

5.3 Issue C.2: Transparency and accountability

5.3.1 Audits have historically been considered commercially sensitive. The Code has been drafted to protect participants from the risk of having their compliance and business practice information published.

5.3.2 Feedback received by the Authority in early 2015 from participants, auditors, Authority staff, and other audited industries identified transparency as an area for improvement.

Issues with transparency and the audit regime

5.3.3 A lack of transparency in the audit regime has led to a lack of industry accountability. Information is partitioned between each audit, which means it is not clear:

- (a) on what basis the Authority made its decisions regarding certification, approval or next audit date
- (b) which issues are widespread and which are isolated to a small number of parties
- (c) what actions have been taken by other participants to successfully address compliance issues
- (d) how other auditors are assessing similar issues.

5.3.4 As an independent crown entity the transparency and accountability of the Authority is regulated through the Official Information Act 1982.³² However this legislation is reactive and information is only released on request, if certain conditions are met.

5.3.5 The following has been identified as an area to improve transparency and accountability in the audit regime:

- (a) **Issue C.2.1: Audit outputs and decisions not publicly available:** Information such as the date of the next audit, the audit report and the participant's plan for achieving compliance is currently kept confidential. This limits the accountability and transparency of audits and decisions made as a result of the audits. Issues also arise where changes in staff result in participants not knowing their next audit date, or the actions they agreed to undertake as a result of the last audit.

Options to improve transparency in the audit regime

5.3.6 The Authority has considered options to address the issue with the transparency and accountability of the audit regime. The options for

³² <http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM65364.html>

resolution, including identification of the preferred solution can be found in Table 3 below.

Table 3: Proposed solutions to improve transparency and accountability in audit regime

Issue	Option	Description	Rationale
<p>C.2.1: Audit outputs and decisions not publicly available</p>	<p>Preferred solution: Publish all information relating to audit reports, including next audit date, audit report and compliance plan.³³</p>	<p>Amend the Code to require the Authority to publicise:</p> <ul style="list-style-type: none"> • A copy of the lead audit report submitted • A copy of the compliance plan (if available) • each participants “next audit date”. <p>Amend the Code to no longer require the Authority to publish a summary of the audit report.³⁴</p> <p>Authority also proposes to publicise a register of</p>	<p>This solution is consistent with the conditions under which information, including audit reports are currently required to be released under the Official Information Act 1982.</p> <p>The guiding principle of the Official Information Act 1982 is that information must be made available unless good reason exists under the Act for withholding it.</p> <p>Publication of this information is consistent with, and is seen as beneficial in similar audited industries.³⁶</p> <p>Where the audit report contains information that would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information³⁷, the Authority intends to adopt a regime similar to the GIC, where the participant can include in its submission an alternative version of the audit report that has this</p>

³³ The publication of a compliance plan would only occur if the proposed Code amendment in Table 2 to require the use of a compliance plan is adopted.

³⁴ See revocation of clause 9 of Schedule 10.2, clause 11.13, clauses 11 and 18 of Schedule 15.1.

Issue	Option	Description	Rationale
		<p>reported ‘issues’</p> <p>The proposed Code amendments can be found in Appendix A.³⁵</p>	<p>information removed.</p> <p>Publication of this information will provide qualitative benefits in the form of improved compliance and learnings from other participants.</p> <p>The information available in the summary of the audit report is also available in the full audit so does not need to be published separately.</p>
	<p>Alternative 1: Publish only the next audit date and compliance plan</p>	<p>Require the Authority to publish:</p> <ul style="list-style-type: none"> • each participants’ “next audit date” • a copy of the compliance plan (if available). <p>Amend the Code to require the Authority to publish this information.</p>	<p>This solution will provide limited transparency regarding how participants are addressing non-compliances; however this solution is not consistent with the level of transparency demonstrated by similar audit regimes.</p>

³⁶ For example the Gas Industry Company audit regime (www.gasindustry.co.nz/work-programmes/downstream-reconciliation/operations/audits/) and the Economic Regulation Authority (of Western Australia) electricity licencing regime (<https://www.erawa.com.au/electricity/electricity-licensing/document-archive/audit-reports>).

³⁷ Section 9 of the Official Information Act 1982 (<http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM65371.html>)

³⁵ Clause 15A.15.

Issue	Option	Description	Rationale
	<p>Alternative 2: Publish only the next audit date</p>	<p>The Authority will only publish the next audit date for each participant.</p> <p>No code amendment is required to implement this.</p>	<p>This solution is not a preferred option as it does not address the concerns raised around the transparency of audits and audit findings.</p> <p>This solution will allow participants to better manage their audits and allow auditors to approach participants and offer to provide audit services at times when audits are required.</p>
	<p>Alternative 3: Retain status quo</p>	<p>This solution would result in no changes or increase in the publication of information.</p>	<p>This solution does not address the issues identified.</p>