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# EECA compliance and enforcement policy

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## 1. Objective

To guide EECA staff undertaking compliance activities on how to exercise their discretion in accordance with the law, regulatory best practice and relevant principles, thereby supporting the efficient performance of EECA's compliance functions, excluding check testing.

## 2. Scope

### *In*

EECA's approach to promoting the compliance of suppliers, manufacturers and importers with legislation EECA administers.

### *Out*

Education and awareness approaches for consumers.

EECA's approach to promoting compliance with non-legislative matters, such as commercial contracts.

Check-testing: EECA's policy on check testing is covered in detail in a separate Check Testing Policy.

## 3. Definitions

In this policy, terms have the meanings specified in Table 1. Terms in red are terms relevant to specific stages of compliance activity as described in detail in this document.

Table 1 – Meanings of terms

Term	Meaning
Act	Energy Efficiency and Conservation Act 2000
Breach	Non-compliance with a requirement in legislation (term is fully interchangeable with 'breach')
Check testing	Physically examining or operating a regulated product to determine whether it is in compliance with relevant regulatory obligations
Compliance/compliant	Meeting of a legal obligation
Compliance activity	Any or any combination of the following: educating, enforcing, inspecting and auditing, intervening, investigating
<b>Educating</b>	Helping regulated parties understand their obligations, why those obligations are important and how to meet them
EECA	Energy Efficiency and Conservation Authority
<b>Enforcing</b>	Imposing a consequence for breach of regulation
<b>Inspecting</b>	

	EECA staff formally checking whether regulatory requirements are being met at premises under control of regulated parties Under the RECAP (product registration system) this also includes <b>surveying</b> by non-EECA staff
<b>Intervening</b>	Taking action to make sure standards are being met by incentivising or directing behaviour
<b>Investigating</b>	After a breach is suspected, gathering and assessing information to find out what has happened including collection of evidence for potential use in legal proceedings
<b>Monitoring</b>	Checking whether regulatory standards are being met – can be on paper, online or a physical check
Non-compliance/non-compliant	Breach of a legal obligation
Principles	The principles specified in the table under the heading “Principles” in this policy
Product	Any products, system or service regulated under the Act
Regulated conduct	Conduct regulated under the Act or regulations or rules made under the Act
Regulated party	Party other than EECA with legal obligations under the Act or regulations or rules made under the Act
Regulator	EECA
<b>Surveying</b>	Non-EECA staff assessing for compliance as directed by EECA
Test standard	Rules, instructions or standards specified in regulations that a regulated product must meet and that relate to how <i>check testing</i> must be conducted on a product, system or service

## 4. Status

This policy is for guidance only and is not exhaustive.

## 5. Principles

### 5.1. Purpose of principles

These principles guide how decisions on compliance and enforcement should be made, ensuring appropriate decisions based on the particular circumstances of each case. If a specific circumstance presents operational choices not expressly covered by this policy or operational protocols under it, these principles should be used to guide those choices.

Headline for principle	Principle
<b>Authorised and Competent</b>	Compliance work is to be performed by persons with appropriate compliance expertise and who are authorised, in writing, by EECA to do so.
<b>Respectful and dignified</b>	Compliance activities are to be conducted in a respectful and dignified way.
<b>Objective, fair and impartial</b>	Investigations and operations are to be conducted with an open mind as to possible findings, outputs and outcomes Compliance activities are to avoid targeting specific parties without good reason Similar cases are to be afforded similar treatment Employees must comply with EECA's Code of Conduct and Conflicts of interest policy.
<b>Proportional</b>	Compliance resources are to be allocated and any enforcement response should be proportionate to the conduct at issue.
<b>Transparent</b>	EECA should be transparent on why it has chosen a particular enforcement response, observing natural justice and the New Zealand Bill of Rights Act 1990 EECA will provide its interpretation of legislation it enforces in plain language if stakeholders are in doubt EECA shall inform regulated parties of its compliance activities if required to do so by legal obligations EECA shall publish information on its compliance activities commensurate with the public interest in understanding EECA's activities and performance as a regulator.
<b>Lawful</b>	Compliance activities, including the confidentiality and security of information, will be undertaken in accordance with law, including the Privacy Act 2020, the Official Information Act 1982 and the Public Records Act 2005.

