

Compliance strategy

December 2025

Version control

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1.0	June 2022	Created
2.0	December 2022	Updated in light of Electricity Industry Amendment Act 2022
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1. Introduction

- 1.1. As New Zealand's electricity regulator, the Electricity Authority Te Mana Hiko's (Authority) statutory objectives are to create a competitive, reliable and efficient electricity industry that protects domestic and small business consumers. This Compliance strategy (Strategy) is key for us to achieve these objectives that will improve consumer choice and access to secure and affordable electricity.
- 1.2. Ultimately, this compliance strategy aims to support economic growth and boost wellbeing for all New Zealanders.

2. Purpose

- 2.1. The Strategy outlines how the Authority approaches compliance. It provides transparency for both consumers of electricity and participants operating in the electricity sector. It establishes the guiding principles for the Authority under which further policies and procedures may be developed for specific compliance activities, such as: participant registration, participant auditing, education, monitoring, investigation, domestic and small business consumer protection and enforcement.
- 2.2. The Strategy outlines a range of options for encouraging and enabling compliance and for responding to non-compliance. Compliance tools can range from educating and assisting a participant to comply where the risk presented is minor, to laying a complaint about a participant with the Rulings Panel for serious non-compliance.
- 2.3. Having a range of compliance tools enables the Authority to respond proportionately to the risk posed by non-compliance, and to adjust its response accordingly by escalating or de-escalating its approach.

3. Outcomes

- 3.1. The Authority expects the Strategy to deliver the following key outcomes:
 - (a) provides consumers, industry participants and stakeholders with a clear understanding of the Authority's Compliance strategy and compliance approach
 - (b) ensures Authority staff have a clear understanding of the function of Compliance across the Authority and their role under the Compliance strategy
 - (c) confirms that the Authority has the appropriate tools available and uses them correctly to support the strategy
 - (d) promotes the efficient use of Authority resources to encourage participant compliance
 - (e) communicates to consumers, participants, and the wider regulated sector the level of seriousness with which the Authority views compliance and the risks that breaches pose.

4. Legislation

- 4.1. The Authority is an independent Crown entity that was established on 1 November 2010 under the Electricity Industry Act 2010 (Act) to oversee the governance and operation of New Zealand's electricity market. The Act authorises the making of regulations and the Electricity Industry Participation Code 2010 (Code).
- 4.2. The Authority is empowered by the following legislation in carrying out its activities:
- (a) Electricity Industry Act 2010
 - (b) Electricity Industry Participation Code 2010
 - (c) Electricity Industry (Enforcement) Regulations 2010
 - (d) Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004
 - (e) Electricity Industry (Levy of Industry Participants) Regulations 2010
 - (f) Electricity Industry (Participants and Roles) Regulations 2012
 - (g) Electricity (Exemptions from Registration) Regulations 2022.

5. Our objectives and functions

- 5.1. We regulate the electricity industry for the long-term benefit of consumers. Our focus is ensuring that all consumers have an affordable and reliable electricity supply.
- 5.2. Section 15 of the Act sets out our main statutory objective:
- "To promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers."
- 5.3. We also have an additional statutory objective, that applies to our activities in relation to the dealings of industry participants with domestic consumers and small business consumers:
- "To protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers."
- 5.4. The Act sets out our functions, describing the activities we perform and the tools we use to achieve our statutory objectives. They can be summarised into five main functions.

Operate the electricity system and markets

- 5.5. We are responsible for the day-to-day operation of the electricity system and markets through contracted service providers.

Monitor, inform and educate

- 5.6. We monitor market behaviour and make data, information and tools publicly available to help improve participation and understanding of the electricity markets by consumers and industry participants.

Enforce compliance

- 5.7. We monitor, investigate and enforce compliance with the Act, Regulations and the Code by industry participants to create a fair and competitive market. We have an industry education programme to educate participants, share lessons learnt, and help identify and resolve any systematic issues.

Promote market development

- 5.8. We are responsible for maintaining a responsive and robust regulatory environment that keeps up with innovation and new technologies to enable electrification and deliver better outcomes for consumers. Key tools include market facilitation measures and amendments to the Code.

Protect the interests of small electricity consumers

- 5.9. We are responsible for protecting the interests of domestic and small business consumers in relation to industry participants supplying their electricity. This includes monitoring electricity retailers and other industry participants' conduct with small consumers, including medically dependent and vulnerable consumers.
- 5.10. These combined functions give us a range of tools to promote certain behaviours or outputs from the sector.

