

Regulatory Professional Capability Guidance

Professional Standards Capability Program



Your public sector,
your profession.



IPAA REGULATORY PROFESSIONAL CAPABILITY GUIDANCE

USE OF THE IPAA REGULATORY PROFESSIONAL GUIDANCE

The Institute of Public Administration Australia (IPAA) has defined this standard to assist in developing the professional capability required by individuals for delivering effective and efficient regulatory outcomes. The Guidance will:

- support the review of regulatory capability at the individual, team and organisational level
- support the recruitment of appropriately skilled and experienced people to regulatory professional roles
- provide a framework to assess the regulatory related training needs of individuals and organisations
- support career and succession planning for regulatory professional roles
- provide a standard against which to manage the performance of regulatory professionals
- provide guidance to individuals on the capabilities that they need to attain, and then maintain, as a regulatory professional
- provide guidance to registered training organisations and universities of regulatory capabilities to address in their curricula
- provide an opportunity to promote the value of a professional approach to regulation to increase the potential of regulation to delivering policy goals, and
- recognise regulation as a skilled profession that requires an investment in continuous professional development

This Professional Capability Guidance sets out the capability (knowledge and skill) requirements for the regulatory professional role (or cluster of roles) which primarily have a strategic focus on regulatory planning and design, implementation planning and management oversight, and review and reform. While this Standard relates more directly to this regulatory professional role, there are many other professional roles within regulatory practice where officers apply their varying professional skills to the operational and other work of the regulator. These roles are described further on page 17 .

While this standard distinguishes a Regulatory Professional from a Policy Professional, it is acknowledged that these roles may cross over, particularly in smaller agencies. As such it is suggested that use is made of this guidance, together with the IPAA Policy Professional Capability standard,¹ as appropriate.

As for IPAA's other professional capability standards, this standard focuses on the required capabilities of individuals and is designed to complement procedural guidance and better practice guides on the "doing" of the professional tasks. Some of this guidance material is listed in the References section.

This standard aims to be practical in nature, inclusive and descriptive, rather than theoretical or prescriptive.

¹ V1 2014, available on the IPAA website.

DEFINITION OF REGULATION

Regulation is a key tool for achieving the social², economic, and environmental policy objectives of government³. Public sector regulation applies a set of instruments, tools and approaches to influence or compel individuals and organisations to behave in a specific way in order to deliver public value, reduce harm or make society more productive. Regulation often addresses circumstances where markets fail to produce efficient or equitable outcomes for the community.

The overarching regulatory framework encompasses the defining policies, institutional form, governance, systems, processes and tools that deliver the agreed instruments. Regulatory instruments include legislation, regulation, quasi-regulation, and co-regulation such as industry standards and codes of practice, industry/government agreements, accreditation schemes and international treaties to which Australia is a signatory. Policy makers may determine that a self-regulatory approach on the part of the sector or interests concerned with a particular activity can be used when the risks to society are low and there is a reasonable expectation by governments of a high level of compliance with this approach.

The desired outcome of regulation is that regulated individuals/ organisations comply with their duties/ obligations because they are made aware of what they are required to do, have access to relevant information and understand what they need to do to comply. Good regulatory professional practice requires accountability, transparency, effectiveness, equity, efficiency, proportionality, flexibility and consistency.

The process of regulation commences when government decides, having considered the full range of policy options, and the costs and benefits to business and the community, that the most appropriate response to a social, environmental or economic risk is a regulatory solution.

Regulation always has impacts and costs beyond the behavioural change required by the specific instruments selected. Regulation should be imposed only when it can be shown to offer a net benefit. The compliance burden on individuals and organisations needs to be weighed against the benefits of the regulation and the compliance burden must be the minimum necessary to deliver the objective of the regulation.

Regulation should be underpinned by risk management including risk analysis and communication of risk assessments and mitigations, which influences the processes used at all stages. A key challenge in regulation is in ensuring that all parts of the regulatory process are adding value to achievement of the policy goals, while not creating unintended impacts or imposing excessive costs on the community or markets. Regulation is often a cooperative effort between the regulator, the regulated, beneficiaries of regulation and the broader community. Increasingly, regulation is being considered as a resource that, like funds, needs to be carefully managed to achieve its objectives.

