systems, such as how inspections are scoped and delivered, and what data is captured from inspections.

## WHO YOU REGULATE

Are you regulating a 'known' cohort of regulated entities (e.g., registered entities) or other broader businesses, individuals or organisations? How are you segmenting the populations you regulate and responding to patterns of risk?

***Digital considerations:***

- *What data do you use to profile, segment and differentiate regulated entities according to risk, and how do you oversee the 'population' of those you regulate?*
- *Are permission conditions, or other inputs, used to design your compliance monitoring programs?*
- *Do inspection activities, and inspection records, need to be able to respond to conduct of a broad range of entities not just those who are licensed or registered?*

## HOW COMPLIANCE IS MONITORED

Inspections can seldom address all regulated entities. Have you considered advances in monitoring and reporting technology, and where these can replace or complement physical inspections? It is appropriate for regulated entities to deliver and report on their compliance monitoring, so you can monitor their overall processes and assurance systems?

***Digital considerations:***

- *What is the appropriate role of physical inspections compared to desktop audits and data analysis, in how you monitor compliance?*
- *Are you receiving appropriate inputs and data from regulated entities and your compliance monitoring systems, to inform your understanding of risks and your compliance monitoring approach?*

## HOW YOU REGULATE

Regulators need to be clear on their regulatory approach. Is your emphasis on compliance assistance and support, or on monitoring compliance with a view to taking enforcement action? Where relevant, you may need to distinguish regulatory activities that focus on supporting compliance, from those that focus on enforcing the law.

***Digital considerations:***

- *The way you conduct inspections, the evidence you gather, and the way information is managed and accessed may differ. Higher standards may apply to law enforcement activities.*
- *The way systems are designed may need to account for the processes and requirements to enable general inspections to escalate to investigations and law enforcement activities.*

## CONTEXT AND FOCUS

Consider your regulatory priorities. For example, are you supporting the introduction of new requirements, or you are targeting particular compliance issues? Clarify what this means for the regulated entities you are focusing on, and expectations for issues not currently being focused on.

Account for how your regulatory strategies determine what compliance issues should be targeted, and your approach to changing behaviour.

***Digital considerations:***

- *Do you need to coordinate compliance monitoring programs in broader behaviour change strategies, and how will this impact how you schedule and report on inspections?*
- *How might your targeted compliance issues impact the scope of your inspections?*
- *What information and insights do you need to capture from inspections to enable broader strategies?*

# **Related Functions |** Consider how inspections integrate with other functions and activities (1/2)

Compliance Monitoring practices and processes do not exist in isolation. Your regulatory environment and other regulatory activities may impact compliance monitoring, and vice versa. Account for key requirements and interactions that might influence your compliance approach (and inform its design), and how improvements might have upstream and downstream effects.

Review the purple text to consider how your processes and digital systems can support the integration of activities.

| | | |
|---|---|---|
| **Education & Communication** | Inspections can be a powerful mechanism to disseminate information and guidance, or can be part of a 'campaign' approach to reinforce new standards or guidance through a field presence - either to communicate a message, provide guidance and support or identify areas of non-compliance. Consider how education programs or campaigns may influence how and when inspections are delivered. | This may include using digital systems to equip inspectors with relevant information or guidance materials, or to identify appropriate interventions, in response to specific non-compliances. |
| **Public communications** | Inspections may be delivered as part of overall strategies to raise awareness of regulatory obligations and regulator activities. This can include campaigns where public communications precede, or follow, inspection activities. Public communications need to be designed as part of an overall compliance strategy, alongside inspection programs. | This may require coordination using work allocation tools and reporting. |
| **Complaints or community reports** | An inspection in response to a report of non-compliance can be a powerful tool. However, complaints and reports cannot always be supported by a field response, may limit you to 'reactive' activity, and may need to be treated as a source of intelligence or trigger for a desktop response. | Consider the role of complaints in your inspection model, and how inputs from these trigger and inform inspections (see Part B). |

# **Related Functions|** Consider how inspections integrate with other functions and activities (2/2)

Compliance Monitoring practices and processes do not exist in isolation. Your regulatory environment and other regulatory activities may impact compliance monitoring, and vice versa. Account for key requirements and interactions that might influence your compliance approach (and inform its design), and how improvements might have upstream and downstream effects.