6. Our approach to compliance

- 6.1. Compliance means meeting or exceeding the requirements of the regulatory framework. Voluntary compliance means that participants are choosing to comply. We expect the highest level of voluntary compliance. In terms of Authority activity, "compliance interventions" refer to the full range of actions aimed at achieving compliance in the electricity sector.

Proactive problem-solving

- 6.2. We take a proactive problem-solving approach to addressing risks. In some cases, a pattern of non-compliance will have an underlying cause and addressing this cause will solve the problem of non-compliance. We are open to exploring new ways of addressing any underlying issues.
- 6.3. To identify these patterns we will use all information sources legally available to us, including:
- (a) participant audits
 - (b) education
 - (c) monitoring
 - (d) investigation
 - (e) enforcement.

- 6.4. We will combine this with information we are permitted to access from other compliance agencies, participants, members of the public and others. These information sources will help us to build a complete picture by showing us patterns of risk, attitude, behaviour and capability.

Our responsibility is to maximise participants' compliance for the benefit and protection of consumers

- 6.5. The Authority is responsible for maximising participant compliance with the regulatory framework. To achieve this, we will focus our efforts and tailor our interventions in line with the levels of risk, the actual or potential consequences, compliance history, behaviour, attitude and capability of participants.
- 6.6. The Authority is focused on working with participants to improve industry practice and consumer outcomes. Poor compliance is at the expense of the consumer and in favour of commercial participants (unless the action by the participant was purely negligent or careless).

Continuous improvement

- 6.7. We strive to continually improve by working with participants, consumer groups and industry bodies to promote voluntary compliance culture across the industry.

Focus on risk

- 6.8. It is important that our focus areas are competition, reliability, efficiency and consumer protection, but we will also focus on the biggest potential risks. Risk could mean two things:
- (a) the magnitude of the consequences that would eventuate should an event occur
 - (b) the likelihood of that event occurring.
- 6.9. We take a risk-based approach by considering the actual or potential impact of the event. We look at the impact on consumers, other participants, security and the market. We consider:
- (a) the scale of the impact (for example, was it widespread or localised)
 - (b) the duration of the alleged breach (for example, was it minutes, hours or days)
 - (c) the extent to which the impact can or has been remediated
 - (d) any benefit or advantage obtained by the breaching party.
- 6.10. The Authority has a focus on reactive activities by responding to breaches after they have occurred and have been reported or self-reported by participants. While this continues to be important, focusing on preventing breaches is equally important. Our proactive activities, such as education and monitoring, are guided by our Compliance Monitoring Frameworks.
- 6.11. We have a particular focus on risks to consumers who are unaware that their retailer may have breached its obligations. In addition, we concentrate our activities where we see a pattern of problems or issues. These patterns may occur in certain parts of the electricity sector, with individual or types of participants, types of infrastructure or practices, or in specific geographical areas.

Attitude, behaviour, capability and risk will influence the type of compliance approach we take