Examples of regulatory mechanisms include:

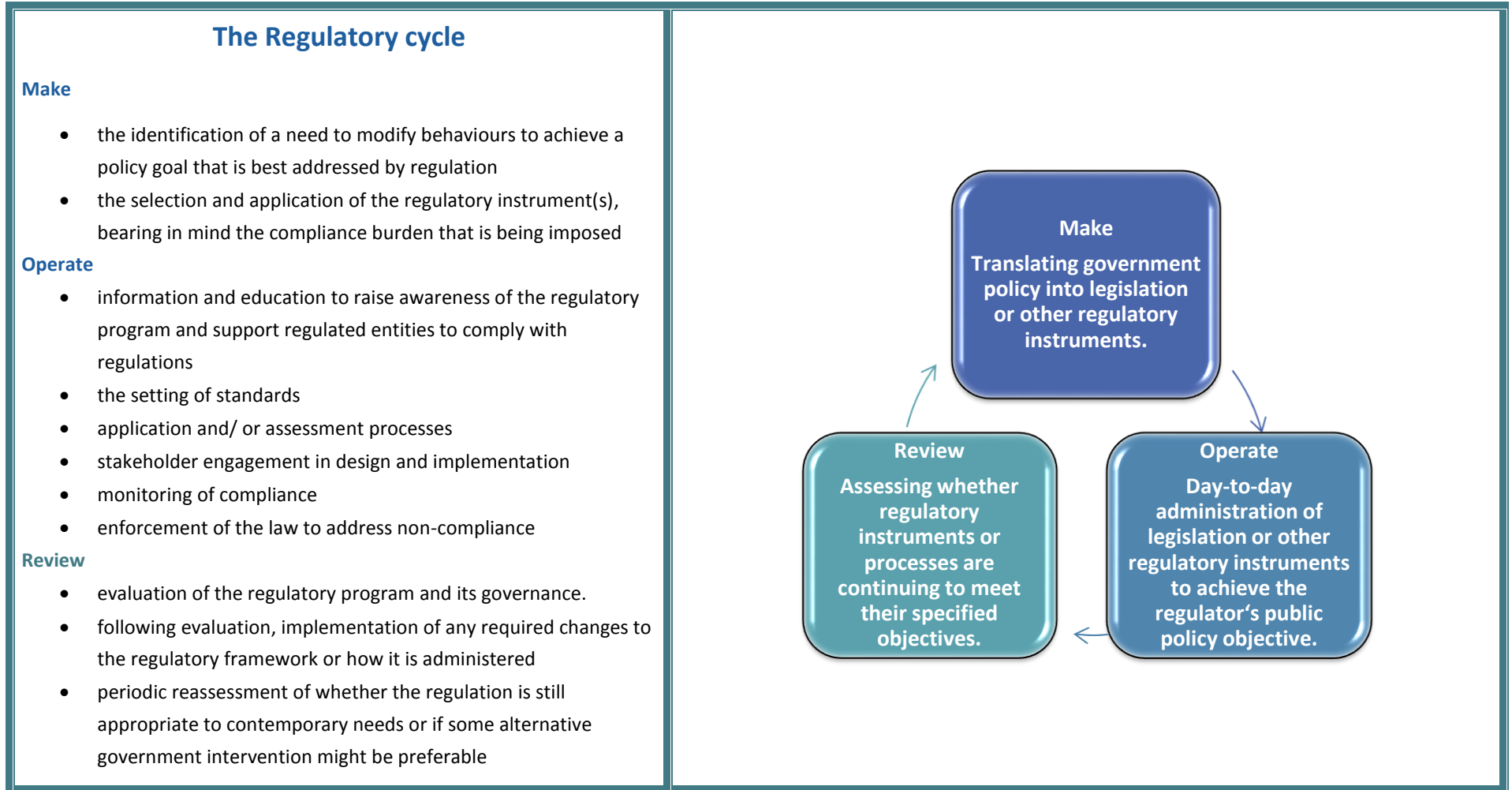
- allocation and protection of rights
- certification or licensing of a product, service, individual or organisation
- registration of things, activities, individuals or organisations, and

² Includes physical security

³ OECD definition – see Reference 15

- prescribing industry or environmental standards.

Regulatory programs differ in their complexity, and balance of actions within the program, but commonly follow a cycle as follows:



CONTEMPORARY REGULATORY PRACTICE CONTEXT

Contextual issues for the modern regulatory professional to monitor and consider include:

- the potential overlap of local, state, territory and commonwealth governments in regulating the same activity, individual or organisations. Understand that these roles and responsibilities will change over time, and so will their potential overlap and impacts,
- compatibility with competition, trade, and investment facilitation principles and policies at a domestic, supranational and international level
- government and the regulated community expect the cost of regulation, including the cumulative burden on regulated entities, to be taken into account in its design and its delivery, and are increasingly intolerant of regulatory burdens which are unnecessary or disproportionate to the policy problem or risks which the regulation seeks to address. However regulation needs to be balanced against community expectations that governments provide sufficient community protection.
- the complementary role that stakeholders and other relevant parties (such as representative bodies of regulated entities and of beneficiaries of regulation) can play in helping to achieve the desired regulatory objectives, and how the regulator is best placed to influence positive action by them,
- the degree of sophistication of the individuals or organisations that are regulated and their capacity to understand and comply with the regulatory regime,
- the risk appetite, priorities and approach of the government of the day, which may well differ from that when the regulation was first introduced,
- changing conditions in the relevant market, and trends within broader society such as demographic and environment changes – which may impact on whether the original policy intent is relevant and/ or the regulatory regime needs to be modified in some way,
- changing societal values, concerns and risk tolerance, including perceptions and attitudes of the community to the subject matter of the particular regulatory program,
- emerging issues, new case law and critical incidents – which can expose deficiencies in current regulation or identify new risks and harms,
- recognition that consistency need not be the same as uniformity, and that there are circumstances where regulation that is responsive and adaptive to different circumstances is more effective than a ‘one size fits all’ approach
- an increasing focus on governance arrangements to build trust in the regulator and ensure that requirements for accountability ,consistency, transparency, equity and disclosure are met,
- unprecedented pressure, often contradictory in nature; to be less intrusive – but be more effective; focus efforts- but be more consistent; process things more quickly- but be more careful next time; be more responsive to regulated entities – but not to get captured by them,
- demands that the regulatory response be proportional to the risk of non-compliance or regulatory failure and the consequences thereof, while recognising that some degree of risk will unavoidably remain (as the costs associated with eliminating all risk are, in most cases, prohibitive),
- an emerging requirement to audit and evaluate the compliance costs for business and other regulated entities, in addition to measuring administrative efficiency and regulatory effectiveness

- the capacity to secure sufficient resources to implement an effective regulatory regime and to create an appropriate identity for the regulator within the community, and
- the growth in social media, which presents both new opportunities and risks.

THE ROLE OF REGULATORY PROFESSIONALS WITHIN GOVERNMENT

Public sector regulatory professionals work within governance frameworks to develop and implement regulatory programs that seek to implement government policy objectives. The focus of their work includes strategic planning, development of frameworks and systems and program design and implementation. Depending on the size and scope of the regulator, there is likely to be a multiple number of regulatory professionals undertaking this work. Indeed, the number and complexity of processes required within a regulatory program means that a regulatory professional is more than likely to be working in a component part of the regulatory process rather than having a focus on the end to end process. Never the less, a regulatory professional must have a good appreciation of why and how their component part fits within the regulatory process, and retain a focus on how all of the component parts of the regulatory process contribute to the attainment of the policy goals.

Frequently regulatory professionals have entered the field of regulation with a diverse range of professional backgrounds including law enforcement, legal practice, economics or other technical disciplines. They may also have extensive practical experience in the field which is the subject of regulation.

A regulatory professional will:

- understand the broader policy frameworks within which regulation is made, delivered and reviewed, and be conscious of the compliance burden of regulation,
- build regulatory strategy and capability that capitalises on the full range of tools, methods and approaches available, and
- ensure that organisational external and internal governance arrangements and culture are fit for purpose and incorporate a balance of appropriate responses to promoting and enforcing compliance.

A regulatory professional may work on one or more of the following component parts:

- design or redesign of regulatory programs, often in conjunction with policy professionals,
- manage processes to set standards for regulated entities,
- oversee and implement regulatory processes such as intelligence gathering, risk assessment or stakeholder and consultation processes,
- design and implement information and education programs to facilitate compliance,
- design and implement compliance monitoring and enforcement strategies and operations, and
- review and performance audits of regulatory programs.

A regulatory professional plans, manages and provides advice on complex regulatory programs. A regulatory professional will often possess both subject matter expertise in the particular matters being regulated, as well as core regulatory capabilities.

A regulatory professional within government is expected to demonstrate and uphold the highest ethical standards of conduct and integrity. These include:

- acting with care and diligence and making decisions that are honest, fair, impartial, and timely, and consider all relevant information,
- treating people with respect, courtesy and sensitivity and recognising their interests, rights, safety and welfare, and
- acting responsibly and in an accountable manner to ensure the efficient, effective and appropriate use of human, natural, financial and physical resources, property and information.

These requirements are frequently outlined in a Code of Conduct or Ethical guidelines which are issued by the relevant public sector employment body. A regulatory professional is expected to not only uphold these values, but also be a champion for them in the workplace.

REGULATORY PROFESSIONAL CAPABILITY DOMAINS, SUB-DOMAINS AND OUTCOME STANDARDS

A regulatory professional needs capabilities (knowledge and skills) that they can apply across the three different phases of the regulatory cycle within the overall regulatory context, (1) Make: Planning and design (2) Operate: Implementation, and (3) Review. The key capabilities of a regulatory professional include taking a strategic view of the entire regulatory process from design through to reform, applying judgment to complex issues in conditions involving considerable uncertainty and ambiguity, application of a range of tools, methods and approaches to varying circumstances for best effect and their ability to assess, through monitoring and evaluation, the impact of regulation.

The capability outcome standards for regulatory professional roles have been allocated to five domains – reflecting the regulatory context, the three phases of the regulatory process, together with professional development. Duplication is minimised by assuming that the knowledge and skills required in relation to one domain can also be applied to another domain when needed. Some regulatory professional roles may require capabilities across all domains, while other roles may only require capabilities relevant to some of the domains. As such these capabilities may apply to a cluster of regulatory professional roles rather than just one role.