Review the purple text to consider how your processes and digital systems can support the integration of activities.

| | | |
|---|---|---|
| **Reporting & notifications** | Licensed or registered parties - or others subject to regulations - may be required to report to the regulator, such as when an event or accident occurs. Consider how these reports provide data and intelligence to support strategic responses and in what circumstances they indicate an inspection is warranted. | Consider the role of regulated entity notifications in your inspection model, and how inputs from these trigger and inform inspections (see Part B). |
| **Permissions & conditions** | This may be a key driver of compliance monitoring activity. | Consider how field and desktop observations link to permission conditions and requirements, the 'feedback loops' from inspector observations to the design of your permissions framework, and how your digital systems support this. |
| **Intelligence & Data** | Teams may produce insights that require a field response, either at the individual or cohort level. This may involve direct coordination to scope inspections (e.g., to complement intelligence with field observations), or systems that are flexible enough to request and execute a program of tactical inspections following a request from intelligence teams. | Consider the two-way information flow required for these activities. |
| **Investigations** | When considering the escalation from inspections to investigations, robust record keeping and information management is essential. | Consider which inspection information needs to be routinely captured, and how it should be captured, to enable later use such as in investigations and enforcement action. |

# **Inspection mix** | Consider the different types of inspections

Understanding your overall regulatory approach will help you to define the type of inspection activities you need to deliver your objectives.

This Playbook outlines three inspection types as strategic, maintenance, and responsive. You will be using your own terminology to describe these different inspection types or categories.

## STRATEGIC INSPECTION

**Definition**: A form of proactive or problem-orientated program of inspections targeting a particular outcome.

**Use this inspection when:** Analysis, decision-makers or stakeholders identify a specific issue/priority that should be addressed in a targeted approach (for example blitz or campaign).

Strategic inspections are guided by formalised decision-making processes, such as strategic or business planning, or by specific business rules (for example criteria for launching a campaign).

## MAINTENANCE INSPECTION

**Definition:** Proactive inspections for a known cohort of regulated entities. These inspections are more general monitoring and will often be conducted at set intervals/milestones.

**Use this inspection when:** Analysis indicates risk of non-compliance after a certain process point or amount of time or as part of your overall deterrence approach, to review permits or licences, to follow up compliance with remedial notices or monitor compliance with conditions.

Maintenance inspections can be driven by clear business rules, key indicators or established milestones.

## RESPONSIVE INSPECTION

**Definition:** Inspections driven by complaints, referrals, reports, or incidents. These inspections respond to identified instances of non-compliance.

**Use this inspection when:** You are responding to information indicating an instance of non-compliance that satisfies the requirements for an inspection.

Responsive inspections occur when there is a trigger requiring an inspection (as outlined further in Part B (Trigger). It may not be feasible or appropriate to respond to every compliant, referral or intelligence so regulators should develop clear rules on when inputs will trigger an inspection, relevant to your unique context.

# **Inspection mix** | Reflect on your current mix of inspections and whether it suits your regulatory approach

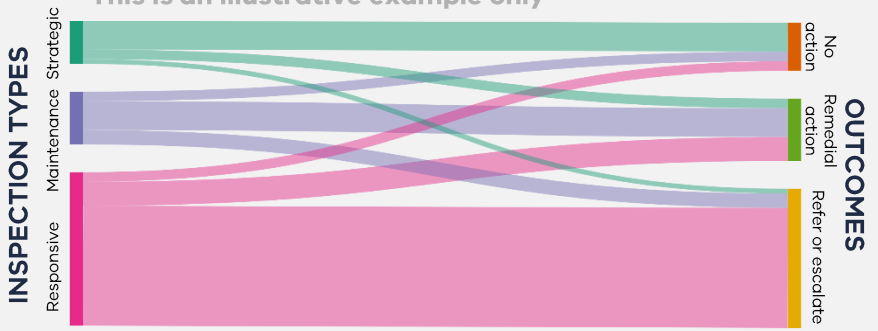
**Different types of inspections are used by regulators for different purposes and to achieve different objectives. Inspections might be Strategic, Maintenance or Responsive Inspections[1] and might have an educative or directive purpose. Take a critical look at your current mix of inspections to ensure it aligns with your regulatory strategy and overall approach.**

Consider your types of inspections, the outcomes they achieve, and whether they are appropriately resourced in line with your regulatory approach. You will need to balance resource allocation, depth of inspections, and the mixture of general and specialist capabilities applied to inspections. Your regulatory approach will also communicate when decisions to focus in one area (e.g., more attention to higher-risk sites) will affect another (e.g. a higher volume of lower-risk sites) and this will be reflected in your inspection mix.

The diagrams below offer illustrative examples of how you might review your inspection mix at a high-level, from inspection type to outcome. Reflect on your regulatory strategy and approach to review your current and determine your optimal inspection . Consider what is achievable and use this context to inform your assessment against 'better practice'.

