

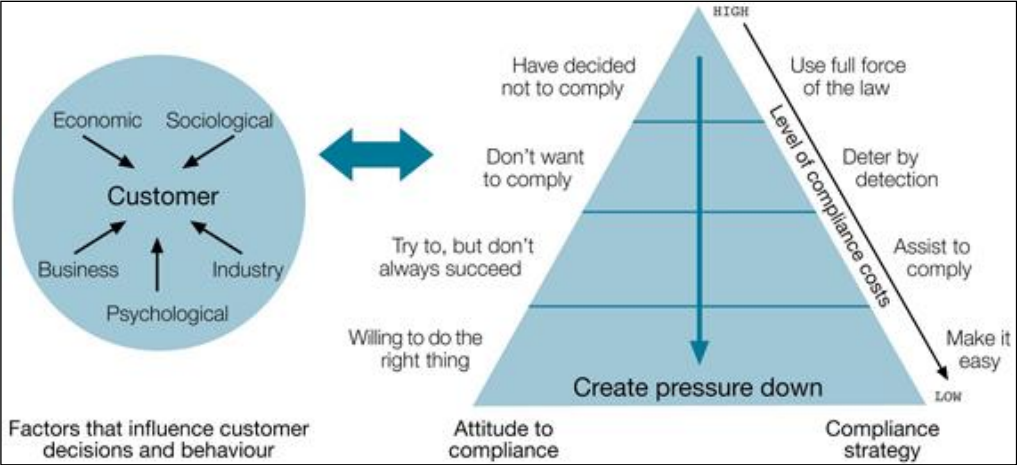
# Compliance and enforcement

**Note** This policy was developed as part of the implementation of the Fire and Emergency New Zealand Act 2017.

## Introduction

<p><b>When to use</b></p>	<p>This policy sets out how Fire and Emergency New Zealand will monitor and take action to identify and influence landowners, occupiers and others who do not comply with requirements of the Fire and Emergency New Zealand Act 2017 (the Act) and other relevant legislation.</p> <p>Fire and Emergency New Zealand personnel will apply this policy when non-compliance is detected and deciding what actions to take in response.</p>
<p><b>Purpose</b></p>	<p>The aim of this policy is to provide a clear, consistent framework to guide compliance and enforcement decision-making.</p>
<p><b>Objectives</b></p>	<p>The objectives of Fire and Emergency New Zealand’s compliance and enforcement activities are to:</p> <ul style="list-style-type: none"> <li>• reduce harm from unwanted fire</li> <li>• reduce harm from the unsafe use of fire as a land management tool</li> <li>• support the safe use of fire as a land management tool</li> <li>• minimise avoidance of the Fire Emergency Levy</li> <li>• reduce non-compliance with any legislation or regulations under which Fire and Emergency New Zealand has a compliance function.</li> </ul>
<p><b>Who it applies to</b></p>	<p>This policy applies to all Fire and Emergency New Zealand personnel who are responsible for identifying non-compliance and deciding on the most appropriate action.</p>
<p><b>Contents</b></p>	<p>This policy contains the following content:</p> <ul style="list-style-type: none"> <li>• <a href="#">Compliance and enforcement approach</a></li> <li>• <a href="#">Definitions</a></li> <li>• <a href="#">Related information</a></li> </ul>

## Compliance and enforcement approach

<p><b>Common compliance model</b></p>	<p>Fire and Emergency New Zealand will adopt and use the common compliance model framework developed and used by New Zealand Government agencies and regulators. The key components of the compliance model, shown below, are that:</p> <ul style="list-style-type: none"> <li>• compliance and enforcement agencies must understand the factors that influence non-compliance</li> <li>• most people are willing to comply if they are aware of their obligations and it is not difficult to comply</li> <li>• the cost of compliance interventions at the bottom of the pyramid (e.g. education) is much lower than at the top of the pyramid (e.g. prosecutions)</li> <li>• the overall approach is to create pressure to encourage people towards compliant behaviour.</li> </ul> 
<p><b>Make it easy</b></p>	<p>Fire and Emergency New Zealand will primarily seek to improve compliance through:</p> <ul style="list-style-type: none"> <li>• making useful information readily available</li> <li>• education and promotion to increase awareness of compliance obligations</li> <li>• making administrative processes easy to use.</li> </ul>
<p><b>Assist to comply</b></p>	<p>Fire and Emergency New Zealand will make a proportionate response when it identifies non-compliance. The initial response will be further education when:</p> <ul style="list-style-type: none"> <li>• non-compliance is the result of a genuine lack of awareness of the obligation, and</li> <li>• there is not a pattern of non-compliance.</li> </ul>