1. Regulatory Context :	
Understanding the role of regulation in the implementation of policy within society. A broad understanding of how regulation achieves its goals, the basis for a regulator’s authority, the tools that can be used within regulation, and the intended and unintended impacts of regulation.	
1.1. Regulatory approaches and impact analyses	<ul style="list-style-type: none"> • Understand the different types of regulatory approaches that governments can use to achieve a social, economic or environmental policy goal. • Describe the relative benefits, costs and risks of alternative regulatory approaches in different political and environmental situations • Understand the role of different types of regulatory mechanisms in controlling market entry (including conditional entry where appropriate), to a market or scheme and the role of the regulator in delivering a level playing field • Understand and apply mechanisms (such as Regulatory Impact Statements) to identify and quantify both the intended and unintended impacts of regulation, including regulatory burden and costs to government, the regulated community and the broader community

	<ul style="list-style-type: none"> • Understand that regulatory burden is cumulative, and that the cumulative burden of regulation must be considered when assessing policy options. • Identify when, and under what circumstances, regulation is not appropriate. • Propose regulatory schemes consistent with an understanding of the jurisdictional authority (as defined in the legislation, legislative or regulatory instruments) in which they will operate. • Understand the International and Australian constitutional context within which regulation operates and the potential overlaps with regulatory schemes and programs of supranational bodies, domestic agencies and other jurisdictions.
1.2. Achieving behavioural change by regulation	<ul style="list-style-type: none"> • Understand how different regulatory approaches and tools achieve desired behavioural change in individuals, organisations and markets • Understand how inappropriate regulation can drive perverse outcomes, gaming behaviour and result in failure of the underlying policy objectives • Understand the impact that different regulatory approaches and tools can have on future relationships of the regulator such as <ul style="list-style-type: none"> – the ongoing relationship between the regulator and regulated entity, – opportunities for the regulator to communicate its regulatory priorities and compliance expectations quickly and directly to a proponent, – the compliance monitoring burden of the regulator, – Facilitating subsequent compliance and enforcement responses, such as suspending or revoking licences. • Understand the potential impacts and roles of interest groups, individuals, organisations, and governments in influencing the design and impact of regulation. • Understand drivers and motivations of compliant and non-compliant behaviour.
1.3. Risk assessment and management	<ul style="list-style-type: none"> • Understand risks in all its dimensions. This includes; <ul style="list-style-type: none"> – understanding risk based regulation and its impact on regulatory design, compliance planning and monitoring, triage of notified incidents, complaints or requests for action, and allocation of resources for an appropriate response effort, – understanding how the characteristics of the harm, duty holder and acceptable residual risk influence the selection of the appropriate regulatory regime, intervention or approach, and – an appreciation of the need for cooperative relationships that are required with other regulators to understand and manage the risk.

2. Regulatory Planning and Design:

Apply a risk based and consultative approach to the design of a regulatory regime and the deployment of resources to achieve the strategic intent of government

<p>2.1. Identify the problem and options for an appropriate response</p>	<ul style="list-style-type: none">• Describe the context of the proposed regulation, including the problem/ behaviour to address (Refer to Domain 1 capabilities)• Identify the purpose and establish the case and justification for government intervention.• Identify and assess all regulatory and non-regulatory alternative solutions, taking into account:<ul style="list-style-type: none">– industry and market characteristics and the community setting within which the regulation will operate,– the unique needs of any particular segment such as small business– the risks to achievement of outcomes,– interfaces with other government and industry programs,– stakeholder views,– how each regulatory instrument may be utilised (alone or in combination) to deliver the intended outcomes,– the quantifiable impact (including cost benefit) of alternative approaches on all parties– funding, charging and cost recovery policies, and– the measurement of regulatory burden.
<p>2.2. Regulatory design - application of regulatory theory to achieve a particular policy outcome.</p>	<ul style="list-style-type: none">• Advise on a preferred regulatory approach, including the appropriate legislative and non-legislative structures to achieving the policy objectives, outcomes and benefits.• Formulate internal and external decision review processes which are as simple as possible for all parties and take a risk based approach.• Recommend regulatory governance arrangements, where<ul style="list-style-type: none">– the recommended regulatory entity has appropriate and sufficient authority to act and the legislative permissions and prescriptions are achievable,– accountability mechanisms support the appropriate levels of impartiality, trust, integrity, consistency, expert input, and independent decision review,– good and transparent decision making is supported ,– the objectives of the regime are clearly outlined in the supporting legislation and instruments, and– roles and responsibilities are clearly defined.• Develop and complete the desired regulatory response and in doing so:

	<ul style="list-style-type: none"> - comply with government and parliamentary requirements such as the completion of Regulatory Impact Assessments, - identify and work within the risk appetite of government - prioritise and resolve conflicting steps in the planning stages through a strategic overview of the purpose of the regulation, - identify how the regulatory function will be funded (e.g. through appropriation or cost-recovery) - ensure the regulatory response is based on a design architecture which is practically implementable, taking into account the Australian Constitution; how geographic and legal coverage will be achieved; required information flows; market or scheme entry points; and how compliance will defined, monitored and enforced. - design the regulation to impose the minimum burden necessary to achieve the underlying policy objectives.
<p>2.3. Stakeholder engagement and relationship management</p>	<ul style="list-style-type: none"> • Comply with mandated requirements and follow better practice guidance on stakeholder consultation. • Identify and respond to the needs of all stakeholders (including other government entities) who are potentially affected by the regulation. Understand the complementary role that stakeholders have in achieving regulatory objectives and manage stakeholder expectations appropriately. • Determine and document the intended nature of the regulator’s relationship with stakeholders (e.g. information provision, consultation, collaboration) for each stage of the regulatory process, including for non-routine events. • Manage the tension between the role of the regulator as a customer service provider and the enforce regulatory role (i.e. building relationships while avoiding regulatory capture) • Encourage and take into account stakeholders contributions and demonstrate how stakeholders’ input has been taken into account in regulatory design.
<p>2.4. Design strategies to support compliance and address non-compliance</p>	<ul style="list-style-type: none"> • Design compliance strategies which have considered <ul style="list-style-type: none"> - Responsive regulation and the enforcement pyramid - Regulator posture - Regulatory maturity - Regulatory capture • Develop regulatory tools to achieve high compliance levels, including those which: <ul style="list-style-type: none"> - encourage voluntary compliance through information and education, - monitor compliance through surveillance, audit, inspections and other appropriate monitoring mechanisms, - identify non-compliance,

	<ul style="list-style-type: none"> – support objective, transparent and repeatable regulatory decision-making in response to non-compliance, manage an entity’s return to compliances through suitable and proportionate compliance responses, – provide a suite of graduated, risk-based responses to non-compliance, including both facilitative and enforcement response types; and – provide appropriate and timely responses to adverse events.. • Develop mechanisms which identify and respond to activities which are undertaken illegally outside the registration, licensing or approval system (‘out-of-system regulation’). • Target information to the regulated community in ways that are accessible and easily understood. • Understand the motivations and drivers of compliance behaviour by regulated entities, including financial aspects that may lead to gaming behaviour and evasion of scheme requirements. • Design enforcement responses that are timely, proportionate and provide a sufficient general and specific deterrent to ensure complying entities continue to comply and non-complying entities face appropriate consequences. • Develop coordination mechanisms with other regulators based on: <ul style="list-style-type: none"> – Jurisdictional gaps or 'overlap', – Minimising the cumulative burden on regulated entities, – The need to share information to achieve regulatory outcomes, – Efficiency in the delivery of regulation, and the need for joint regulatory responses to non-compliance or adverse events.
<p>3. Regulatory Implementation : Implement regulatory programs to deliver the intended outcome to the appropriate standard and enable sustainable ongoing delivery</p>	
<p>3.1. Process and operational policy design</p>	<ul style="list-style-type: none"> • Design the detailed operational policy, processes, workflows, forms and other tools required to allow effective implementation of the regulatory design but which also minimises regulatory effort for all parties. • Identify key regulatory decision-points, the organisational nodes that will perform them, and escalation thresholds in relation to the application of statutory powers. • Identify the initial regulator posture and how this is expected to evolve as the scheme matures. • Develop conditions that will be included in registrations, licences or approvals that are robust, understandable and enforceable. • Identify and quantify the regulatory costs and burden on regulated entities and minimise the impact of regulatory decisions on a regulated entities ability to operate. • Develop licensing, approval or other types of scheme access control mechanisms based on clear, accessible, understandable and enforceable criteria.

	<ul style="list-style-type: none"> • Design and implement systems which provide for consistency in action/ decision making on like matters and build on precedents • Develop processes with distinguish between the level of effort /resources required to deal with simple routine matters from that required to deal with more complex matters, to manage risk and deliver timely outcomes. • Demonstrate that r appropriate stakeholder input has been taken into account in operational design.
3.2. Managing Probity	<p>Design processes and deliver regulatory decisions and outcomes:</p> <ul style="list-style-type: none"> – that are in accordance with the law, – that are objective, impartial and on a consistent basis without conflict of interest, bias or improper influence – that are in accordance with public sector ethical values including officers not making improper use of their position, such as accepting gifts or benefits; – in which real, perceived or potential conflicts of interests are managed , – that are transparent, accountable and auditable, – in which participants are treated fairly and equitably, – in which confidential information is treated appropriately, and – in which mitigation strategies are proportionate to the level of risk (including the risk of regulatory capture).
3.3. Making evidence based regulatory decisions	<ul style="list-style-type: none"> • Make lawful regulatory decisions which are: <ul style="list-style-type: none"> – consistent with and consider the policy and legislative requirements of the scheme – made with appropriate authority and by the person with the appropriate delegation, skills and experience, – documented and consistent with better practice guidance, administrative law principles and requirements governing the exercise of statutory powers, – based only on relevant and allowable information, the level of harm and risk, and a systematic analysis of the evidence, – communicated to relevant parties whom are also provided with access to the information and evidence on which decisions are made, – made with an understanding of the quality and completeness of the evidence and any potential biases are considered, and – made within applicable timeframes, • Document administrative decisions to the standard prescribed by the agency to support accountability, transparency and any subsequent actions. • Exercise judgement on discretional matters consistent with the law (including administrative law and the legislation being administered), the social context and public service values. • Ensure regulatory decisions are made within a quality assurance framework. (e.g. agency policies, standard operating processes, audit).

