

# Council's Compliance and Enforcement Policy Update

11 April 2024

# Purpose

- Provide an update on the Council's revised Compliance and Enforcement Policy.
- This is an operational policy that outlines how we undertake our compliance, monitoring and enforcement function in Kāpiti
  - how we will use the powers delegated through legislation.

# Update in brief

- Council's Compliance and Enforcement Policy 2018 was scheduled for review in 2023.
- A review was undertaken in 2023 – making changes to better reflect iwi partnership and best practice.
- The revised policy was considered by Council's Senior Leadership Team in November 2023.

# Key changes – Principles

- Transparency
- Consistency of process
- Fairness and proportionality
- Based in evidence, led by intelligence
- Collaborative approach/partnership
- Legal, accountable and ethical
- Outcomes focussed
- Responsive and effective

# Key changes – 2018 model

## Attitude of person

We believe you do not want to comply

We believe you do not want to comply but will if you think there is a risk you will be caught

We believe you want to comply but are not always successful

We believe you are willing to comply

## Approach to compliance

We will use the full force of the law

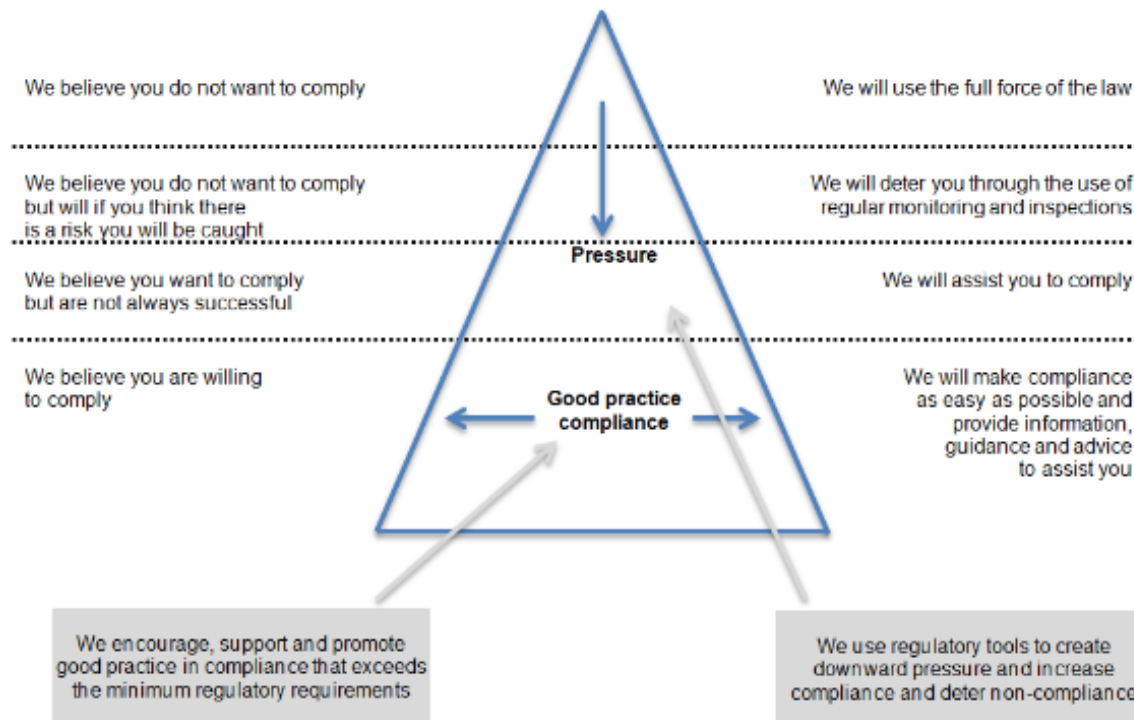
We will deter you through the use of regular monitoring and inspections