Headline for principle	Principle
<b>Secure</b>	Information relating to individuals and regulated parties gained from compliance activities will be kept securely using data storage systems that meet public sector standards.
<b>Timely</b>	Compliance activities are to be undertaken at a pace that balances the regulated party's interest in certainty of outcome against the public interest in due diligence.

## 6. Summary of approach

EECA's compliance approach is based on the Braithwaite model, as depicted in Figure 1. The triangle shape reflects the volume of regulated parties falling into each compliance category.

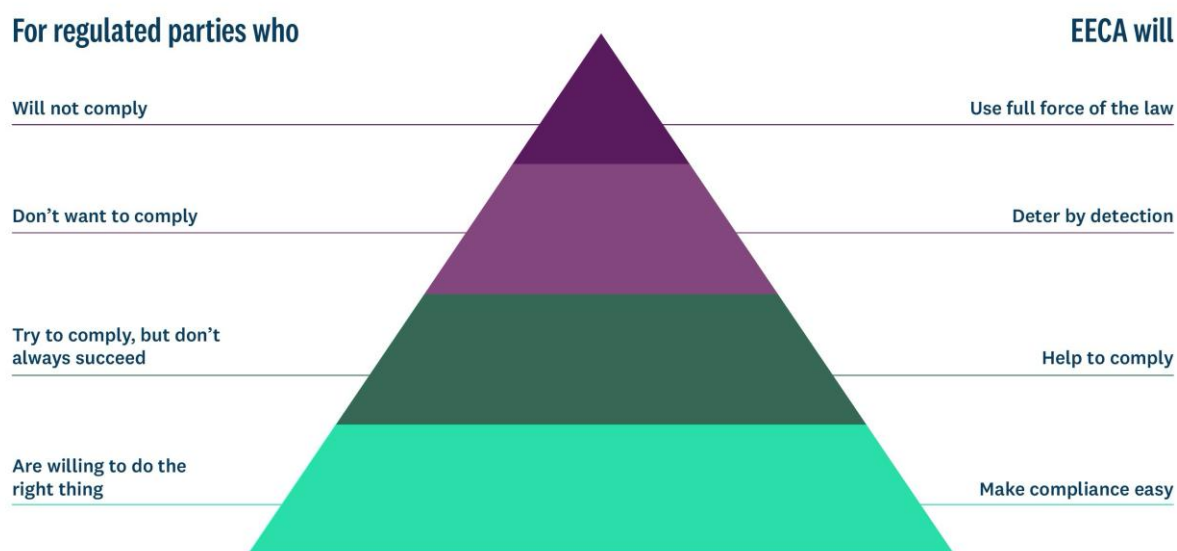


Figure 1 – Summary of compliance approach

Table 2 specifies EECA's tools that give effect to this compliance approach. These tools are covered in further detail under specific practice areas set out in this policy.

Table 2 – Compliance tools

	Tool				
	To encourage and improve compliance		To deal with more serious non-compliance (enforcement)		
Objective	Education	Assistance	Failure to comply notice	Warning	Prosecution
Preventing harm	✓	✓	✓	✓	✓
Improve compliance/enable delivery of benefits of the regulation	✓	✓	✓		
Prevent a situation from getting worse			✓	✓	✓
Change behaviour	✓	✓	✓	✓	✓

## 6.1. Approach across all practice areas

EECA will work efficiently to:

- obtain sufficient information relevant to the selected enforcement action.
- maintain operational information relating to compliance in a way that can be found easily by those who have a right to access it.
- avoid duplicating data storage.
- resource activities in proportion to the improvement in compliance that would reasonably be expected.

## 6.2. Policies by specific practice area

The following sections contain policies dedicated to each compliance practice area. Each practice area derives from Ministry of Regulation guidance.

## 6.3. Regulated conduct

EECA will target its engagement, education and compliance monitoring resources on those with regulatory obligations.

## 7. Educating

### 7.1. Why EECA will educate

EECA will educate regulated parties to make compliance easier for them, so as to increase the likelihood of compliance.

### 7.2. What education EECA will provide

EECA will inform regulated parties of:

- a. relevant legislation and where to find it
- b. relevant guidance and where to find it
- c. EECA's interpretation of the legislation applied to general situations
- d. standard forms, processes and tools provided by EECA to support compliance
- e. any assistance available in navigating its forms, processes and tools.