<p><b>Deter by detection</b></p>	<p>Fire and Emergency New Zealand will:</p> <ul style="list-style-type: none"> <li>• complete an initial assessment of origin and cause at fires it attends. Where non-compliant, specialist investigators (from Fire and Emergency New Zealand or other agencies) are brought in</li> <li>• maintain specialist capability to investigate any subject for which it has a compliance function</li> <li>• apply penalties and interest to levy non-compliance</li> <li>• use infringement notices as a deterrent to repeated non-compliance, once infringement offence regulations are in place (expected to be 1 July 2018).</li> </ul>
<p><b>Use full force of the law</b></p>	<p>In general, prosecution will be used as a last resort when education and other avenues to help a person or organisation to meet compliance requirements have failed. Prosecution may be the first action taken where:</p> <ul style="list-style-type: none"> <li>• the risks caused by non-compliance are significant,</li> <li>• prosecution is in the public interest, and</li> <li>• the actions and attitude of the non-compliant person or organisation are such that education is unlikely to be effective.</li> </ul> <p>Prosecution decisions will be made in accordance with the <a href="#">Prosecution</a> policy.</p>
<p><b>Prosecution offences</b></p>	<p>The following prosecution offences come into effect from 1 July 2017, to knowingly and recklessly:</p> <ul style="list-style-type: none"> <li>• cause or allow a fire to get out of control and to spread to vegetation</li> <li>• carry out a prohibited activity</li> <li>• carry out a restricted activity</li> <li>• light or allow another person to light an open fire in an area that is in a prohibited fire season without a permit</li> <li>• light or allow another person to light an open fire in an area that is in a restricted fire season without a permit</li> <li>• cause or permit any fire to spread to any vegetation, or leave a fire without taking precautions against the spread of the fire</li> <li>• leaving a substance burning or smouldering in the open air unsupervised.</li> </ul> <p><b>Note:</b> The scope of Fire and Emergency New Zealand’s prosecutions are fairly narrow as other agencies have compliance and enforcement responsibilities. For example the Police would take any prosecution for a criminal matter (e.g. arson) and WorkSafe would take any prosecution for harm in a workplace.</p>
<p><b>Levy provisions</b></p>	<p>The Act provides for a number of levy provisions under the Fire Service Act 1975 and the Fire Service Regulations 2003 to continue in force for a transitional period from 1 July 2017 until the commencement of Part 3 of the Act (see clause 26 Schedule 1 of the Act).</p>

## Definitions

<b>Landowner</b>	A person who owns land.
<b>Occupier</b>	A person or company residing in or using a property as its owner or tenant,
<b>Non-compliance</b>	Failure to act in accordance with requirements set in legislation or regulations.
<b>Enforcement</b>	The act of compelling observance of or compliance with a law, rule, or obligation.
<b>Prosecution</b>	The act or process of holding a trial against a person who is accused of a crime to see if that person is guilty.  A prosecution is started by filing charging documents in a court.
<b>Infringement offence</b>	Instant fines for offences described in Fire and Emergency New Zealand Act 2017 regulations following the process set out in <a href="#">section 21</a> of the Summary Proceedings Act 1957.
<b>Infringement notice</b>	A notice issued under the Fire and Emergency New Zealand Act 2017 providing for the use of the infringement notice procedure under <a href="#">section 21</a> of the Summary Proceedings Act 1957.

## Related information

<b>Policies</b>	Related policies: <ul style="list-style-type: none"> <li>• <a href="#">Prosecution</a></li> </ul>
<b>Standards</b>	The following standards apply to this policy: <ul style="list-style-type: none"> <li>• <a href="#">New Zealand Government Common Compliance Model</a></li> <li>• <a href="#">Solicitor-General's Prosecution Guidelines</a></li> </ul>

<b>Legislation</b>	<p>Fire and Emergency New Zealand has compliance and enforcement functions under the following legislation and regulations:</p> <ul style="list-style-type: none"> <li>• <a href="#">Fire and Emergency New Zealand Act 2017</a></li> <li>• <a href="#">Fire Service Act 1975</a></li> <li>• <a href="#">Fire Safety and Evacuation of Buildings Regulations 2006</a></li> <li>• <a href="#">Fire Permit Regulations 2017 (name TBC)</a></li> <li>• <a href="#">Levy regs (name TBC)</a></li> <li>• <a href="#">Building Act 2004</a></li> <li>• <a href="#">Local Government Act 2002</a></li> <li>• <a href="#">Local Government Act 1974</a></li> <li>• <a href="#">Hazardous Substances and New Organisms Act 1996</a></li> <li>• <a href="#">Radiation Safety Act 2016</a></li> <li>• <a href="#">Sale and Supply of Alcohol Act 2012</a></li> </ul> <p>Prosecutions must comply with the:</p> <ul style="list-style-type: none"> <li>• <a href="#">Summary Proceedings Act 1957</a></li> </ul>
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**Document information**

<b>Owner</b>	DCE Service Delivery and DCE Finance and Business Operations
<b>Last reviewed</b>	1 July 2017
<b>Review period</b>	Yearly

**Record of amendment**

<b>Date</b>	01 July 2017 – First version published
1 July 2017	This policy was developed as part of the implementation of the Fire and Emergency New Zealand Act 2017.
1 July 2019	Updated Org LT and content owner job titles.