We will assist you to comply

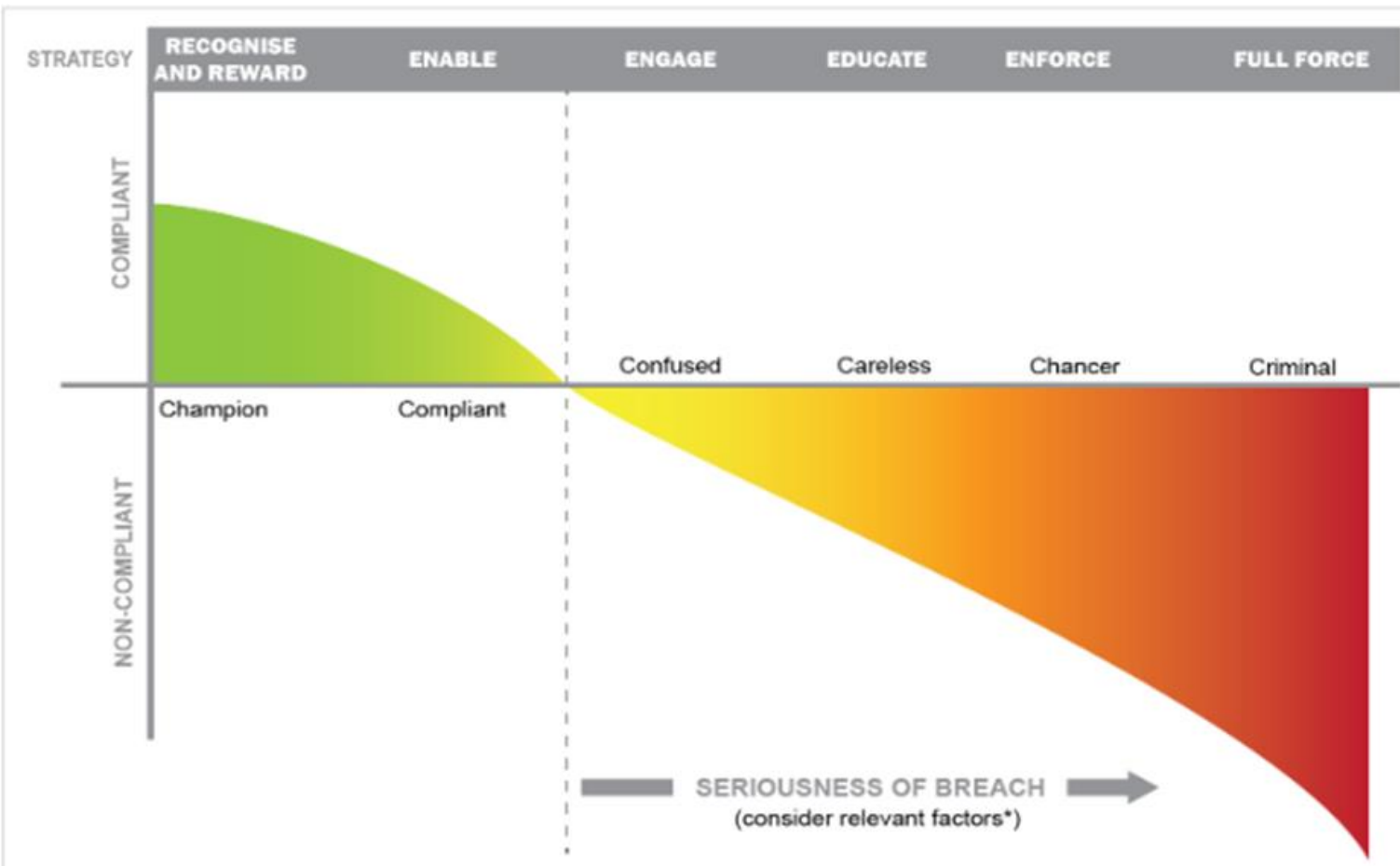
We will make compliance as easy as possible and provide information, guidance and advice to assist you

We encourage, support and promote good practice in compliance that exceeds the minimum regulatory requirements

We use regulatory tools to create downward pressure and increase compliance and deter non-compliance



# Key changes – revised model



Relevant factors:

- The extent of any breach
- Enforceability of the regulation
- Statutory defence
- Case law
- Behaviour/attitude
- Harm caused
- Public Interest
- Purpose of legislation
- Previous compliance history
- Statutory limitation period
- Repetitiveness of breach
- Cultural practice
- Standard of proof
- Solicitor-General Prosecution Guidelines
- Speed of action required.