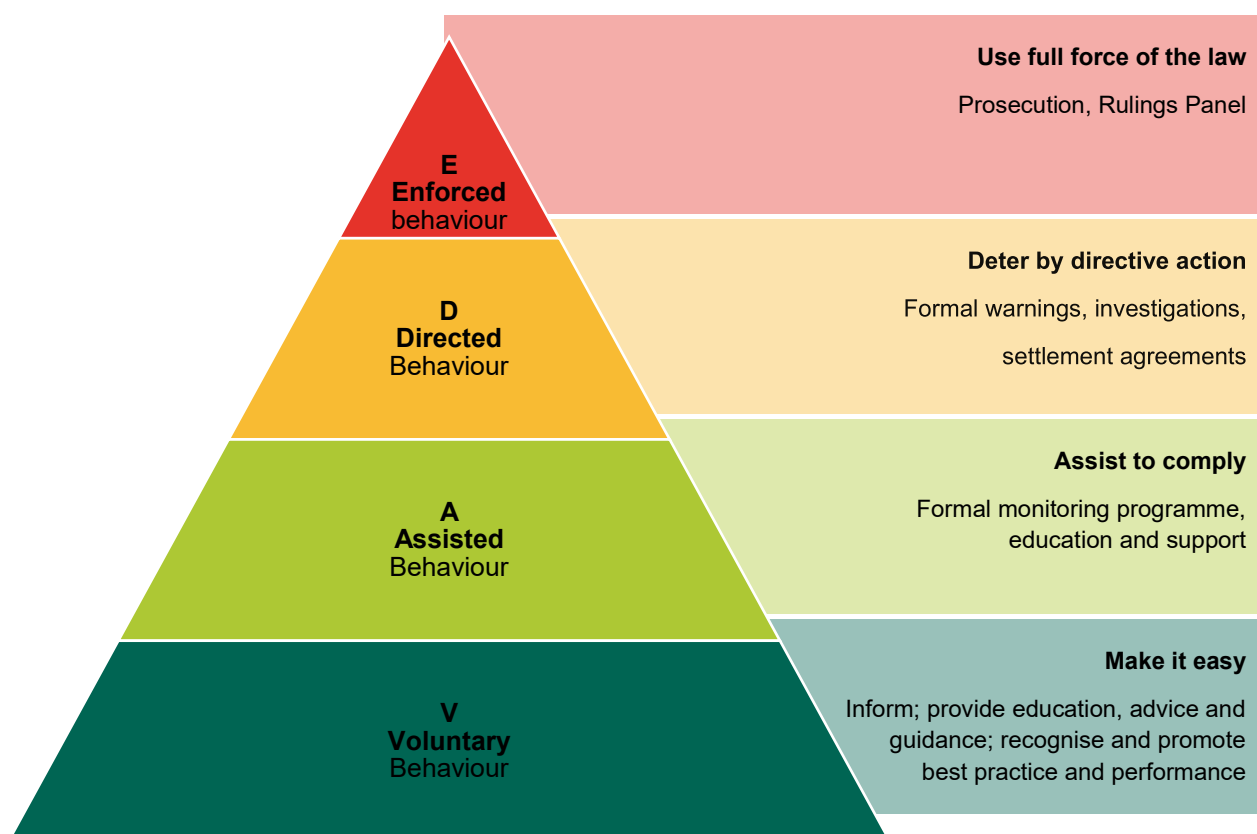
- 6.12. We expect participants to operate competitively, reliably and efficiently, and most aim to, however it may be that:
- (a) barriers such as a lack of awareness, understanding or capability may prevent some participants from operating in a compliant manner
 - (b) some will make efforts in these areas only in proportion to their perceived risk of non-compliance.
- 6.13. The number of participants in these different categories varies in different areas of the electricity sector. Within organisations, different staff may have different attitudes to compliance.
- 6.14. We aim to:
- (a) provide accessible, timely information and support to help regulated parties understand and meet their regulatory obligations
 - (b) deter, through monitoring, those who are reluctant to comply
 - (c) use the full force of the law for those who do not want to comply or are wilfully negligent.
- 6.15. A pattern of problems or issues with a participant is likely to indicate issues with that participant's attitude to compliance and vice versa. Where risk and attitude issues coincide, we are more likely to act and our response is likely to be at the higher end of the enforcement spectrum. Where there are low risks and good attitudes, we are more likely to focus on providing information, education and encouragement.

Education focus on new regulatory requirements

- 6.16. We recognise that the electricity regulatory regime is continually changing. When new requirements are introduced, we have an increased focus on education, advice, promoting performance and assisting participants to ensure compliance occurs as soon as reasonably practicable.

7. Electricity Authority's Compliance Operating Model is based on VADE

- 7.1. The Compliance strategy is underpinned by what is referred to as the VADE operating model. VADE stands for Voluntary, Assisted, Directed and Enforced, outlined in more detail below. The VADE model spans the full spectrum of compliance elements. The principle is that enforcement (such as prosecution) acts as the incentive for voluntary compliance. This model allows Authority staff to exercise discretion and ensures that any compliance intervention is commensurate with the level of non-compliance. The VADE model below sets out some of the interventions and regulatory tools available to the Authority.



- 7.2. The Authority's compliance activity spans a range of different activities, from education to laying a formal complaint to the Rulings Panel or prosecution. The shape of the triangle indicates the volume of work the Authority expects to do in each activity area. Most activity will be in the bottom half of the triangle, focused on supporting participants' compliance. The top half of the triangle indicates more serious participant behaviour and therefore compliance activity, of which there will be fewer instances.

Voluntary compliance

- 7.3. Voluntary compliance is the goal of any compliance regime. Ideally, participants are aware of relevant legislation and will voluntarily comply. Our compliance focus is on educating and informing participants and maintaining positive relationships. By focusing our resources on education, we expect to prevent compliance matters from escalating.

