



ACT
Government

Waste Regulation Compliance Framework

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We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people.
We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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Purpose

The purpose of this framework is to set out the objectives and general principles for compliance and enforcement activities undertaken by Waste Regulation to support the ACT Government's waste management and resource recovery objectives.

Waste Regulation

The Waste Manager is a statutory position established under the [Waste Management and Resource Recovery Act 2016](#) (the Act). The Act came into force in 2017 to promote and reward responsible practices in waste management and resource recovery. The aim of the Act is to maximise recycling and reuse, minimise landfilling, and to encourage investment, innovation, and best practice in the waste sector.

The Waste Regulation section of Transport Canberra and City Services contains delegates of the Waste Manager and has a responsibility under the Act to regulate those conducting a waste activity business within the Territory.

Waste Regulation ensures that facilities and transporters in the Territory are appropriately licensed, registered, and compliant with waste legislation.

Strategic objectives and legislative framework

The Act came into effect in the ACT on 1 July 2017. The regulatory framework established by the Act directly supports the ACT Government's waste management and resource recovery objectives set out in the [ACT Waste Management Strategy 2011-2025](#).

The Objects of the Act are to:

- > Minimise the generation of waste;
- > Maximise the recovery and re-use of resources;
- > Minimise the amount of waste that goes to landfill;
- > Support innovation and investment in waste management;
- > Promote responsibility for waste reduction; and
- > Promote best-practice waste management.

The Act provides for a wide range of regulatory interventions into the management of waste in the ACT. Broadly, these fall into four categories:

- > The licensing of waste facilities and registration of waste transporters;
- > The administration of the Container Deposit Scheme;
- > WMRR Activity Codes of Practice
- > Other regulated entities.

Key Principles

Our actions are guided by the following principles:

Targeted: We will target our compliance and enforcement activities to prevent the most serious risks or harm.

Proportionate: Regulatory measures and responses will be proportional to the problem they seek to address.

Consistent: Outcomes from our enforcement activities will be consistent and predictable.

Transparent: Information and enforcement actions will be public, as much as legally possible, to ensure confidence in our regulatory processes.

Collaborative: We will engage with the community, waste businesses and across government to set appropriate regulatory and performance standards.

Authoritative: We will be the authoritative source of information on the waste management and recycling industry in the ACT.

Effective: We will seek to prevent harm and impacts to health and improve the management of waste and recovery of resources in the ACT.

Compliance model

We will balance the use of our available tools to achieve compliance with the Act, uphold waste management standards and drive improvements in resource recovery. When we identify or become aware of a problem or a risk, we seek to resolve the problem before it leads adverse impacts.

We will be proactive, engage with waste businesses and waste transporters regularly, and undertake routine site inspections as a method of collecting information and monitoring compliance and identifying and addressing issues early.

We will seek to undertake investigations in response to complaints received from industry, the general public, or referrals from external agencies.

Engage, Educate, Enforce

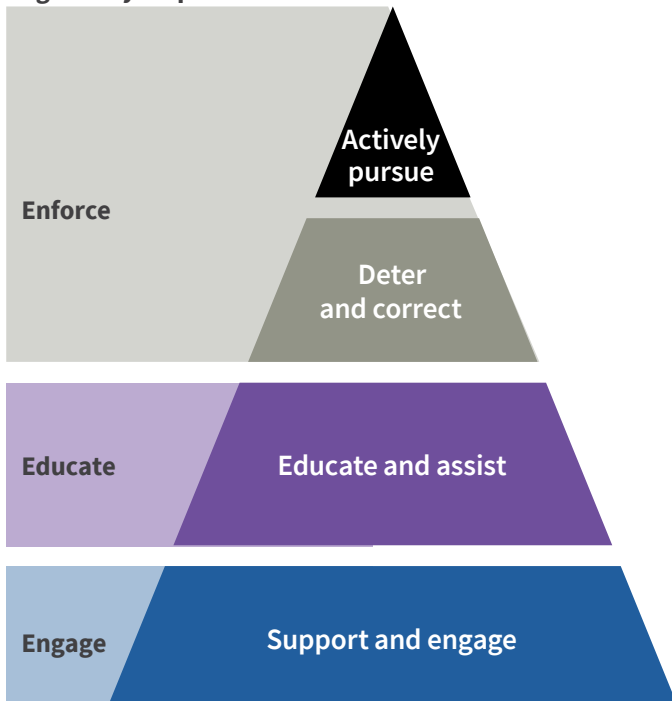
Compliance in the first instance is encouraged through engagement and education, but enforcement action will be applied to those whose conduct is likely to cause harm, or those who demonstrate a disregard for the law.