### 7.3. What EECA will not do when educating

- a. fulfil a regulated party's obligations for it
- b. give a binding commitment that it will treat a party's future operations as compliant
- c. promise a particular outcome on compliance activities that EECA may conduct.

### 7.4. Recipients of EECA education

EECA will provide education to regulated parties who wish to understand:

- a. whether they are subject to regulatory requirements; or
- b. the nature of the requirements; and
- c. how to comply with the requirements.

EECA will consider the needs of regulated parties and provide education in a way that best encourages and improves compliance.

EECA will provide education as is required, taking into account the number and nature of enquiries, the volume and type of observed non-compliance and resourcing.

### 7.5. Relevance of regulated party participation in education

Recipients of EECA education will be advised that any written material provided to them or their attendance at an education event may be taken into account in any future non-compliance, and may be referred to in any proceeding, including a sentencing hearing.

## 8. Surveying, monitoring and Inspecting

### 8.1. Why survey, monitor and inspect

EECA will survey, monitor and inspect to understand the extent of compliance with regulatory requirements.

Surveys, monitoring activity and inspection provide intelligence on:

- a. those involved in a particular supply chain;
- b. product types that are offered for sale;
- c. products that may not meet regulatory requirements; and

- d. regulated parties that may be non-compliant.

This activity:

- a. deters non-compliance; regulated parties know that their activities are subject to regulatory oversight; and
- b. focuses EECA's other compliance activities, identifying particular products or supply channels to target and identifies whether further deterrence action is required, such as enforcement or more awareness and education.

## 8.2. What EECA will survey, monitor and inspect

EECA will survey, monitor and inspect how regulated parties are complying with their obligations under the law:

- a. to notify products that are being supplied to EECA;
- b. not to supply products that do not meet mandatory energy performance standards (MEPL);
- c. to accurately label products subject to MEPL or Vehicle Emissions and Energy Economy Labelling
- d. not to make false or misleading representations in trade about a product's energy efficiency performance or compliance with energy efficiency requirements or standards.

## 8.3. Who EECA will survey, monitor or inspect

EECA will select parties to survey or inspect according to a range of factors, for example, resourcing, risk of harm to consumers, previous non-compliance rates, geographical spread, intelligence of suspected non-compliance and access to regulated product.

EECA may obtain information from any relevant source, for example, from surveying, monitoring or inspecting a product at a retailer, even in relation to an obligation that falls on a manufacturer or importer.

## 8.4. How EECA will survey or inspect

EECA will undertake surveys, monitoring or inspections in the following ways:

- a. desk-based scrutiny of test reports procured from regulated parties<sup>1</sup>
- b. desk-based scrutiny of energy performance information procured from regulated parties<sup>2</sup>
- c. desk-based observation of digital channels through which regulated product is marketed (market surveillance);
- d. desk-based scrutiny of hard-copy marketing of regulated product e.g. leaflets, newspaper advertising (market surveillance);
- e. in person observation at premises or locations where members of the public are offered supply of regulated product (surveys (by non-EECA staff); inspections (EECA staff));
- f. physical testing of regulated items ("check testing"), covered in a separate Check Testing Policy.

### ***Desk based scrutiny of test reports and energy performance information***

EECA will use desk-based scrutiny of information as a routine method of monitoring compliance with MEPS and MEPL. The mere supply of a test report by a regulated party will not be assumed to evidence compliance. EECA will assess test reports provided routinely (for example under regulation 9(1)(e) of the Energy Efficiency (Energy Using Products) Regulations 2002) or in

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<sup>1</sup> Test reports may be requested under regulations 4(2), 6(2), or 10 and supplied under regulation 9(1)(e) of the Energy Efficiency (Energy Using Products) Regulations 2002.

<sup>2</sup> Energy performance information may be supplied under 9(1)(e).

response to a request by EECA (for example under regulation 4(2)), to examine compliance with the relevant MEPS and/or MEPL.

EECA will request information under regulation 9 if a regulated party has not made a test report available unless regulation 10 applies, in which case, EECA will request an accredited test report under that regulation.

A product energy performance request will be for such information that EECA considers is reasonably necessary for it to assess compliance with the relevant MEPS and/or MEPL. EECA may make follow-up requests if it requires additional information.

EECA will apply the time limits specified in the regulations and will consider enforcement action where test reports and/or energy performance information are not provided by the due date, are incomplete or do not meet the certification or accreditation requirements of regulation 10.

