



Engaging as a Regulator Quick Guide

REGULATORY PRACTICE ESSENTIALS

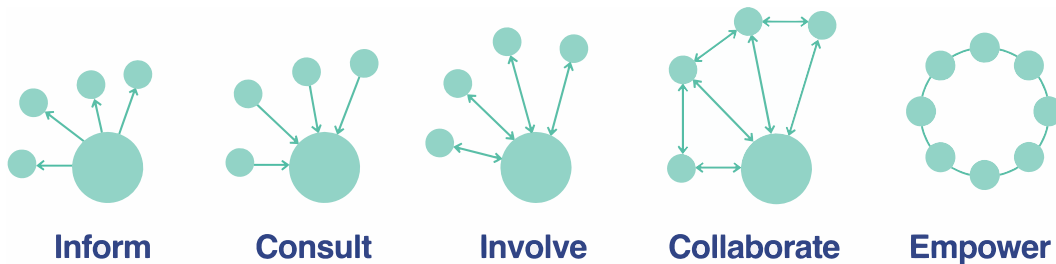
At a glance

Building good working relationships helps regulators and communities get on the same page with regulatory outcomes. A regulator is the organisation with the authority to carry out regulatory activities in a certain area. Engagement is a powerful tool that can be used to find common ground, build consensus and lead to better regulatory services and outcomes.

Engaging involves building relationships and trust with people or groups affected by the law and ensures their views are part of the decision-making process. It must be meaningful and genuine to be effective.

Levels of engagement

The levels of engagement are progressive. Engagement increases as you move along the continuum. When people work together, they have expectations of each other. If these expectations don't match, it can lead to conflict. Choosing the right level of engagement helps to clarify the expectations.



Why engaging is important

Engaging with people shows that you value their opinion and respect their interests. When you listen to people you are more likely to earn their trust.

Engaging, decision-making, public trust and social cohesion are all connected. Good decisions build public trust which enhances engagement which leads to better decision making.

Planning ahead

Doing your homework beforehand will help you be more confident and competent when engaging with others. Planning how you engage, preparing well and keeping an open mind helps to build your engaging skills.

Things to consider in an engagement plan are the people, purpose, context, time and resources, along with team capacity and skills.

What is engaging with others?

Building good working relationships helps regulators and communities get on the same page with regulatory outcomes. A regulator is the organisation with the authority to carry out regulatory activities in a certain area. Engagement is a powerful tool that can be used to find common ground, build consensus and lead to better regulatory services and outcomes.

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Here are some ways that regulators engage with others.

- Asking the public about the best ways to inform them about how well the law is working.
- Having a forum with an interest group about opportunities for change in regulatory policy and practice.
- Working with regulated parties to ensure regulatory changes are workable and will have the desired effect.

Sometimes regulators are encouraged or required by law to engage with affected groups and other regulators. They need to do this when there are changes to the law. They may also need to do this if they propose changes to the law.

For example, the Animal Welfare Act 1999, s41, directs when the regulator must consult with interested parties.

Before publishing guidelines under this section or any amendment (other than a minor amendment) to any such guidelines, the

Director-General must consult with those persons considered by the Director-General to be representative of the classes of persons having an interest in the guidelines or the amendment.

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1. Inform

Inform is when regulators want to share information, such as public information campaigns that inform the wider community.

Communication and engagement practitioners design the campaign and measure its effectiveness in reaching the audience and changing people's behaviour. Public information campaigns may be fun and engaging. Catchy tag lines like 'merge like a zip' help drivers remember how to behave when merging lanes.

Regular updates to regulated parties inform them about what's happening in the regulatory environment. This helps to be a reminder of the laws and how to comply.

For example, the Labour Inspectorate at the Ministry of Business, Innovation and Employment regularly distributes press releases and video interviews on the Employment Relations Act 2000. This helps to pave the way for employees to speak up and discourages employers from disregarding the law.

When informing people about the law it's important to give clear and consistent messages that help people understand the problem as well as the solution.

2. Consult

Consult is when regulators want to seek feedback from a group of people about a draft proposal or approach. They may be designing changes in regulatory policy or asking for feedback on proposed changes. Some ways they do this are asking for submissions, conducting a survey or running focus groups.

People doing regulatory work consult when they ask regulated parties for their feedback. For example, you may give information during a site visit and ask for their feedback. When you listen to their feedback it's helpful to acknowledge their concerns.

3. Involve

Involve is a method of engaging people in an ongoing way to understand their concerns and aspirations.

People doing regulatory work may involve stakeholder groups to help stay up to date with emerging issues, technology or products that affect regulated parties.

4. Collaborate, and co-design or empower

Collaborate, and co-design or empower are methods sometimes used when designing regulatory policy. These methods take more time and resourcing and require the involvement of other specialist skills. When thoughtfully applied, these methods can lead to good outcomes.

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Engaging with the public is an important part of a regulators' role. They have a duty to make sure that people have clear information about the law delivered in a way that everyone can understand. Here are a few things to consider.

- **Public trust:** You bring your personal values and relationship skills to your work. Just like seeing your doctor it's much easier to follow someone you have trust and confidence in. In the same way, the public need trust in people doing regulatory work.
- **Better outcomes:** Engaging with people means listening to the challenges and priorities of people impacted by the law. This helps regulators to design operations that are a better fit for their community. In turn, this leads to better outcomes for all New Zealanders.
- **Public expectations:** the public and industry bodies expect to have a voice in decisions that affect them and this expectation is growing all the time. It's important for regulators to meet this expectation.
- **Aware of risks:** When engaging with people you are more likely to hear their concerns and criticisms. You can calm a situation that is escalating by listening and acknowledging their concerns. If you can work through the problem together it is more likely you will find a constructive outcome.