	<ul style="list-style-type: none"> • Take prompt action to review past regulatory decisions in response to emerging risks and harms.
3.4. Regulatory Information, intelligence and data management,	<ul style="list-style-type: none"> • Develop and implement a range of techniques and systems for identifying, collecting, storing and retrieving regulatory administrative data, as well as specialist information and intelligence that: <ul style="list-style-type: none"> – will provide insight into the regulated entities and their operating environment, regulatory risk, non-compliance and potential negative regulatory outcomes, – support the analysis of data to assist in identifying trends and patterns that may be indicative of systemic risks or weaknesses in the regulatory regime, – disseminate relevant information in a timely way to support consistency and responsiveness in decision-making, – assist regulators in meeting their statutory record-keeping obligations, and – comply with legislative and policy requirements such as data protection, patents and privacy. • Develop and implement information access protocols and data management systems to allow regulatory decision-makers timely access to data holdings, including between agencies where appropriate. • Develop and implement a regulatory performance framework and collect relevant performance indicators to measure <ul style="list-style-type: none"> – Administrative efficiency – Regulatory effectiveness in meeting the desired objectives – Compliance costs on business and other regulated entities ,
3.5. Resource planning.	<ul style="list-style-type: none"> • Implement the selected regulator funding model. • Acquire and retain the relevant skills and experience to ensure: <ul style="list-style-type: none"> – resource allocation is proportionate to the relative priorities for each outcome identified, – the risks and benefits of alternative approaches to gaining the appropriate expertise are assessed (including outsourcing and self-assessment by the regulated entity), – the most cost effective and sustainable option is selected, – the specific skills required by the agency are identified, including those for stakeholder management and representing the agency in formal proceedings, – appropriately skilled people are in place to implement the selected option, and those skills remain current, – contracts are in place to deliver the expected resource requirements, – contingency planning is evident to enable resources to be reallocated to deal with unplanned, higher priority matters, and – where regulatory capabilities are outsourced, that appropriate oversight and accountability is retained by the regulator. • Estimate the costs of the regulatory scheme , including: <ul style="list-style-type: none"> – Trained personnel, – Supporting IT systems,

	<ul style="list-style-type: none"> - Specialised equipment and publications, - Communication and promotional activities, - Storage of data, evidence and/or seized items, - Outsourced functions, - Legal costs, and - Administration and management overheads.
3.6. Stakeholder management and education	<ul style="list-style-type: none"> • Develop and implement a stakeholder engagement plan that seeks to establish productive and professional relationships with regulated entities and other stakeholders to support ongoing engagement. • Plan and deliver education for stakeholders on the government intervention using a variety of communication channels. • Engender confidence in the regulator through demonstrating and applying well-developed communication, representational and inter-personal skills. • Establish mechanisms to collect, share, act and report on feedback provided by regulated entities and other stakeholders. • Clearly communicate the selected regulator posture and the reasons for it to regulated entities.
3.7. Complaints management	<ul style="list-style-type: none"> • Establish, implement and monitor processes for receiving, assessing, investigating and resolving stakeholder complaints about regulated entities and regulator performance within a customer service culture. • Design operational policy and processes that recognise triggers for escalation or potential conflict and include approaches to ensure de-escalation and prompt resolution, applying mediation, negotiation and arbitration skills as relevant. • Monitor aggregated complaints data at regular intervals to identify areas for improvement and minimise future complaints.
3.8. Monitor compliance	<ul style="list-style-type: none"> • Identify all available and relevant data sources and apply data analysis techniques to review and understand risk and compliance levels. • Implement a compliance monitoring plan that encourages voluntary compliance, considers the level and nature of risk and potential for harm, tailors strategies to reflect the level and nature of risk, and drives the proportionate allocation of resources within the regulator. • Regularly and systematically review relevant data sources to identify new or emerging risks and adjust the monitoring plan as necessary. • Assess and communicate information about non-compliance to decision-makers to assist in tailoring a regulatory response that is consistent and proportionate to the risks and potential harm posed by the non-compliance.
3.9. Responding to non-compliance	<p>Implement responses to non-compliances that</p> <ul style="list-style-type: none"> - are based on evidence and follow appropriate investigations, - are consistent with the law, recognised better practice, and the agency's policies and processes, - consider the full range of available options including education, support to comply and prosecution,