EECA may rely on information supplied by a regulated party, whether in test reports or otherwise, in any enforcement action. Regulated parties must be made aware that any written material provided by them may be relied on.

### ***Check testing***

EECA will use check testing of regulated products to check that EECA's information about a product's compliance with regulatory requirements is correct.

### ***Field visits***

Surveyors will carry out surveys and inspectors will exercise their powers when the regulated party's business premises are open to the public.

Access to non-public areas of business premises (for example, a storeroom or loading bay) is subject to the occupier's consent. When requesting access, an inspector must not assert that EECA has a right of entry<sup>3</sup>. Surveyors may not request access to non-public parts of business premises.

EECA representatives on site visits will:

- a. identify themselves as EECA staff or representatives;
- b. explain the purpose of their visit;
- c. request to speak to the responsible manager;
- d. give the manager or, if unavailable, another site representative, an opportunity to ask questions; and
- e. ask the site representative to identify themselves.

Surveyors and inspectors will comply with any reasonable direction from the occupier, including a request to leave the site.

Inspectors may ask the occupier's assistance to access stock but shall refrain from interfering with the placement of stock and merchandising materials without the occupier's consent.

Surveyors and inspectors will make a contemporaneous note of observations made on site visits, including details of suspected non-compliance and the extent of non-compliance versus compliant products (e.g. "2 out of 8 dishwashers on display lacked labels").

Inspectors will document conversations and actions taken by them and parties on site as soon as practicable during or after the visit.

Inspectors and surveyors must not proactively engage with customers and lawful visitors to the premises. Inspectors may reactively engage, including identifying themselves and providing general information about EECA and its work, but must not provide any opinions on whether

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<sup>3</sup> An occupier's consent is only valid if given voluntarily.

products or systems on the premises are compliant or non-compliant nor customer guidance on buying decisions.

## 8.5. Who may inspect

A person who carries out an inspection, or who assists in carrying out an inspection, must have an appropriate delegation.

A person who conducts a survey, or who assists in conducting a survey, must be authorised to do so, in writing, by EECA.

It is important that a person exercising inspection or survey powers is appropriately authorised to do so. This ensures that any evidential material obtained is lawfully obtained and usable.

### *External personnel*

EECA may contract surveys to a third party if it would be cost effective to do so. A third party is to be given detailed instructions on what, who and how to survey and how to report their findings.

EECA will ensure that any third-party surveyor meets EECA's security requirements, storing survey data securely, keeping that data confidential and storing that data only for as long as is necessary.

## 8.6. When EECA will survey, monitor and inspect

EECA will decide when to survey, monitor and inspect, except for field visits, which need to be carried out only when a business/regulated party is open to the public.

EECA will not give regulated parties prior notice of a specific field visit or inspection.

## 8.7. Surveying, monitoring and inspection planning

EECA's inspection activities will be coordinated and responsive to developments, reflecting new products, systems and services, market trends and the entry of new retailers into the market.

# 9. Investigating

## 9.1. Why investigate?

EECA will investigate to confirm any suspected non-compliance. The results of an investigation will inform whether and what follow-up action is required.

Some EECA site inspections (see previous section) will include elements of investigation depending on what unfolds on site.

## 9.2. Trigger for investigation

Whether an investigation is needed is a matter of judgement for a compliance officer. An investigation should be conducted if:

1. there is suspected non-compliance, whether moderate or major; and
2. prosecution may be a proportionate response.

Conversely, there should not be any need to investigate if an inspection indicates that prosecution would never be a proportionate response, for instance, if non-compliance is widespread but

negligence or intent are clearly not the cause. This is because awareness and education would be the most cost-effective tools in these circumstances.

### 9.3. How EECA will investigate

EECA will gather information from relevant information sources, for example:

- asking witnesses and relevant persons what has happened and why – this may include internal EECA witnesses who have had dealings with the regulated party
- requesting specific information from relevant witnesses or obtaining information from systems such as details of orders placed, products or systems received, informal or formal correspondence or information received by EECA such as product notifications
- obtaining information on offers to supply products or systems to the public such as screenshots of advertisements
- visiting physical premises to see how products of interest are displayed/offered for sale and their volumes.