A note on the danger of Regulatory Capture

Regulators balance the need to engage with groups in the regulated community and keep their professional boundaries. There is a risk that over time this gets out of balance. Regulatory capture happens when a regulator puts the interests of a group above the public interest and the outcomes of the regulatory system. The result is the regulator acting in ways that disproportionately benefit parts of an industry it is regulating.

Regulatory capture can creep up when people aren't aware. For example, a regulator may put too much effort into engaging and educating regulated parties instead of enforcing the law. Or they might prioritise guiding regulated parties at the expense of monitoring their compliance with the law.

Regulators take steps to prevent regulatory capture. They do this by adhering to policies such as a code of conduct and conflict of interest. They have organisational standards, guidelines and decision-making panels that support people doing regulatory work to keep their professional boundaries.

Planning to engage with others

Doing your homework beforehand will help you be more confident and competent when engaging with others. Planning how you engage, preparing well and keeping an open mind helps to build your engaging skills. Things to consider in an engagement plan are the people, purpose, context, time and resources, along with team capacity and skills.

1. Who to engage with?

People who do regulatory work engage with many people outside their organisation, from individuals to large groups. Thinking about the needs, interests and environment of the individual or group will help build your understanding and shape your approach.

- **Regulated parties** may be either a person or organisation that must comply with the laws and social expectations of behaviour. This may be in their personal, social, recreational or work lives. A regulated party may be a business. Here's some things to think about before engaging with them.
 - Are they a sole operator, limited liability company or a multi-national company?
 - Do they work in a highly competitive market?
 - How does the current economic environment affect them?
 - What is their perception of the laws?
- **Stakeholders** may be an individual or group (interest group or industry body) who has an interest in the laws. Engaging with interest groups helps the regulator to learn about the laws from different perspectives. Here's some questions to think about before you meet with stakeholders.
 - What is the purpose of the group?
 - Do they represent an industry or profession?
 - Who are the members of the group and how big is it?
 - What challenges does the group face?
 - Do they have a good understanding of the laws?
 - Do they have up to date information about the laws?
- **The public:** Regulators engage with the public when they inform them about the law.

2. What are you trying to achieve and why?

Being clear about your outcome helps to shape your approach. For example, do you want to share information or get people to comply with the law? Do you want to listen to their feedback or understand their reactions? Do you want to build relationships? Or do you want to gain insights that help you get ahead of potential risks.

3. What is the context?

When preparing to engage, it's helpful to think about the people and their context. Here's some things to think about.

- What is the level of trust and interest in the law?
- Is there a tight time frame?
- Are they hard to reach?
- Are there any safety concerns?
- What cultural considerations do you need to know about?

For example, an interest group asks you to speak at a meeting at the same time one of their members is being investigated by the regulator. You'll need to think carefully about the risks and how to mitigate them. You may need to set a clear agenda with them and be specific about what you can and can't discuss. You will want to take notes of the conversation so that there is a record. Or you may want to defer to a better time.

4. How much time and resource can you allocate?

Engaging with people takes time. When planning to engage with people it's important to allow sufficient time to engage with genuine intent. It's also important to be on time for meetings or let people know if you are delayed.

5. Does your team have the right skills and capacity?

Engaging with others takes skill and experience. Here's some things to think about.

- Do you need training or mentoring or other support to help you?
- Do you need a support person to work with you?

Engaging with Māori

Effective engagement is critical to producing better quality outcomes for both Māori and the government, and to understanding the Treaty rights or interests that may be affected. Māori have relationships with the Crown as individuals, whānau, hapū and iwi. Participation can lead to services that reflect Māori perspectives, tikanga and mātauranga Māori which are more likely to deliver better services and more equitable outcomes for Māori.

The principles and values for engaging with Māori are outlined in Te Arawhiti Engagement Framework and Guidelines.

[➤ Te Arawhiti Engagement Framework and Guidelines](#)

Engaging with Māori early in the process will help you to understand the scope of the issue and the impact on Māori. Some issues affect Māori disproportionately and it's important to listen with care and be inclusive in your approach. Having an open mind and thinking broadly will build your understanding and relationships with Māori. Being aware of te ao Māori may also help you understand problems from new angles. You may see more ways of solving them leading to new solutions.

What you can do to learn more about engagement

- Work with colleagues and use the questions in this guide to help you prepare to engage with others.
- Map the stakeholder people and groups you connect with at work. What engagement methods do you use for each person or group? Are there opportunities to use other methods?
- Have a chat with colleagues in other teams within your organisation, for example, policy, communication or teams that work directly with regulated parties. What engagement methods do they use? What tips can they give you?

Resources

[↗ Te Arawhiti - Engagement](#)

[↗ Engagement | Department of the Prime Minister and Cabinet \(DPMC\)](#)

[↗ Community engagement | Department of the Prime Minister and Cabinet \(DPMC\)](#)

[↗ Long-term insights-Briefing-Enabling-Active-Citizenship-Public-Participation-in-Government-into-the-Future.pdf \(publicservice.govt.nz\)](#)

[↗ G-REG Panel Discussion: Are Regulated Parties Customers? \(YouTube\) \(32 mins\)](#)

[↗ Steve Watson on regulatory capture \(YouTube\) \(4 mins\)](#)

Got questions? Get in touch

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