	<ul style="list-style-type: none"> - are sustainable, defensible, cost effective, outcome-focused and proportional to the risk, - demonstrate judgement and - where the contribution to overall compliance is understood. <ul style="list-style-type: none"> • The circumstances when escalated enforcement action is appropriate are understood, and clearly outlined.
3.10. Significant breaches and adverse events	<ul style="list-style-type: none"> • Incidents involving significant breaches of regulation and adverse events are managed with appropriate, <ul style="list-style-type: none"> - event notification and media management, - response management, - duty of care by the regulator, and - post event debrief and evaluation.
4. Regulatory review and reform Monitor and review regulation to ensure it is efficient, effective, continues to meet its objectives, is responsive to the changing market and environment and does not impose unnecessary costs on regulated entities	
4.1. Monitor and assess regulatory performance	<ul style="list-style-type: none"> • Develop and implement a performance measurement framework and program for a regulatory scheme that: <ul style="list-style-type: none"> - is consistent with the relevant jurisdictional regulator performance framework, - monitors and reports on a regular basis using accurate, timely and relevant quantitative and qualitative assessments, - encompasses process performance, costs and regulatory outcomes appropriate to the specific regulator , - maps and monitors the delivery of community benefits, - includes input from stakeholders and delivery agents, - monitors and assesses the outcomes of communication, education and engagement activities and uses this information to tailor future strategies, - considers broader impacts, including those on the business performance of the regulated community, - provides confidence that the regulator is administered fairly and efficiently and that they are effectively and flexibly managing risk - communicates the results, mindful of the political and environmental context, and - utilises program evaluation, independent audits and quality assurance processes as appropriate. • Meet mandatory agency reporting requirements.
4.2. Adjust and improve ongoing regulatory performance	<ul style="list-style-type: none"> • Adjust and improve ongoing regulatory programs (including legislation and its delivery) to improve performance: <ul style="list-style-type: none"> - in response to the outcomes of monitoring, and decision reviews, - in response to the changing regulatory environment, including industry practices and their response to regulatory processes ,

	<ul style="list-style-type: none"> - by using processes improvement tools such as processes mapping and reengineering, and - by taking an overview of the discrete phases of the regulatory life cycle.
4.3. Regulatory reform and review	<ul style="list-style-type: none"> • Provide advice to governments on regulatory reform including <ul style="list-style-type: none"> - whether a particular regulatory program is achieving its objectives and whether its objectives are still a stated priority of government, - potential amendments to the regulation and its operation to improve its effectiveness and/ or its efficiency - opportunities to reduce the regulatory burden for both governments and business, and, if necessary, recommending the removal of regulation that is no longer relevant (Deregulation) - opportunities to work cooperatively with overseas regulatory agencies to reduce the burden to both government and regulated entities , - lessons that have been learned in the delivery of a regulatory program, and - the potential application of contemporary and emerging regulatory practices used in other Australian jurisdictions and overseas.

5. Professional Development and Contribution to the Professional Body of Knowledge

All regulatory professionals:

- support and contribute to an organisational culture that encourages knowledge sharing, continuous learning and adaptation to the changing regulatory environment,
- contribute to the development of their agencies as competent, credible and capable regulatory bodies,
- are responsible for the development of their own personal leadership and regulatory knowledge, skills and experience, including establishing and maintaining networks with regulatory professionals working in other areas of government,
- accept the importance of more senior and experienced regulatory professionals supporting the development of more junior regulatory professionals, and act accordingly,
- invest in the regulatory profession by undertaking on-the-job training, providing advice and feedback, coaching and mentoring other regulatory professionals, and attaining appropriate qualifications,
- contribute to the body of knowledge supporting the profession and the development of new methods to improve the quality of regulatory outcomes, and
- encourage senior management to invest in the development of regulatory professionals to improve organisational regulatory capability.

OTHER PROFESSIONAL REGULATORY ROLES

While this Standard relates more directly to the regulatory professional role/s with a strategic focus, as described above on pages 6-7, there are many other professional roles within regulatory practice where officers apply their varying professional skills to the operational and other work of the regulator. These other roles include those which have a primary focus on:

- acting as authorised officers to conduct inspections, audits or investigations,
- acting with delegated authority to make regulator decisions in relation to applications for licences or other permissioning arrangements and requests to review specified decisions of other officers,
- providing policy or legal advice or technical advice in relation to relevant specialist disciplines (e.g. engineering, science),
- developing and delivering information and education, and
- providing administrative support to management and officers performing any other of the regulator's work.