### 9.4. Discussions

EECA may have a formal discussion with a regulated party to obtain information on the conduct and circumstances surrounding the suspected breach. If the regulated party is a body corporate, a formal discussion should be with an appropriate representative of the body corporate. In practice, this will be:

- a director of the body corporate; or
- an employee or agent of the body corporate with duties of such responsibility that it may fairly be assumed that the employee or agent can represent the body corporate.

The EECA staff member will advise the regulated party that anything said by them during the discussion may be used in evidence in any proceedings. Any discussion about a possible prosecution should only be conducted by EECA staff with formal compliance training.

Records of a discussion should be made during the discussion or as soon as possible afterwards.

If the regulated party wants another person to attend the discussion, it must be clear what role the other person has, that is, whether the person is attending for support or is authorised by the regulated party to answer questions on their behalf. In any case, the regulated party must be advised that anything said by the other person during the discussion may be used in evidence in any proceedings.

### 9.5. Evidence

EECA will maintain comprehensive records of information obtained during an investigation and store them securely, to avoid loss, inappropriate access, damage or destruction. EECA will maintain a record of where physical evidence is located.

If physical evidence is obtained by EECA during an investigation, the thing obtained should be stored for use as evidence and disposed of if it is not to be used in evidence.

If physical evidence is obtained from a regulated party during an investigation, the thing obtained should be returned if it is not to be used in evidence. If the regulated party cannot be located or refuses to take back possession of the thing, the Chief Executive should dispose of it in such manner as he considers appropriate.

### 9.6. Pace of an investigation

EECA will progress an investigation in a timely way, mindful of the need to:

- ensure prosecution remains viable as a potential enforcement outcome (noting relevant limitation periods)
- act fairly, ensuring that regulated parties have adequate time to respond to requests, seek legal advice etc
- act decisively to deal with non-compliant behaviour
- maintain consumer confidence in energy performance and energy efficiency labelling.

If a request is made for extra time to provide information or to prepare for a meeting, the regulated party should be asked to explain why extra time is required. Generally, a request should not be refused. However, allowing extra time should not prejudice EECA's ability to take enforcement action, nor should it jeopardise the time limit for bringing proceedings.

## 9.7. Outcome of investigations

If EECA believes, on the balance of probabilities, that there is non-compliance, a compliance officer must decide who is liable and whether enforcement action should be taken. The compliance officer's recommendations should summarise all relevant facts.

What enforcement action to take is dealt with in the Intervening and Enforcing section of this policy.

## 9.8. Communication of outcomes

Unless an investigation results in a prosecution, the regulated party must be advised, in writing, of the outcome of the investigation.

Persons who have contributed to the investigation (e.g. witnesses) shall not be informed unless:

- a. they were the victim or complainant; or
- b. they potentially still have a role to play in any enforcement action.

# 10. Intervening and Enforcing

## 10.1. Why intervene or enforce

EECA will intervene in respect of non-compliance to minimise the likelihood of continuing non-compliance.

## 10.2. Informal action

Informal action is intended to raise awareness of a regulated party's obligations and motivate them to implement procedures to ensure future compliance. Informal action may therefore include:

- a. referring the regulated party to relevant sources of information, e.g. applicable standards or information sheets
- b. providing any additional advice and information to the regulated party in relation to compliance issues; and
- c. answering any questions the regulated party may have.

Informal action may be appropriate where a regulated party is simply unaware of their legal obligations.

### 10.3. Enforcement tools

If EECA considers that a breach has occurred, a compliance officer will apply the tools specified in Table 3 to determine what action is appropriate.

Table 3 – Enforcement tools

Tool	When to use	Include in letter, if applicable	Approver
<b>Failure to comply notice</b>	Breach is suspected. There are immediate actions that can be taken to become compliant.	<p>Statutory requirement that may be being breached. If the breach involves false or misleading information about a product, advice that the party immediately correct the information, noting the consequence of removal of the product in relation to that supplier from public EECA lists.</p> <p>Information about potential consequences (warning, prosecution and publicity for each) of ongoing failure to meet that requirement.</p> <p>Invitation to respond to breach allegation and inform EECA of any remediation steps party proposes.</p>	Manager, Regulations and Compliance
<b>Warning letter</b>	Breach is suspected and significant detail about the offending is known but limitation has passed or tests for prosecution not met.	Relevant requirement that is not being met. Evidence supporting view that there has been a breach. Regulated party's views. EECA's reasons for suspecting breach. Explanation of detriment. Reason for issuing warning. Warning that further breaches are liable to be prosecuted as offences. Relevant penalty. Steps to take to avoid reoffending. <sup>4</sup>	Group Manager, Policy and Regulation
<b>Prosecute</b>	Breach is suspected and significant detail about the offending is known and case for prosecution met	n/a – defendant will receive charging information from court	Chief Executive

