MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

REGULATORY STEWARDSHIP

What regulatory system governance is and why it's important: guidance in a nutshell

New Zealand Government

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1. WHAT IS REGULATORY SYSTEM GOVERNANCE?

Regulatory system governance is the setting of the objectives of that regulatory system and ensuring that actions are taken to deliver on those objectives, consistent with good public sector management practice.

Component	Description	Key functions
Specify outcomes	Ensure system outcomes are comprehensive, aligned with government priorities and clear to stakeholders	Specify intended outcomes and other expectations of performance such as efficiency, resilience and trust and confidence
Strategy and delivery	Make sure the arrangements to deliver the system outcomes are clear and in place	Set high level system design and strategy Ensure sustainable funding Ensure capability
Performance and risk management	Manage system performance and risks, and ensure that underperformance is addressed	Monitor performance Manage risk and assurance, including setting risk appetite
Manage critical issues	Ensure critical issues are effectively responded to *This is not usually included within definitions of governance, but in practice those responsible for system governance often get involved in critical issues*	Critical issue management

2. FOUR KEY ENABLERS OF REGULATORY SYSTEM GOVERNANCE

Effective regulatory system governance requires the following enablers below. These are intended to supplement statutory and other institutional governance arrangements.

Enabler	Explanation	Why this is needed	Potential solutions
Structures within agencies	Having the structures within agencies so that appropriate attention is given to regulatory system governance.	For departments, the distinction between governance and management can get blurred. For departments and crown entities, a range of other (non-regulatory) functions can gain priority. Within departments, responsibility can be fragmented.	*For MBIE*: Creating oversight bodies with senior representatives from groups/branches involved. *For Crown Entities*: Creating a regulatory sub-committee of the board.
Mechanisms to coordinate across agencies	Establishing mechanisms to coordinate across organisations that have a role in a regulatory system.	To address issues raised by vertical accountabilities: avoid gaps, develop a shared view of strategic priorities, enable collaboration and alignment to support outcomes.	Overarching coordinating body (e.g. Council of Financial Regulators)
Governance agendas	Giving these structures the right agenda so that due attention is given to governance as opposed to management functions.	Systems are typically established by multiple pieces of legislation so the overall system purpose is not articulated. Crown entities have limited scope to set higher level outcomes. Monitoring regulatory system performance is hard. Other priorities crowd these out.	Governance agendas that give due regard to governance functions.
A systems perspective in decision making	Within agencies, making sure that governance decisions are aligned with those of other agencies in the system. Having regard to other factors (agencies/systems/approaches) that have an impact on system outcomes.	It is easy to focus on agency priorities. Regulatory systems don't work in isolation.	A range of tools can help improve alignment between agencies in a system, but awareness and information exchange are key. Due regard to contextual factors and a structured approach to engagement with relevant parties.

3. REGULATORY SYSTEM GOVERNANCE FUNCTIONS

These functions should be covered by governance agendas:

Governance Functions	**Specify system outcomes**	**Set system design and strategy**	**Ensure sustainable funding**	**Ensure capability**	**Monitor system performance**	**Manage system risk & assurance**	**Manage critical issues**
Success	System outcomes are aligned with government priorities and are clear to stakeholders	Arrangements required to deliver the system outcomes are clear and in place			System performance and risks are managed		Critical issues are effectively responded to
Scope	Overall outcomes of the regulatory system Intermediate and institutional outcomes Service expectations and standards Resilience expectations Compliance with high level regulatory principles Trust and confidence expectations	Prescription of regulatory rights and responsibilities Institutional arrangements Checks and balances Allocation of agency roles & responsibilities	Funding mechanisms Key rates and parameters Budgets	Across range of regulatory functions Plus capability dimensions of partnerships, business processes, workforce, culture, physical assets, organisational structure, data & intelligence	All dimensions of performance Addressing under-performance	Risk appetite Risk management arrangements Strategic risks Assurance arrangements Follow up of issues raised	Understanding causes Transparency, accountability Follow up actions including remediation, prevention

Characteristics of Good Governance

- ✓ Provide for stewardship and take a long term view
- ✓ Identify and resolve trade-offs at the right level
- ✓ Meet Māori-Crown partnership obligations
- ✓ Engage with related regulatory systems
- ✓ Address changes to the context
- ✓ Understand range of stakeholder perspectives
- ✓ Take a system view
- ✓ Ensure accountability
- ✓ Undertake self-assessment

In many systems, governance functions are distributed over multiple agencies. The governance body of/within each agency should have regard to each of these functions, but what this means in practice varies according to the agency. The attention given to the different functions is likely to be uneven – both between functions and over time. The characteristics of good governance should be taken into account across the range of functions.