Officers in these other roles may also directly contribute to work undertaken in the strategic roles which are the subject of this professional capability standard. To the extent that is the case, certain of the capability statements contained in this document will be relevant to them. For their primary work, though, it is acknowledged there are other documents/approaches which set out applicable competencies and other standards – such as those developed internally within some regulators, Diplomas and Advanced Diplomas of Government with a focus on inspection or investigation work that sit within the Australian Quality Training Framework, IPAA's Policy Professional Capability Standard and the tertiary qualifications, registration requirements (if applicable) and continuing professional development requirements associated with membership of relevant professional associations for legal and other technical specialists.

NOTES ON THE PROCESS FOR DEVELOPING THIS CAPABILITY STANDARD

The design group for this standard was convened in Victoria and comprised a subgroup of the IPAA-ANZSOG Public Sector Regulators Community of Practice. The regulatory experts that attended had expertise across a broad range of subject areas including health, primary industry, small business, consumer affairs, occupational health and safety, transport, environment, chemicals, pharmaceuticals, legal services and financial services. The group considered the wide ranging perspectives of what constitutes a regulatory professional and the characteristics, actions and capabilities of a regulatory professional. The design group participated in two workshops in May and July 2014 that focused on populating the template for IPAA's Capability Standards. In addition, the draft standard was reviewed against reference material and relevant elements from these are included in the standard. The draft standard was then circulated amongst regulatory experts, including the broader IPAA-ANZSOG Public Sector Regulators Community of Practice and some government departments, for consultation and further refinement prior to being issued as Version 1 of the standard. IPAA would like to thank all those professionals who contributed their views and for their assistance in the formulation of this first version of this standard.

The characteristics that make a profession and how these apply to the regulatory professional are reflected in the standard. These include upholding the integrity and worth of the profession, keeping abreast of new approaches, giving back to the profession by developing emerging professionals through professional development, mentoring and succession management.

REFERENCES:

1. Administering Regulation: Better practice guide. Australian National Audit Office. March 2007
2. Administering Regulation: Achieving the right balance. Australian National Audit Office. June 2014.
3. Regulatory Affairs Professional Development framework: An overview for the healthcare product regulatory affairs profession. Regulatory Affairs Professionals Society 2007
4. Chartered Management Institute (UK) Professional Certificate in Regulatory Affairs, International Centre for Parliamentary Studies.
5. Better business regulation. Research paper No 14 May 2008, Consumer Affairs Victoria, Victorian Government
6. The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance by Malcolm K. Sparrow .May 1, 2000.
7. Submission of evidence: National Audit Office's (UK) submission to the Better Regulations Executive review on Controls of Regulation. Sep 2012
8. Principles for the Governance of Regulators: Public Consultation Draft: Organisation for Economic Co-operations and Development (OECD). Paris 21 July 2013
9. Recommendation of the Council of the OECD on Regulatory Policy Governance. 2012
10. Achieving Compliance. A Guide for Compliance Agencies in New Zealand. June 2011
11. Regulatory institutions and practices. New Zealand Productivity Commission. June 2014
12. Draft Regulator Performance Framework. Department of Prime Minister and Cabinet. 3 Sep 2014
13. The draft Regulator Performance Framework: overview and submissions process. Office of Deregulation, Department of the Prime Minister and Cabinet, September 2014
14. Core Competencies for the Regulatory Community. Prepared for Regulatory Affairs and Orders-In Council Secretariat, Public Works and Government Services Canada June 2006. Core Competencies and Regulatory Life-cycle, Anne O'Toole, April 2010, Carleton University School of Public Policy and Administration Canada
15. The Governance of Regulators. OECD Best Practice Principles for Regulatory Policy :: Organisation for Economic Co-operations and Development (OECD)2014
16. Council of Australian Governments. Best Practice regulation: A best practice regulation guide for Ministerial councils and national standard setting bodies. October 2007
17. Regulator Audit Framework: Australian Government Productivity Commission, March 2014

COPYRIGHT STATEMENT

This work is copyright.

IPAA has no objection to this material being reproduced, made available on line or electronically, but only if IPAA is recognised as the owner of the copyright and all the following conditions apply

1. The material is provided for the purpose of
 - a. improving the quality of Public Administration in Australia, or
 - b. improving public administration in another country under a program of support managed by an Australian government or International government organisation.
2. The material is clearly and visibly attributed to IPAA , and
 - a. If the material is unaltered, provide a reference to this publication and , where practical the relevant pages, or
 - b. If the material has been altered in any way, use words such as "modified from material sourced from the IPAA Regulatory Professional Capability Standard v 1".

3. You do not suggest that IPAA endorses you or your use of our content.

4. The material is not provided for the purposes of generating fees, income or other tangible benefits for an organisation that has reproduced or communicated the material in any form.

IPAA reserves the right to withdraw or modify the above conditions at any time.

Apart from any use permitted under the Copyright Act 1968, and in the circumstances described above, no part of this material may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of the Institute of Public Administration Australia, 2014.