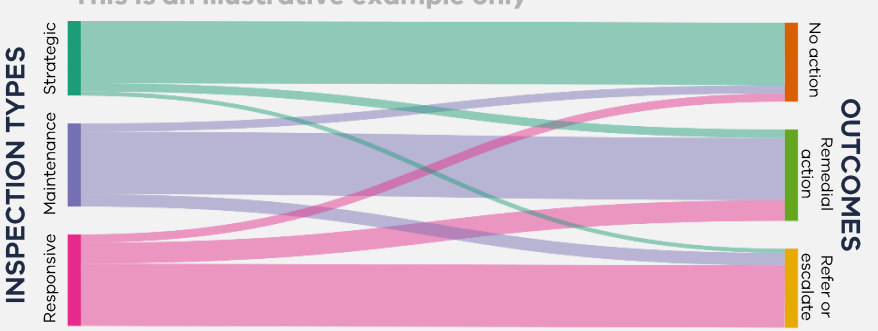
## INDICATIVE INSPECTION MIX ILLUSTRATION

This is an illustrative example only




**This** regulator's mix is weighted heavily to one inspection type. This has resulted in a single inspection outcome occurring more frequently than others, which is **not reflective of the agency's intended regulatory approach**.

This is an illustrative example only




**This regulator has reformed their inspection mix** to have a better balance across all its inspection types, and in terms of outcomes. This better reflects their regulatory approach and appropriately uses all the inspection types and regulatory tools available.

Note: Not all inspection types may be required in your inspection mix and an even distribution across inspection types may not reflect your regulatory approach. You should consider the value added by each inspection type proportionate to the effort required to undertake the activity.

[1] These types of inspection are described in detail in subsequent slides.

# **Continuous Improvement |** Design your digital systems so you can report on the contribution of your inspections to regulatory outcomes

## IMPROVING YOUR COMPLIANCE MONITORING ACTIVITIES

**Digitisation provides an opportunity to improve how you monitor and report on your compliance monitoring activities.**

In doing so, you should reflect on and measure how well your end-to-end compliance monitoring activities work together and collectively support you to achieve your objectives.

This could include gathering measures to help you answer:

- Whether you have the right mix of inspection types and what is the optimal mix for your regulatory environment
- How each type of inspection is being conducted and is performing in terms of contributing to your regulatory objectives
- Whether appropriate decisions are being made in the field in response to non-compliance, and how risk is being applied in officer decision-making
- How inspections connect to 'upstream' activities (such as complaints) and 'downstream' activities (such as enforcement), including the flow or throughput of work across functions.

## PERFORMANCE REPORTING

**Digital platforms should support holistic performance reporting.**

When building a system to support better practice inspection processes, it is important that data is captured to support performance measurement and reporting. Being conscious of what types of data to capture and when to collect it helps you to report on the performance of different types of inspections and adjust to achieve the optimal the mix of inspections types over time.

Better practice performance reporting considers how your end-to-end compliance monitoring processes work together to minimise harms.

### MEASURING END-TO-END COMPLIANCE MONITORING ACTIVITIES

While you may measure the rate of an activity (e.g., the percentage of complaints responded to), you should also assess the connections and relationships between your activities. For example, to build an informed view you might measure:

- the percentage of complaints responded to,
- the percentage of those complaints that led to the detection of non-compliance, and
- the percentage of non-compliance that you responded to and what the impact of that response was.

Your regulatory systems should support you in making and reporting on these connections.

[3] See Appendices for model inspection measures.

# **Resources** | Consider your resourcing at three levels

**Regulators can take a strategic view of their inspections to determine how resources can be distributed to have the greatest impact.**

Consider your resource allocation at three key levels – organisational, operational, and tactical. The levels are interconnected, and all levels should be reviewed to identify the balance that best supports you to prevent and respond to non-compliance, targeting effort proportionate to risk and achievement of regulatory objectives.

*Note that the organisational level is expected to have been considered before reading this Playbook.*

## ORGANISATIONAL LEVEL (REGULATORY FUNCTIONS)

Review your current spread of resources across regulatory functions (such as permissions, inspections or enforcement). Consider how each function contributes to prevention and responding to risk and achieves your regulatory objectives. Use this understanding to inform operational resourcing.

## OPERATIONAL LEVEL (INSPECTION MIX)

Use your *mix of inspection types* and the resources made available from the organisational level to inform how resources will be spread across inspection types. Test scenarios and determine the best allocation of resources across your inspection mix, considering factors such as time intensiveness and the need for specialist skills (see Tool 1). Consider any 'reserve' resources that might be required (for example, in case of sudden external events).

