

Permit compliance framework

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Te Kāwanatanga o Aotearoa
New Zealand Government

WORKSAFE
Mahi Haumaru Aotearoa



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What we do

We are responsible for overseeing the rules and regulations that require permission to undertake certain high-risk work. Some activities, equipment and places are deemed high risk as they have the potential to cause significant or catastrophic harm. Our permit function makes permission decisions and provides support to permitted businesses and individuals ('duty holders') to meet safety requirements.

Our permit function includes:

- authorising businesses and individuals to perform certain high-risk work
- exempting duty holders from certain legal requirements
- recognising third parties to perform certain powers and functions
- monitoring duty holders and third parties, and
- developing and maintaining detailed technical requirements that specify how to carry out high-risk work.

We control entry into high-risk work by authorising businesses and people. We do this by assessing whether applicants meet certain requirements and can be granted an authorisation. Once they have their authorisation, we expect them to maintain these requirements.

We expect duty holders to keep meeting these requirements but we recognise that occasionally this is not possible, reasonable or practicable. In some circumstances we grant an exemption to certain legal requirements for a period of time.

Third parties play an essential role in our permit function, and the regimes it covers. A third party is a person or business separate to WorkSafe that performs certain powers or functions on our behalf.

We monitor the performance of duty holders and third parties. We respond to issues of non-compliance using a range of tools. In some cases, we may cancel a permission to support safety.

Scope and purpose

This framework covers all of WorkSafe's permit regimes and includes our authorisations, exemptions, third parties and monitoring functions.¹

It sets our kaupapa (approach) to regulating our permit regimes. It draws together our strategy, key policy principles, our values and a Te Ao Māori approach to show what they mean for our permit function.

This framework will be used by WorkSafe kaimahi as a foundation for process and practice, and by our stakeholders to understand our approach.

This framework will be applied in a considered way and is not a 'tick box' approach to decision-making. It cannot capture all intricacies of the different regimes and factual situations but is supported by operational policy, guidance and practice documents.

¹ Developing and maintaining standards is not included in the scope of this framework

Permissions

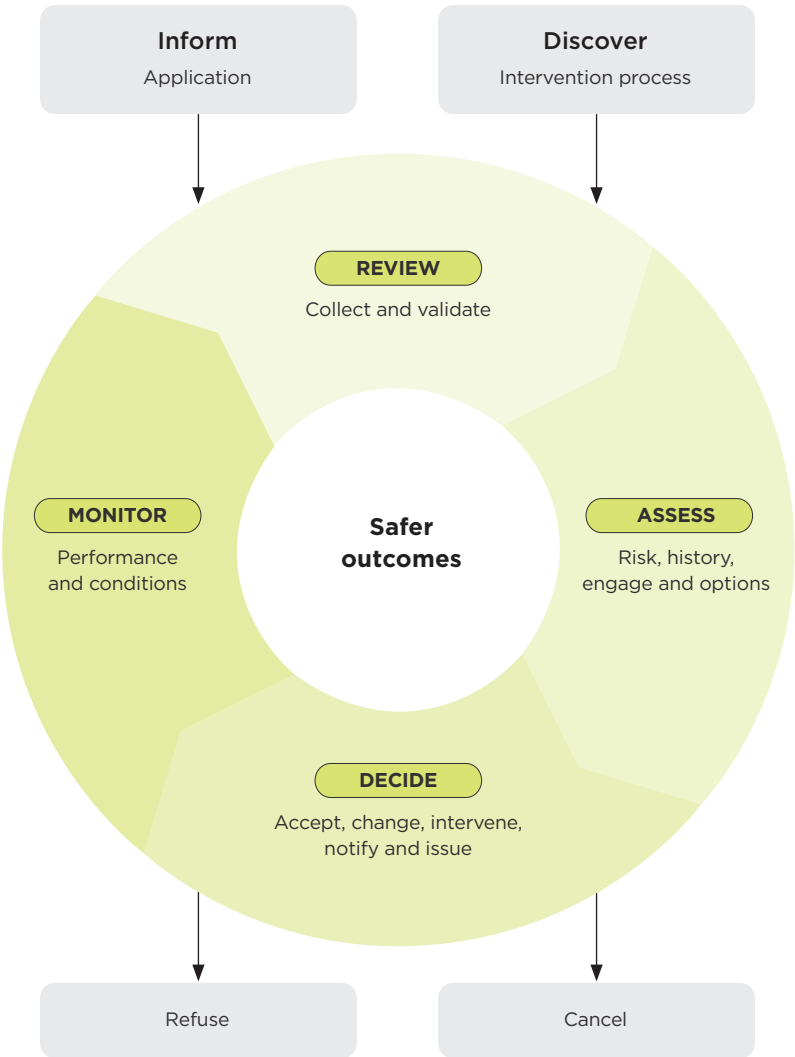
There are three main components of the work we undertake:

- the **application** process allows us to accept or refuse, and in some cases place conditions on the authorisation or exemption
- we **monitor** duty holders and third party performance against statutory expectations, our expectations and any conditions we have imposed on them. We then make decisions based on the information we receive from monitoring
- we may **intervene** when we find or receive information that indicates non-compliance or safety issues.