Engage means ensuring there is a positive working relationship with stakeholders and members of the public.

Educate means taking reasonable steps to ensure people know how to comply (e.g. compliance and education inspections, newsletters).

Enforce means taking action for non-compliance, proportional to the harm caused by the conduct (e.g. compliance advice, a caution letter, issuing an infringement notice or taking disciplinary action).

Regulatory response



Regulatory responses

Regulatory responses are prioritised based on

- > How the behaviour affects the objectives of the Regulation
- > The risk to public health, safety, and the environment.

This allows a degree of flexibility to ensure the right regulatory approach for the right situation. For example, the mixture of a small amount of waste at a recycling drop off centre compared to the deliberate loss of waste that could otherwise have been recovered. While both activities are illegal, their respective impact levels, as well as the level of accountability, are different.

Are the behaviours deliberate or systemic?

Conduct which breaches the legislation is considered on a case-by-case basis and with consideration given to the circumstances of the conduct. Waste Regulation will apply the most appropriate regulatory tool to address the conduct and to achieve the desired regulatory outcome. This may include warnings, investigations, and fines.

Response model

Approach to enforcement and response level

The diagram below illustrates Waste Regulation's approach to fostering compliance and management of non-compliance. Waste Regulation encourages compliance through education but will apply escalating enforcement actions to those that demonstrate a disregard for the law and whose conduct has, or is likely, to cause harm to business, the community, or the environment.

Approach to enforcement

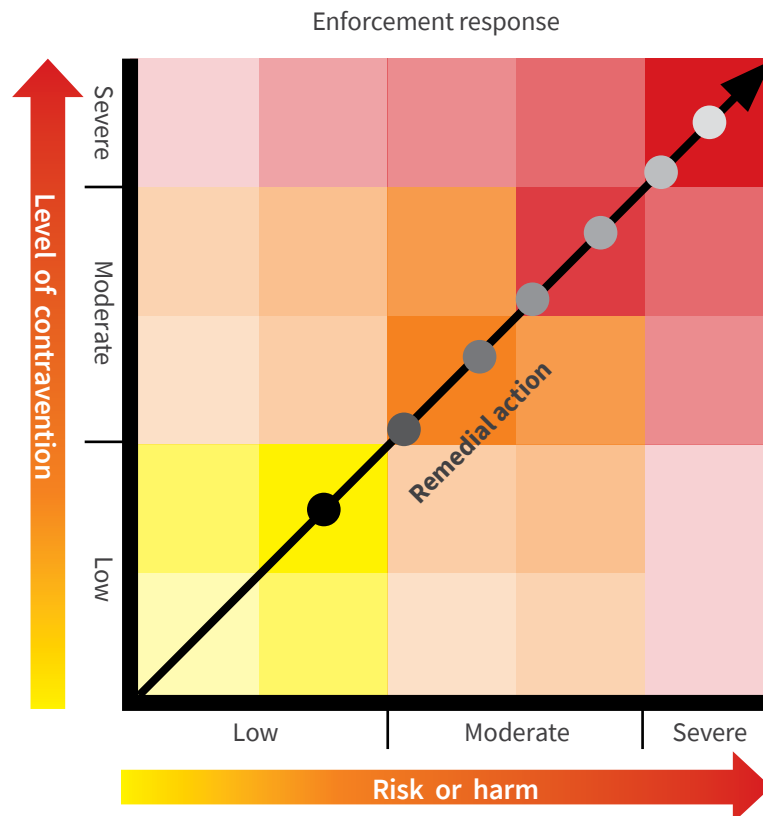
Waste Regulation will apply a risk- based compliance approach to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest. A risk-based compliance approach enables the targeting of resources to those areas where they are most needed and will be most effective. This approach involves a series of steps to identify and assess risks and apply the most appropriate regulatory tool to control the risk.