## TACTICAL LEVEL (WITHIN INSPECTION TYPES)

At the tactical level, consider how resources should be distributed within specific inspection types to address the unique risks faced by your sector. For example, you may allocate more resources to high-risk entities or specific licence types. A tactical view of resourcing can inform the scheduling of inspections and can be used to guide digital systems.

**Tool 1:** Regulators can review their operational resource allocation using the tool provided to test scenarios and identify the best allocation of resources, see Tool 1.

# **Tool 1** | Adopt an approach to strategic resource allocation tool

This tool enables regulators to strategically plan how they allocate their resources across different types of inspections, and what trade-offs exist between inspection activities and resourcing.

**PURPOSE**

The strategic resource allocation tool provides a strategic view of resource allocation and inspection activities. It enables regulators to:

- obtain the insights and inputs to inform strategic planning, including trade-offs in terms of activity volumes
- think strategically about how they allocate capacity across their compliance inspection types, and their desired mix of activities
- consider the appropriate number of resources required to meet their compliance objectives.

**HOW IT WORKS**

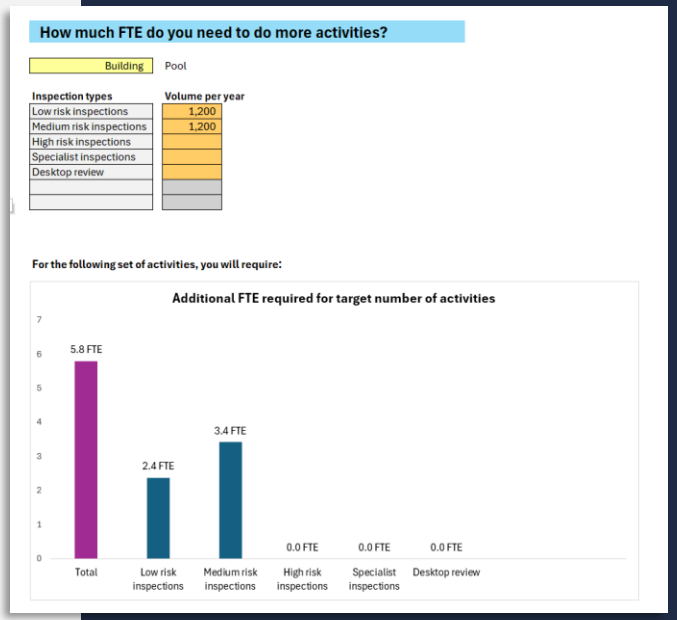
Please refer to the instructions provided within the tool.

This tool supports regulators to test scenarios and determine the best mix of inspections. Included is three steps:

1. Provide your activity and resourcing inputs
2. Set your compliance mix by allocating capacity across inspection categories
3. Assess the possible number of activities, or required number of resources

**An approach to strategic resource planning**

This is an example of an interactive chart available in the tool's dashboard. It enables regulators to consider what additional FTE is required to complete a target number of activities.




**To access this tool, please visit the Better Regulation Victoria website**

## EFFECTIVE DATA MANAGEMENT PRACTICES PROVIDE THE FOUNDATION FOR RISK ANALYSIS

Effective data management and information practices ensure that regulators can make informed decisions underpinned by accurate and up-to-date insights. Better practice data and information-sharing practices enable regulators to deliver targeted inspection programs that draw on quality data. This ensures that stakeholders who provide data to regulators can be assured it is appropriately managed and that the regulator is making evidence-based decisions.

Review your current data management practices for data and information collection, storage and usage through the four steps outlined below. More information is provided in the Appendices and Tool 2.

### 1 STANDARDISE HOW DATA IS GOVERNED

Review your data governance framework to ensure it defines data accountability, standards, policies and procedures.

Information should consistently be stored safely and in line with Public Record Office Victoria's recordkeeping practices and requirements.

### 2 ADOPT CONSISTENT DATA CATEGORISATION

Consistency in data across your organisation and with co-regulators enables you to be more effective in your decision-making, for example allowing you to easily use information from many different sources (such as permissions, other regulators or internal sources).
Consider establishing common information categories and data taxonomy to achieve data consistency within your organisation.

### 3 DATA ANALYSIS

Assess whether your data analysis practices are comprehensive, useful, accurate, timely and effective to inform strategic and operational decision-making regarding your inspection program. Apply analytics to spot trends, identify risks and support reporting. The Appendices[1] has a set of questions to support this assessment.

### 4 CONSIDER HOW ACCESSIBLE DATA AND INFORMATION IS WITHIN YOUR ORGANISATION

Being able to access necessary information in a timely way is a key enabler of effective regulatory practice. Consider whether your internal systems and processes empower your employees to access the information they need when they need it. Consider how well your knowledge management helps with this. Some guidance for information-sharing and accessibility is provided in the Appendices[2].