Throughout the delivery of these three components, we overlay a Te Ao Māori approach by applying:

- **kawa** - represents our over-arching strategy and how it applies to our permit function
- **tikanga** - how we will deliver our responsibilities
- **kaupapa** - where we focus our efforts and the way we operate
- **mātauranga** -how we monitor parties and our progress and performance.

The diagram below shows how the three main components of our work (applying, monitoring and intervening) come together through process to create the permission system.



Applications

We are responsible for processing applications that come to us. People can apply for a new authorisation, to renew or vary an existing authorisation, or for an exemption.

The diagram below outlines our tikanga and the main steps we take in each part of the permissions system when we are managing applications.

INFORM

We provide public facing information that provides information on what, how, when and why a permission is needed.

We provide information on certain regime requirements and our expectations.

We update our information when there are new or changing requirements.

REVIEW

When an application comes to us we:

- confirm the permission is required
- evaluate if the application is complete, and if not, we request the missing information, and
- review whether there are conflicts of interest and if there are, we declare and manage the conflict.

After the application is complete we:

- evaluate whether there is sufficient information to make a decision, if not, we request further information
 - check if the information is reliable and we verify as necessary, and
- check any information we have available about the applicant that may inform our view on the application.

ASSESS

Assessments are made objectively and on the facts.

When required we seek specialist input on technical, legal and policy matters (whakakotahi).

We may seek any relevant clarifying information from the applicant.

We use only relevant information.

We communicate proposals for decisions and provide an opportunity to be heard as required (korero mai).

We take account of submissions and relevant additional information in the final decision.

DECIDE

The decision is made by a delegation holder. High regulatory risk, and complex decisions are escalated or managed as appropriate.

Our decisions are recorded in an accessible, clear and consistent manner.

We notify applicants of the decisions we make and the reasons why (tiakina mai). We notify them in a timely way and provide their permission documentation.

Monitoring

We monitor the performance of duty holders and third parties against their regulatory obligations (mātauranga). We do this to:

- maintain the integrity of our regimes and address any non-compliance
- identify new and emerging risks that we may need to respond to, and
- identify if the performance of our third parties requires improvement.

We also aim to identify and monitor those that should, but do not have, the correct permission to undertake their work.

We prioritise monitoring activities based on risk. Activities and permissions that have the highest health and safety risk will receive a greater level of monitoring so we can ensure our resources are being used where they can be most effective.

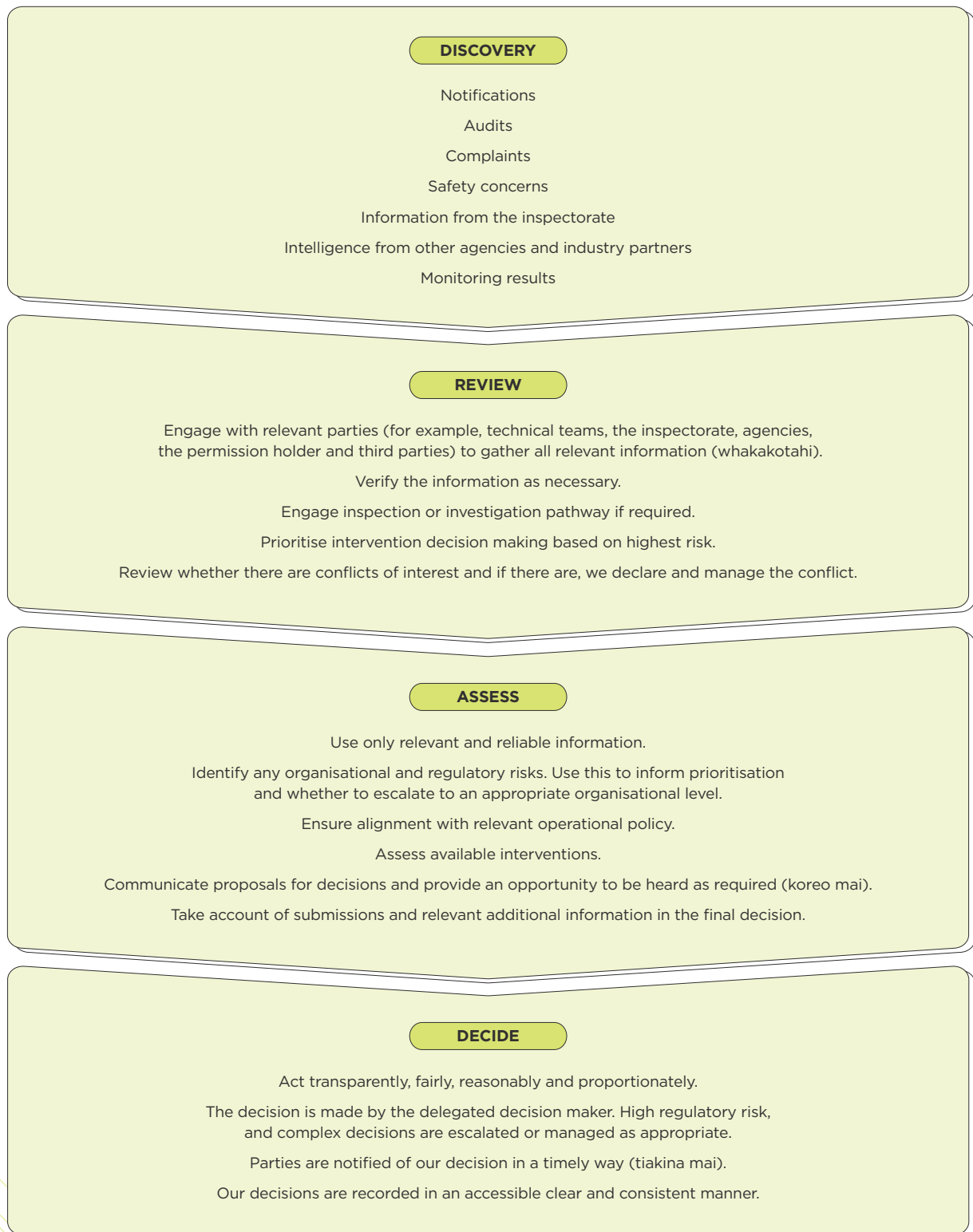
We engage with parties to discuss what we find. We use the outcomes of these monitoring activities to strengthen the system. For example, they can inform intervention activity, or they may lead to changes to our internal decision-making process and the publication of further information.

