

Enforcement policy

About this document

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1. Background

1.1 Purpose

This policy:

- Outlines DOC's enforcement function and general approach to enforcement of the laws that protect conservation resources.
- Guides those responsible for making decisions about enforcement action under those laws.
- Informs the public about DOC's enforcement function and how those who don't comply with the law may be affected by enforcement action.

1.2 Scope

The policy covers DOC's approach to enforcement, and specifically decision-making, of laws that protect conservation resources ('compliance laws'):

- Legislation administered by DOC, or jointly with another agency, including regulations and bylaws.
- Other legislation under which DOC can take enforcement action, such as the [Dog Control Act 1996](#) and the [Resource Management Act 1991](#).

The policy covers enforcement decisions under compliance laws to take the following actions (or, not take action):

- Issue Warning Letters
- Issue Infringement Notices (Infringement Fine)
- Recommend prosecutions

The policy does not cover:

- DOC's decisions to prosecute offending. Any decision to prosecute is made under DOC's [Prosecution Policy](#) (docDM-1199575). That Policy sets out the principles and procedures that specified staff follow when deciding whether to initiate criminal proceedings and when considering appeals. (All prosecuting agencies are required to have a prosecution policy in accordance with the [Solicitor-General's Prosecution Guidelines](#)).
- DOC's investigation practices and procedures, and related legislation (such as the [Search and Surveillance Act 2012](#)).
- DOC's approach to other parts of its compliance function (e.g., education), except to the extent that deciding not to take formal enforcement action is one of the possible outcomes of decision-making under this policy.
- DOC's approach to contractual breaches of authorisations (such as concessions and permits), while such breaches are being dealt with under the terms of contract.

1.3 Audience

The policy applies to all DOC staff who undertake, or hold responsibilities for, compliance work. It is particularly relevant to those who make or review decisions on enforcement action. Other internal documentation, such as procedure and guidelines, will cover implementation of the policy.

The policy informs the public about DOC’s enforcement function. The policy applies to any person or company undertaking non-compliant activity. (‘Activity’ includes not taking legally required action.)

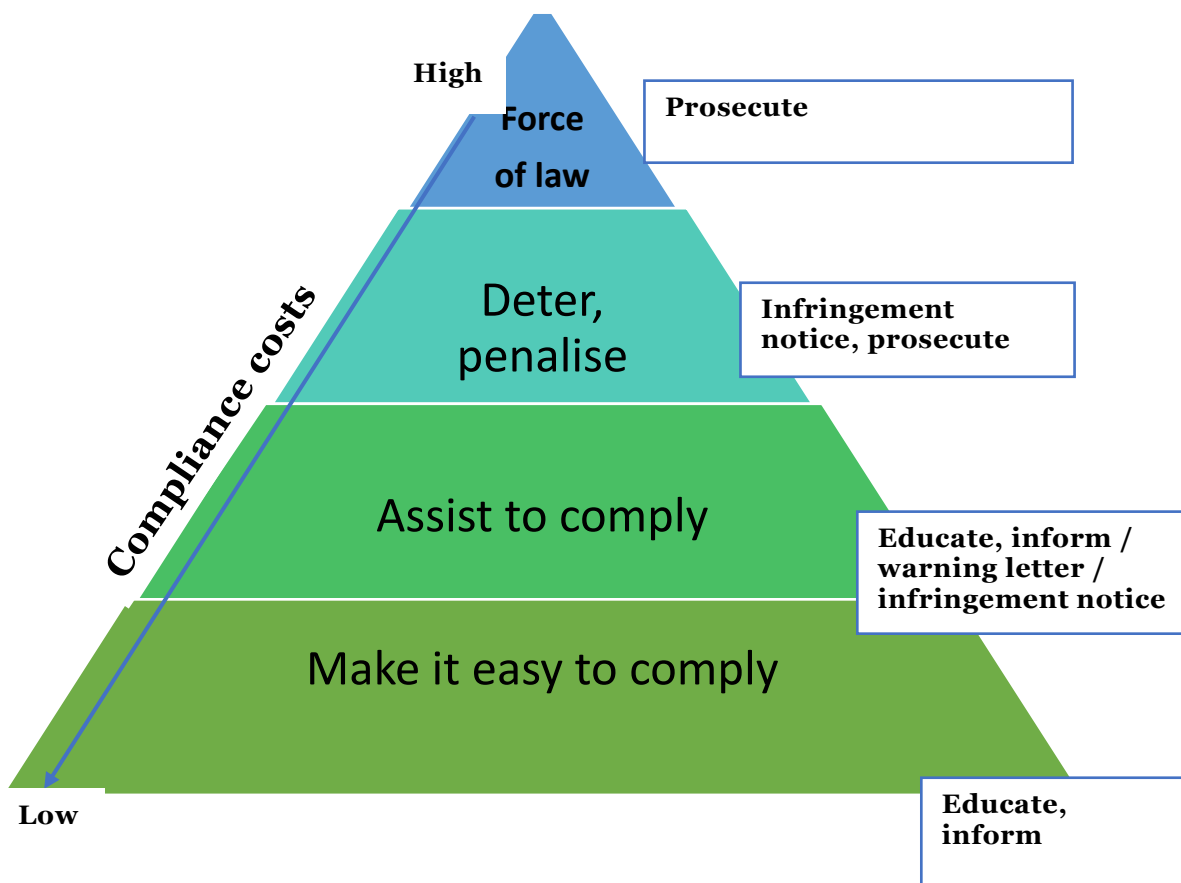
1.4 DOC’s enforcement function and approach

DOC has legislative responsibilities to protect and preserve a large range of conservation resources, both on and off a vast area of public conservation land and waters. As part of these responsibilities, DOC has a law enforcement function. Many pieces of legislation have offences for activities that can affect conservation resources, which DOC can enforce. They include conservation legislation DOC administers and other legislation that gives DOC enforcement powers.