**Tool 2:** Regulators can consider how best to store and manage collected data and information, see Tool 2.

[1] See Appendices for guiding questions to support you to review your current information processes for detecting risk.
[2] See Appendices for guidance on how to manage your information, including access and collaboration across teams.

# Tool 2 – Data and information architecture

This tool provides a framework for regulators to consider when assessing their data and information architecture.

**PURPOSE**

Effective collection and storage of data is a key enabler of good regulatory practice underpinned by strong and accurate analysis to inform intelligence and response. Creating a better practice approach to storing and organising files enables more seamless collaboration and sharing of information across teams, improves the efficiency of regulatory practice, and lays the groundwork for future development of a single view of an entity through digitisation.

While the guidance is most applicable to SharePoint, the principles and approach remain relevant for other data and information management, knowledge management, and collaboration systems.

**HOW IT WORKS**

The tool provides a series of considerations regulators can work through to uplift their data and information architecture:

1. Conduct a systematic review of your data and information ecosystem. Consider how information and data should be recorded, stored, managed, shared, and protected.

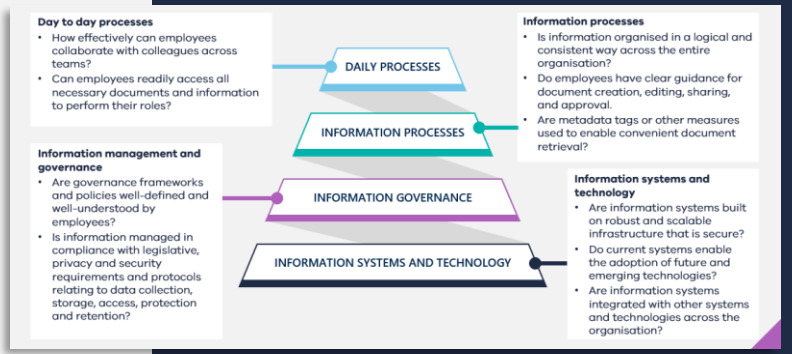
2. Understand your use cases for cross-team collaboration and information sharing.

3. Define your requirements for access and privacy

**To access this tool, please visit the Better Regulation Victoria website**

**A tool for reviewing how you manage information**

This diagram is an example of a framework that can be used to systematically assess your data and information ecosystem. These considerations are key elements in defining how you can better set up your information storage and collection systems.



# **Intelligence and data** | Review your risk framework

## RISK FRAMEWORK

A risk framework informs how a regulator views and assesses risk within its organisation.

## UNDERSTANDING YOUR RISK FRAMEWORK

A risk-based approach uses data and intelligence to assess risk in terms of the likelihood of the harm occurring and its impact. In assessing risk, regulators also consider the practices and behaviour of regulated entities.

**Risk identification**
Develop a thorough understanding of the regulated environment and potential risks. Identify activities, events, or circumstances that can lead to non-compliance and harms or adverse outcomes that the regulation aims to prevent.

**Risk assessment**
Identify your risk indicators, and how risk assessment is integrated into various processes, such as triaging inspections or informing responsive action. Permissions processes can be a useful source of data to inform the risk assessment. Other sources of information can be combined with this profile information, such as past complaints or notifications, results of desktop audits, or broader analysis e.g. about overall industry health, performance against specific conditions etc.[1]

Assess risk at three levels[2] – at the cohort level (an aggregated view of your entity types or within an industry), at the entity level (an ongoing view of an individual regulated entity), and at the conduct level (a view of a particular instance of non-compliance), by evaluating the likelihood and impact of non-compliance and the level of consequent harm shown as a risk matrix. The risk framework will categorise risks as high, medium or low to guide priorities for regulatory response including scope and purpose of inspection. Information on risk indicators is provided in Part B.

## INDICATIVE RISK INDICATORS

### ENTITY

How likely is the entity to be non-compliant?

You might consider:

- Their compliance history: Do they have a history of non-compliance, and do these indicate likely future non-compliance?
- Their capability: Are there concerns over their financial situation, attitude to compliance, competence, or the systems, controls and processes they have in place?

### CONDUCT

What is the impact, potential harms, or negative outcomes of non-compliance?

You might consider:

- The scale: What is the potential size and duration of negative outcomes, and who would be affected?
- The flow-on impact: To what extent could this instance of non-compliance lead to future instances or additional negative outcomes?

[1] Refer to the Permissions Playbook.
[2] See Appendices for more detail of each of the three data categories (cohort, entity, and conduct).