<sup>4</sup> Refer to section 6 of the Solicitor-General's Guidelines for the Use of Warnings. Also, warnings can be issued for similar breaches more than once – EECA is not committed to prosecution as the next consequence

## 10.4. Exercise of non-statutory enforcement tools: Failure to comply notices and warnings

Failure to comply notices and written warnings are not statutory tools. EECA will take care not to imply that the interventions are made under statutory powers with statutory consequences for failure to take action in response to them.

EECA will endeavour to seek the regulated party's view on an alleged breach before communicating EECA's position. This can occur by telephone, email or in person, for instance during a site visit as part of an investigation. The regulated party's view should be retained (if provided in writing) or a file note made (if provided orally). The regulated party's view shall inform a decision about how EECA will respond.

Templates for notices and warnings should be used to ensure EECA appropriately communicates its position, without asserting that a particular set of facts or circumstances involves a breach of the law – findings of unlawful conduct is the role of the courts.

Correspondence should not assert that future non-compliance will result in prosecution. EECA needs to assess further alleged breaches on their own merits.

If a regulated party's view is that it is not in breach and gives their reasons for this view, correspondence should address why EECA disagrees with that view.

All correspondence must be in language appropriate to the recipient's level of understanding and observe the principles of Te Tiriti o Waitangi/The Treaty of Waitangi.

Advice on how to comply with statutory obligations should mirror the language of the statutory requirement as closely as possible, but avoid telling a regulated party precisely how to comply.

If the regulated party follows advice provided, EECA should not take a subsequent enforcement option arising from the conduct to which the advice relates.

## 10.5. Statutory tool – Prosecution

### *Decisions to prosecute*

Any decision to prosecute must be made in accordance with the *Solicitor-General's Prosecution Guidelines*.<sup>5</sup>

Prosecution should be considered if:

- there is significant or widespread detriment to consumers; or
- there is detriment to a vulnerable section of the community; or
- the conduct is deliberate, reckless or very careless; or
- the conduct is repeated, ongoing or widespread; or
- there is a serious departure from legislated standards.

Prosecution is appropriate to send a message that compliance with the law is required and to maintain public confidence in energy efficiency and labelling of products, systems and

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<sup>5</sup> The *Solicitor-General's Prosecution Guidelines* are currently effective as at 1 January 2025.

services. However, this should be balanced with a consideration of whether the non-compliant party is a natural person or a body corporate. Lower monetary penalties are more likely in the case of a natural person.

### ***Test for prosecution***

A prosecution cannot proceed unless the following tests are met:

- the *evidential test* (there must be enough evidence to prove each charge beyond reasonable doubt); and
- the *public interest test* (it must be in the public interest for a prosecution to be brought).

A lawyer must advise on whether these tests are satisfied. This legal advice may be internal or external. It is confidential and privileged to EECA and any correspondence including or referring to it shall be marked 'privileged and confidential'. It may not be shared with the regulated party, persons representing them or the public.

The advising lawyer should be provided with all facts probative and prejudicial to the alleged breach, including material relevant to defences and the 12-month limitation period for bringing proceedings. Information should be provided about the chain of custody of any exhibits (physical evidence) under EECA's control.

After consulting with the relevant compliance officers, the advising lawyer should make a written recommendation to the Chief Executive on whether to prosecute.

### ***Decision to prosecute: Chief Executive***

If the evidential and public interest tests are met, the Chief Executive is to be provided with all relevant legal advice, a summary of all probative and prejudicial facts, material specifically addressing whether prosecution is cost-effective and in the public interest and a recommendation on whether to prosecute. The decision to prosecute will be made by the Chief Executive.

The Chief Executive should be asked to:

- a. **note** the legal advice that the evidential test is met; and
- b. **note** the legal advice that the public interest test is met; and
- c. **agree** to proceed with prosecution (yes/no); and
- d. set out the reasons for their decision in writing.