# Improving our understanding of harm

- The 2018 compliance and enforcement policy strongly focused on the breach of rules and not necessarily the impact or harm.
- Broadening our understanding of 'harm' to include the cultural and spiritual relationship of the tāngata whenua with the natural world.

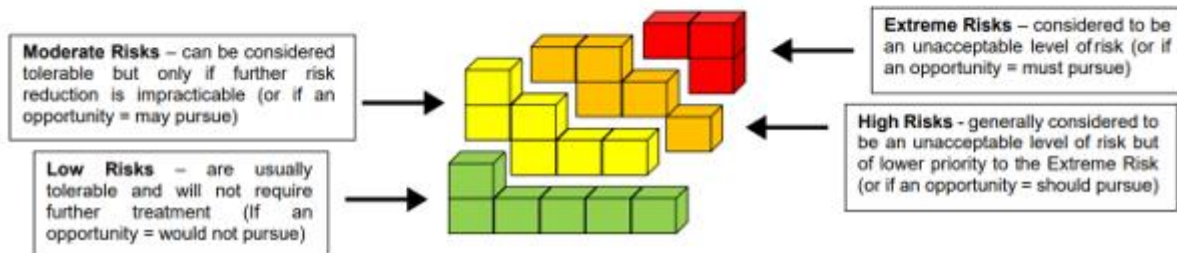
# Risk of harm assessment

Prioritise the best use of our resources according to the risk of harm

Likelihood of harm occurring

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		Likelihood of harm occurring				
		Rare 1	Unlikely 2	Possible 3	Likely 4	Almost Certain 5
Degree of harm	Catastrophic 100	Moderate 100	High 200	High 300	Extreme 400	Extreme 500
	Major 70	Moderate 70	Moderate 140	High 210	High 280	Extreme 350
	Moderate 40	Low 40	Moderate 80	Moderate 120	Moderate 160	High 200
	Minor 10	Low 10	Low 20	Low 30	Low 40	Low 50


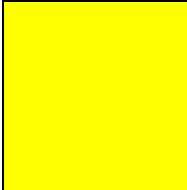






# Opportunities to strengthen decision-making

- Partnering on decision-making on enforcement issues – require legal and iwi partners to be involved in decisions around any prosecutions.
- Seek advice from tāngata whenua on possible reparation options where significant harm has occurred.

# Improve monitoring and reporting on compliance

	<b>Regulatory compliance grade</b>
	FULL COMPLIANCE: with all relevant conditions of consent, licence or registration, all rules, regulations, and bylaws.
	LOW RISK NON-COMPLIANCE: compliance with most consent conditions, licence, or registration and/or rules, regulations and bylaws. Non-compliance carries a low risk of harm or is technical in nature (for example, failure to submit a monitoring report).
	MODERATE NON-COMPLIANCE: Non-compliance with some consent conditions, licence, or registration, and/or rules, regulations and bylaws – where there is some consequential harm and/or there are some risks of negative effects.
	SIGNIFICANT NON-COMPLIANCE: Non-compliance with many consent conditions, licence, or registration, and/or rules, regulations and bylaws – where there is a high level of consequential harm and/or a high risk of negative effects.

# Next steps

- The final policy will be ‘owned’ by the Council’s Senior Leadership team.
- Implementation will sit with the Regulatory & Environment Group

# Questions & Comments