# **Technology and systems** | Understand the digital systems and tools at your disposal

**Review your current suite of digital tools and systems** to consider whether you are using them to their full potential and how they could be used to support better practice inspections. An in-depth understanding of these tools and how they interact with each other enhances your ability to identify and prioritise opportunities for improvement (as detailed further throughout Part B). Consider the below questions to inform your review.

| | |
|---|---|
| **Hardware and In-field tools** | Better practice: Provide inspectors with tools that enable more efficient and consistent inspections. This may include phones, tablets, laptops, computers, or specialised equipment unique to your context.<br>❑ Do your physical tools enable effective information collection and interaction with systems?<br>❑ Are these assets providing value for money and how can they be enhanced to support better practice? |
| **Central database** | Better practice: Record and store information in a central location(s) to support data analysis and use.<br>❑ Is your information stored and retrieved from a singular location or many?<br>❑ Is your database easy to access, is it secure and does it support sophisticated data analysis/assessment? |
| **Scheduling and resourcing** | Better practice: Use an effective system(s) to monitor and manage work assignments, staff and resources.<br>❑ Do you use a singular system or a combination of sources (for example calendars)?<br>❑ Does your scheduling interact and support other systems (for example case management system)?<br>❑ Are inspectors and internal staff able to use your system(s) to schedule activities, interact with each other, view availability and collect insights? |
| **Case management system(s)** | Better practice: Have a system(s) in place to monitor and manage your end-to-end individual cases or work orders.<br>❑ Do you have a system(s) in place for case management? This may be a low-fi system (such as excel status tracker for ongoing cases) or high-fi system (for example a Salesforce system) or a combination.<br>❑ Is your system(s) able to monitor the case, assign tasks, track progress, record information and automate processes? |
| **Entity management system(s)** | Better practice: Have a system/systems to interact with your regulated entities.<br>❑ Do you communicate and track communication with regulated entities in a common system?<br>❑ Can regulated entities interact with you through this system(s) and does this interact with your internal systems? |

# **Pause and reflect** | Summary of Part A – getting the foundations in place

**Part A supports you to ensure your regulatory foundations are in place**. Use this understanding to inform your view of better practice and identify opportunities for improvement.

Review the below to reflect on Part A and ensure your understanding before moving to Part B.

| FOUNDATIONS THAT UNDERPIN 'BETTER PRACTICE' INCLUDE... | DIGITAL READINESS MEANS... |
|---|---|
| Do you have a deep understanding of your regulatory approach which you can use to guide better practice inspections? Does your compliance monitoring program reflect the regulatory approach? Does your process and approach support continuous improvement? | You use your current digital tools to their full ability to create efficient workflows and reduce manual involvement. |
| Are you clear on your mix of inspections and your business rules that guide the selection of different inspection types? Does your mix of inspections reflect the trade offs articulated in your regulatory approach? | You have defined business rules where relevant to support digital workflows and potential automation. |
| Does your approach to resourcing and to risk support and inform better practice inspections and reflect your regulatory approach? Do you have the right balance of resources across your functions to address risks? | You use and categorise information effectively, with business rules for how intelligence informs risk assessment to provide the basis of triaging and resource allocation. |
| Have you optimised your Information and data management processes and digital systems to support inspection processes and measure the effectiveness of your compliance monitoring program. | You have a detailed understanding of your compliance processes, considering how systems interact with each other to design digital process flows. |
| Outline your current compliance monitoring processes from upstream to downstream to create a comparison for better practice (Part B). | You have defined priorities for digital reform in your inspection process, highlighting the most beneficial opportunities for the required resources. |

# Appendices

Further information to support and enable ‘better practice’.