Assisted compliance

- 7.4. Participants may wish to comply with relevant legislation but may not be sufficiently informed. Our compliance approach is intended to be pragmatic, with a focus on providing effective compliance advice to participants. This approach is most applicable to situations where consequences of non-compliance are not serious.

Directed compliance

- 7.5. Non-compliance may be opportunistic (eg, due to competing operational priorities) or it may be inadvertent. Directed compliance refers to the compliance tools that are

available to effect a desired behavioural change. Examples include a breach recorded against a participant, issuance of a written warning or formal investigation.

Enforced

- 7.6. Enforced compliance will be used in the most serious breaches of the Code. The full extent of the law will be applied, and cases will be formally investigated and potentially a Rulings Panel decision will be sought.

8. The right tools for the job

- 8.1. The Authority has a range of interventions and tools available. Some are designed to assist electricity sector participants to achieve compliance, and others refer to using enforcement where necessary, including:
- (a) amending the Code
 - (b) contractual arrangements with market operation service providers (MOSPs)
 - (c) audits
 - (d) monitoring and information requests
 - (e) mandatory industry reporting
 - (f) approving exemptions from complying with Code
 - (g) education and training for participants
 - (h) issuing guidance
 - (i) issuing warnings
 - (j) formal investigations
 - (k) facilitating settlements
 - (l) complaints to the Rulings Panel.
- 8.2. Our approach will depend on the circumstances. We consider non-compliance on case-by-case basis in accordance with the VADE model above. We choose interventions that are most likely to achieve our outcomes, considering risk, attitude and capability and the likely consequences of non-compliance occurring.

Decision-making on compliance interventions

- 8.3. Decisions regarding the Authority's compliance interventions will be:
- (a) logical, timely and considered
 - (b) evidence-based
 - (c) fair, impartial, responsible and trustworthy
 - (d) sufficiently robust and well documented to withstand judicial review
 - (e) proportionate to the risk and actual or potential impact posed by the non-compliant behaviour
 - (f) consistent with the law, the public interest, and the Authority's policies and values.

9. How we will operate

- 9.1. We will take the action that we consider will best achieve our outcomes.

Engagement with the sector

- 9.2. We aim to engage with relevant members of the electricity sector and other stakeholders, such as consumer advocates, to assess their thinking on what strategies and information would be most effective in promoting our competitive, reliable, efficient and consumer protection outcomes. The Authority will introduce compliance-specific forums focused on improving overall industry performance.

Insights

- 9.3. We will promote a compliance culture by providing industry insights. We will embrace regulatory reporting to a benchmark performance, and support participants to learn more about their business through data insights, enhancing competitiveness, efficiency and risk management.

Our approach to our relationships

- 9.4. We will develop relationships appropriate to the circumstances with:
- (a) partners (eg, Commerce Commission): we will work together where we share long-term common goals and will consider setting up formal arrangements where appropriate
 - (b) stakeholders: we will seek the views of those affected by our activities, such as consumer groups
 - (c) the sector: we will engage with sector participants based on our assessment of risk, their attitude, behaviour and capability.

Interventions

- 9.5. Interventions form a sequence or a hierarchy, starting with low-level activity and moving to more severe measures. However, when selecting the right tools for the job more severe interventions may be justified as the first action the Authority takes.

10. Guiding principles

Our decision making is transparent, evidence-based and understood

- 10.1. We are clear about our approach to compliance and how we make our decisions. We explain our decisions and actions.

We continuously improve our performance and impact

- 10.2. We will ensure the basics are done well and explore ways of recognising excellence and promoting good practice.

We deliver better outcomes through clear and proportionate actions

- 10.3. We will select the right intervention for the job based on the circumstances of the case.

We are delivering benefits to consumers in the short and long term

- 10.4. We work with industry participants and industry bodies to improve their awareness of obligations and support their understanding of the electricity market and how it benefits consumers.

Our actions proactively enable change

- 10.5. Our compliance function improves industry compliance and thereby consumer outcomes, including by sharing lessons learned to support participant education.

Our actions are informed by market signals, risks and opportunities

- 10.6. We draw together and use insights and information sources legally available to us.

11. Review of the strategy

- 11.1. The Strategy will be revised based on our experience, legislative or case-law changes, changes in our organisational priorities and to align with regulatory best practice.