This means that resource allocation and enforcement responses are determined based on priorities determined through risk assessment.

Resource allocation – How compliance priorities are established, such as the frequency of proactive compliance activities and the prioritisation of complaints or allegations of non-compliance with the Act.

Enforcement responses – The appropriate enforcement response is determined based on an assessment the risk or realised consequences. This allows a degree of flexibility to ensure the right regulatory approach for the right situation.

Conduct which contravenes the legislation is considered on a case-by-case basis and with consideration given to the circumstances of the conduct. The most appropriate regulatory tool is used to address the conduct and to achieve the desired regulatory outcome, which, depending on the circumstances, may include: a written warning; an infringement notice; civil action, or criminal prosecution.



Compliance and monitoring activities

We will balance the use of our influence and enforcement tools to achieve compliance with the Act, uphold waste management standards and drive improvements in resource recovery.

Our compliance activities are aimed at improving environmental outcomes, carrying out both proactive and reactive activities that are risk-based, with resources allocated based on the level of risk posed to the strategic objectives.

Proactive - routine site inspections as a method of collecting information and monitoring compliance.

Reactive - undertake an investigation in response to complaints received from industry, the general public, or referrals from external agencies.

When we identify or become aware of a problem or a risk, we seek to resolve the problem before it leads to an adverse impact on human health or the environment. Monitoring compliance and investigating non-compliance is an important component of the compliance framework.

Determining appropriate enforcement responses

Where education and persuasion has failed and an offence has been identified, the next step is to determine the appropriate enforcement response.

Enforcement options

The Act and the [Waste Management and Resource Recovery Regulation 2017](#) provides for specific enforcement options where Waste Regulation determines an offence has occurred:

Cautions and Warning - We may elect to issue a caution, this is a final warning prior to an escalated enforcement response.

Administrative Responses - Administrative responses that can influence or significantly impact the way a regulated entity undertakes their business, such as enforceable undertakings, issuing a direction, amending, suspending or cancelling a license.

Infringement notices - 'on the spot' fines that can be issued for 'strict liability' offences. We will issue infringement notices for mid-level offences, and generally after education or a warning has been given.

Civil Penalty - a financial penalty imposed by a magistrate in response to a breach of legislation. The monetary value is expressed as a penalty unit, a magistrate may impose a civil penalty up to the value of the penalty units associated with the offence. We will pursue civil penalties for repeat offenders or where the non-compliance is serious in nature.

Prosecution - generally reserved for the most serious offences and where the offender is seriously disengaged. Can result in a conviction and incarceration of an individual.

Powers held by Authorised Persons

Authorised Persons are public servants appointed by the Director General that have delegation to exercise certain functions and powers under the Act including issuing notices and infringements, entering premises, taking photographs and articles.

Authorised Persons are required to meet minimum standards in respect of qualifications and experience, and to be of 'good character'.

Review or appeal rights

The Act has provisions granting those affected by certain regulatory decisions to a review of those decisions and, if still dissatisfied, to lodge a formal appeal at the ACT Civil and Administrative Tribunal.

Seeking a review

ACT Civil and Administrative Tribunal

Web: www.acat.act.gov.au

Phone: 02 6207 1740

Contact: ACT Civil and Administrative Tribunal
GPO Box 370, CANBERRA ACT 2601

Email: tribunal@act.gov.au

In addition to ACAT, a person who has a complaint about a decision can complain to the Ombudsman.

ACT Ombudsman

Web: www.ombudsman.act.gov.au

Phone: 1300 362 072

Contact: ACT Ombudsman
GPO Box 442, CANBERRA ACT 2601

Email: ombudsman@ombudsman.gov.au

Legislation

The following legislation is applicable to the function of the Waste Regulation unit and those conducting a waste activity business within the Territory.

- > [Waste Management and Resource Recovery Act 2016](#)
- > [Waste Management and Resource Recovery Regulation 2017](#)
- > [Information Privacy Act 2014](#)
- > [Magistrates Court \(Waste Management and Resource Recovery Infringement Notices\) Regulation 2017](#)
- > [Legislation Act 2001](#)
- > [Criminal Code 2002](#)
- > ACT legislation www.legislation.act.gov.au

Contact

Waste Regulation

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