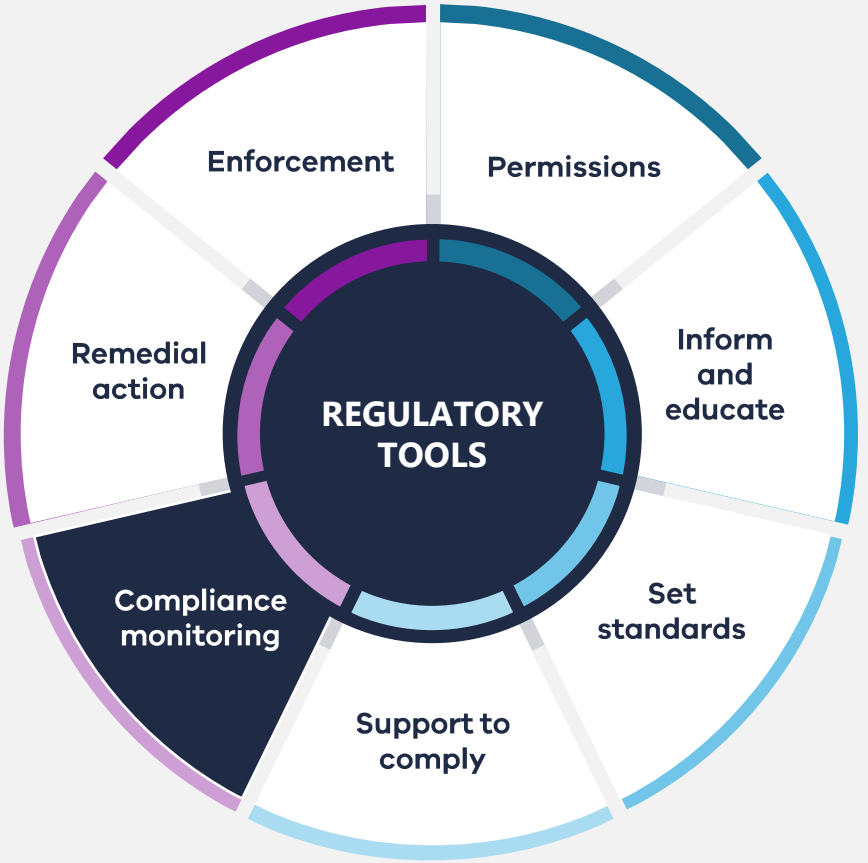
# Review the regulatory tools available to you

Compliance monitoring is just one of the regulatory tools at your disposal. Effective, better practice compliance requires the thoughtful use of all tools available to you as a regulator to mitigate non-compliance.

Consider your emphasis of effort and how your use of tools, **your regulatory posture**, aligns with your strategy and approach.

The regulatory tools at your disposal are likely to include:

- **Permissions:** Granting approval for entities to conduct certain activities.
- **Inform and educate:** Disseminate compliance knowledge and guide entities to compliance.
- **Set standards:** Establish industry benchmarks and performance guidelines.
- **Support to comply:** Provide the assistance and resources needed for compliance.
- **Compliance monitoring:** The ongoing process to identify and prevent non-compliance.
- **Remedial action:** Notices and directions to resolve non-compliance and improve future compliance.
- **Enforcement:** Formal action including penalties and sanctions in response to non-compliance.



# Reflect on your regulatory posture

**Regulatory posture**

Your regulatory posture articulates emphasis of effort, aligns with the strategic plan, reflects risk of harm. You as a regulator may reflect one or multiple of the following postures:

| POSTURE | EXPLANATION |
|---|---|
| **Proactive** | Involves anticipating risks and potential problems before they occur. Regulators actively gather information and use it to inform their oversight and to prevent non-compliance. This often includes providing guidance and support to regulated entities to help them understand and meet their obligations. |
| **Reactive** | Involves responding to issues as they arise rather than seeking to prevent them. Enforcement actions are primarily taken after non-compliance or a regulatory breach has been identified. |
| **Risk-Based** | Being efficient by prioritising and tailoring regulatory activities to coincide with the areas of greatest risk to public good, safety, or market integrity. |
| **Collaborative** | Work alongside industry participants to achieve compliance and regulatory goals. This approach often involves dialogue, partnerships, and joint problem-solving. |
| **Punitive** | A focus is on deterrence through the application of sanctions for non-compliance. This stance tends to emphasise the importance of "sending a message" to the market or industry about the importance of following regulations. |
| **Educative** | A focus on teaching and informing regulated entities about regulatory requirements and best practices. This approach is often used to achieve compliance through understanding rather than through enforcement action. |
| **Strategic** | A longer-term view where the regulator actively shapes the environment through guidance, incentives, and regulatory adjustments to promote desired outcomes such as innovation, market growth, or environmental protection. |

# Model Inspection Measures

Draw on the following measures to build an approach that suits your circumstances. These measures should be developed within an overall approach to directing inspections on the basis of risk, such as developing a risk profile of industry sectors or individual sites.