A prosecution must be brought by a criminal lawyer instructed to act in accordance with the Solicitor-General's Prosecution Guidelines. EECA will comply with any disclosure requirements of the Criminal Disclosure Act 2008, including as advised by the prosecuting lawyer. Ensuring compliance with these requirements is the responsibility of the Group Manager, Policy and Regulation.

The EECA Board is to be notified prior to the lawyer progressing with the prosecution (sending materials etc).

### ***Reconsideration of a prosecution decision***

If, after a decision is made by the Chief Executive not to proceed with a prosecution, new or further evidence comes to light:

- a. the new material will be considered by a lawyer, whether internally or externally; and
- b. a written report will be drafted by the lawyer addressing the new material, the tests for prosecution and how the new material affects the initial advice and recommendation on whether to prosecute; and
- c. the Chief Executive will:
  - i. consider the report; and
  - ii. **note** the report's recommendation; and
  - iii. **agree** to proceed with prosecution (yes/no); and
  - iv. set out the reasons for their decision in writing.

If a request is made to reconsider a prosecution decision, the request will be considered by EECA's Chief Executive. The Chief Executive will:

- a. **appoint** one or more persons whom the Chief Executive considers has the requisite knowledge, skills and experience to:
  - i. **consider** the material before the initial decision-maker (EECA's Chief Executive); and
  - ii. **consider** the written reasons for the initial decision; and
  - iii. seek further advice, if the person or persons consider it necessary to do so; and
  - iv. **recommend** whether to proceed with the prosecution (yes/no); and
  - v. set out the reasons for their decision in writing.
- b. **decide** whether to proceed with the prosecution (yes/no); and
- c. **set out** the reasons for the Chief Executive's decision in writing.

### ***Complaint about a prosecution***

If a complaint is made in relation to a prosecution:

- a. the complaint will be considered by a lawyer, whether internally or externally; and
- b. a written response to the complaint will be drafted by the lawyer addressing the matters the subject of the complaint; and
- c. a written response to the complaint will be provided to the complainant from the Group Manager, Policy and Regulation.

### ***Appeals: EECA appeal***

If a prosecution is unsuccessful or the level of penalty is considered manifestly inadequate, EECA may seek legal advice, whether internally or externally, on the prospect of an appeal.

However, it is noted that:

- a. the Solicitor-General's consent is required for an appeal against sentence; and

- b. given the low level of penalty available, it is unlikely that any appeal would be viable or satisfy the public interest test.

### ***Appeals: defendant appeal***

If the defendant appeals a successful prosecution, EECA will deal with the matters the subject of the appeal and instruct Crown Solicitor accordingly and within the relevant statutory timeframes.

## **11. Information management policies relevant to all practice areas**

### **11.1.Storage**

EECA will store all compliance monitoring and enforcement information in accordance with the law and EECA's records management policies, including policies on protection of personal information.

### **11.2.Information received – third party allegations**

#### ***Status***

EECA will store third party allegations about alleged breaches of regulations.

#### ***Use***

EECA may investigate third party allegations if they are sufficient to form a reasonable suspicion of non-compliance.

### **11.3.Information disclosure**

#### ***Proactive***

Unless there is a compelling reason not to do so and subject to privacy issues, EECA will publicly disclose the following on its website:

<b>Information</b>	<b>Detail to include</b>
<b>Warning letter</b>	Full copy of letter or That EECA has issued a warning letter to the recipient, including its date, items connected to non-compliance, regulatory requirement EECA believes has been breached.
<b>Issue of charging document (prosecution)</b>	Verifiable facts about a prosecution, observing any restrictions relating to identifying details and suppressed information.
<b>Defendant's plea</b>	Verifiable facts about the defendant's plea, observing any restrictions relating to identifying details and suppressed information.

<b>Sentence following conviction</b>	Same as information under Defendant's plea. Court decision and EECA comment on gravity and effect of offending.
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If the regulated party is a business, EECA will remove any personal information from correspondence, such as names, email addresses or telephone numbers relating to an employee who is handling the matter on the business's behalf.

***Reactive***

If requested to do so, EECA will publish information about its compliance monitoring and enforcement programme in accordance with the law. If EECA is not bound to disclose the information, because, for example, the request is not a request to which the Official Information Act 1982 applies, EECA will respond to it in accordance with the Principles.