Intervention decisions

We need to make sure that permission holders comply with the terms of that permission. Most do a good job of this, however, sometimes we have information that there is non-compliance or unsafe practice. When this happens, we may choose to intervene.

Our kaupapa for interventions include being insights led and using all our sources of information to support our decisions. This information can come to us in various ways. For the framework we have called this part 'discovery'.

The diagram below outlines our tikanga and the main steps we take in intervention decision making when we receive information about non-compliance or unsafe practice.



Intervention options

In the 'assess' phase, we decide what our options are within our legal parameters. We look at whether the regulations state what we **must** do in response to the situation, or whether we have discretion to decide how we will respond. When we have discretion we have a range of tools available. Our response can be an intervention via:

- the Health and Safety at Work Act 2015 (HSWA)
- relevant legislation such as the Electricity Act 1992 or Gas Act 1992, or
- relevant Regulations.

We may also choose an informal response, or we may choose not to intervene at all.

We choose the best intervention, or interventions, to improve work health and safety. Depending on the situation, this may be a provision from HSWA, or from other relevant legislation or regulations.

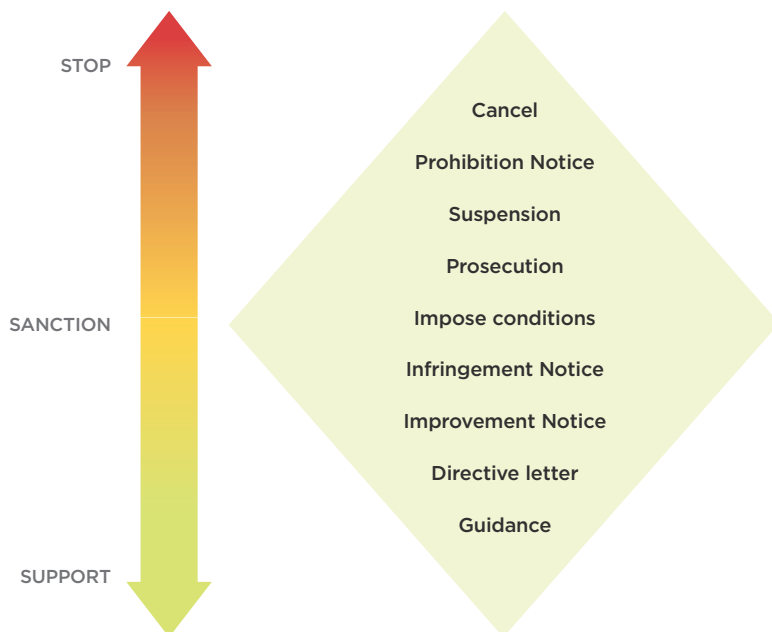
We base our intervention decisions on what we know at the time and our expertise and experience. The tool we use to make these choices is our Enforcement Decision-making Model.

Taking this approach to interventions ensures we make a proportionate, fair and defensible decision and make the best use of our finite resources.

Our legislation provides us with a range of interventions. These include:

- providing **support** to encourage and assist compliance
- imposing a **sanction** (a direction, condition or restriction)
- **stopping** the permission holder from being able to continue in their work by cancelling or suspending their authorisation.

The figure below shows some of the interventions that we consider.



In some cases, more than one intervention may be appropriate. We do not use an escalation approach because we are responsive and risk based. We use the most appropriate intervention, or set of interventions, for the circumstances.

Our performance

We monitor our performance against statutory obligations and our own targets. We will measure whether our actions are being effective, and whether we are getting the desired outcomes. We use the results to understand whether we need to change our approach to meet performance expectations. This forms the basis for continuous improvement.

We will report on our performance to hold ourselves accountable for our decisions and for transparency.

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