| CATEGORY | MODEL MEASURES | RATIONALE AND ISSUES TO CONSIDER |
|---|---|---|
| **Increased adoption of risk controls in target sectors** | Percentage of regulated entities inspected with management systems/controls in place, e.g. consistent with relevant standards<br>(as observed in inspections or desktop assessments) | Allows you to baseline and show improvements in regulated entities performance (e.g. applying controls), by sector or legislative scheme. The figure should improve over time, but also help you to show performance improvements as you target new sectors or topics. It is important to account for the population of sites or entities inspected when using this measure. |
| | Amount of compliance guidance or information given, and remedial notices/direction issued by officers – by category of inspection type (e.g. education focused vs inspection)<br>Also as percentage of inspections where guidance/directions issued | Provides information about your 'impact' on the ground when doing compliance work, e.g. showing that officers add value through guidance or issue of remedial notices, to build compliance.<br>This may require policies on decision-making where there is a non-compliance, e.g. when to give advice versus when to issue a notice, or to refer to sanction. |
| **Improved targeting and compliance outcomes** | Amount of non-compliances detected by inspection category (e.g. planned versus responsive)<br>Also as percentage of inspections where non-compliances detected | Shows targeting of effort, especially whether response work is well targeted to problems. The main areas of focus would be responsive inspections, planned inspections (announced and unannounced) and strategic project inspections (e.g. a specific blitz on an issue).<br>There is a 'tension' in this measure between the number of response/reactive inspections, and the detection rate of those inspections. For example, a team may have a higher detection rate but more aggressively triage issues to respond only to the most severe cases. Therefore, reporting both inspection volume trends and detection rates is needed, to calibrate triage and dispatch settings. |
| | Percentage of significant non-compliances detected, converted into compliance and enforcement pathways<br>(e.g. of all non-compliances, what % were closed out with advice, vs. a penalty issued) | You may need to consider what 'significant' means in your context, so staff aren't driven to enforce where issues are trivial, especially in the context of education of a new sector or topic. It also links to the second measure as looking at 'detection rates', and how detection flows to enforcement outcomes. |

# Review whether you are using information effectively to detect risk

The collection and management of data and information provides the basis to generate insights and intelligence on the presence and nature of risk. Review your current information processes for risk detection by considering the following questions:

| ARE YOUR PROCESSES... | GUIDING QUESTIONS |
|---|---|
| **Comprehensive** | • Does your data or information provide staff a complete understanding of specific cohort, entity or conduct risk?<br>• Is additional data or information required to have a more comprehensive understanding of any cohort, entity or conduct risks? If so, what information is required? |
| **Useful** | • Does your data or information provide insight on risks that are a priority for you?<br>• To what extent does the data or information provide insight on the scale or severity of non-compliances across the sector?<br>• Does this information provide specific insight about individual entities to inform compliance monitoring? |
| **Accurate** | • How precisely does the data reflect the issue being reported and how trusted is the source, e.g. complaint?<br>• Is additional action or engagement needed to verify the accuracy of this data or information? |
| **Timely** | • Does the data or information provide insight about when a risk has become apparent?<br>• Does the data or information provide insight about when a risk is likely to materialise as harm?<br>• Is it the most current data or information available to detect risk? |
| **Effective** | • What effort is required to collect and manage the data or information?<br>• Is this an effective use of resources proportionate to the insights on risks the data or information provides?<br>• Do the benefits of collecting information outweigh the effort required and any burden placed on regulated entities or co-regulators? |

# Know your information inputs and store them with future use in mind

You should consider your data model and structure to ensure your data is collected, retained and used in the most effective way. Identify how information should be categorised to support consistent and interoperable processes and systems, for example by cohort, entity or conduct as illustrated below.

**ILLUSTRATIVE DATA CATEGORIES**

**Cohort:** This is your aggregated view of entities types. This should link to your view of regulated entities (e.g., by personas, size or activity), and provide a summarised view of risk and other indicators across cohorts of entities.

**Entity:** This is your ongoing record of an entity. It should capture their general information (contact information, activities, size) and previous conduct (past complaints, inspections, compliance history).

**Conduct:** This is your view of an indication or instance of non-compliance. This should capture sufficient information about the conduct, and where possible be linked to an entity or cohort.

A data model outlines how information is collected, organised, and retained. Consider your different kinds of data. You should understand how your data is currently retained and organised, and the relationship between different categories.

**Collect:** Your information will likely come from many sources including permissions, complaints and referrals, feedback from monitoring activities and other regulatory tools (such as information and education or enforcement) that should inform your assessment of risk. To optimise compliance monitoring, it is crucial to integrate and analyse these diverse data sources.

Your monitoring activities and analysis should feed back into your information ecosystem, providing and using insights constantly.

**Organise:** Consider the use of intelligence inputs to categorise or tag information to support future use. Categories or tags may include:

- Cohort: Risk, trend, reporting requirement etc
- Entity: Compliance history, business or personal information etc
- Conduct: Source, regulation in question, etc

Categories and tags will form the basis of data use in digital systems and set up for automation and process rules.

**Retain:** Intelligence should be kept in a central database that can be accessed and used to conduct sophisticated analysis. Consider your data security policies, what information is retained for periods of time and for how long.