DOC’s overarching objective for law enforcement is protection of conservation resources. We want to effect behaviour change (compliance with law) to help achieve the purposes of legislation. Within that, our core enforcement objectives are:

- To hold people to account for offending.
- To deter offending (re-offending and offending by others).

DOC’s approach to implementing its compliance and law enforcement function is based on the Braithwaite compliance model.



The model assumes most people are willing to comply, and so lower-level compliance actions should be sufficient in most situations (the lower end of the pyramid). DOC recognises that many people do, or want to, comply with the law and protect conservation resources. DOC's compliance function has law enforcement taking place in conjunction with programmes and activities to educate and engage with the public and other agencies.

The upper end of the pyramid means that enforcement action is available and to be used when needed. DOC will use enforcement as the tool to protect conservation resources where this is reasonable. Legislation gives DOC a discretion (choice) about whether to take enforcement action in response to non-compliant activity. If we do, in many cases there is also a choice about what tool to use. That is, for many offences, legislation allows for either an Infringement Notice to be issued or a prosecution to be taken.

This policy outlines the different enforcement tools available and decision-making on what enforcement action to take, if any. It indicates factors to be considered, where the evidence shows offending, in order to make a decision. Decision-makers will use their overall judgement in the circumstances.

1.5 Objectives

Implementing this policy will mean that all relevant staff understand DOC's approach to enforcement, the enforcement tools available, and decision-making on taking action in response to non-compliant activity. Separate procedure and guidelines will further assist staff to understand their roles and make decisions.

1.6 Guiding principles

Core concepts underpinning the Policy Statements that follow below are:

- We make decisions that are robust, impartial and made at appropriate levels in DOC.
- We make decisions that are evidence-based and reasonable in the circumstances.
- We make decisions that give effect to the principles of the Treaty of Waitangi (as required by [section 4 Conservation Act 1987](#)).

1.7 Mandate

The mandate for this policy originates from the compliance laws (Acts, Regulations and Bylaws) governing the protection of conservation resources.

These include:

- [Conservation Act 1987](#)
- [Dog Control Act 1996](#)
- [Freedom Camping Act 2011](#)
- [Litter Act 1979](#)
- [Marine Mammals Protection Act 1978](#)
- [Marine Reserves Act 1971](#)
- [National Parks Act 1980](#)
- [Reserves Act 1977](#)

- [Taupō Fishery Regulations 2004](#)
- [Trade in Endangered Species Act 1989](#)
- [Whitebait Fishing Regulations 1994](#)
- [Whitebait Fishing \(West Coast\) Regulations 1994](#)
- [Wildlife Act 1955](#)
- [Wild Animal Control Act 1977](#)

Occasionally, DOC may take enforcement action under laws that aren't directly about the protection of conservation resources. These include the [Trespass Act 1980](#), [Crimes Act 1961](#), [Summary Offences Act 1981](#) and [Resource Management Act 1991](#).

1.8 Terms and definitions

Term	Definition
CLE	The acronym DOC uses for its Compliance and Law Enforcement function.
Compliance	Means people follow the law. Similarly, 'compliance work' is directed at achieving this.
Compliance laws	Provisions of Acts, Regulations and Bylaws protecting conservation resources that: DOC administers; DOC jointly administers with another agency; or, that give DOC particular enforcement powers (e.g., the Dog Control Act 1996).
Conservation resources	Natural and historic resources, DOC assets, and DOC workers protected by compliance laws.
DOC workers	Can include DOC employees, contractors and volunteers.
Enforcement action	Means actions taken in response to people not following the law, with the aim of effecting compliance. (Refer Enforcement Tools section, below.)
Warranted Officer	Appointed under s 59 of the Conservation Act 1987 and the Public Service Act 2020 for the purposes of the Conservation Act and authorised to issue Infringement Notices. They include warranted Rangers, Principal Compliance Officers and Compliance Officers.

2. Roles and responsibilities

This policy applies to all staff and contractors who undertake, or hold responsibility for, Compliance and Law Enforcement (CLE) work. The following description of roles and responsibilities is high level. More detailed descriptions are found in the Standard Operating Procedure.

Warranted Officers (warranted rangers and compliance officers)

Warranted Officers must be familiar with the Guiding Principles and Policy Statements for enforcement and apply them in their CLE work, supported by associated procedures and guidelines.

Operations directors, managers and team leaders

In addition to their responsibilities as staff members:

- Must apply this policy and the Prosecution Policy when making or reviewing enforcement decisions they're responsible for.
- Are accountable for their staff and contractors following this policy and for their enforcement decisions.
- Provide support and guidance to assist staff and contractors to understand and follow this policy.

Deputy Director-General Operations

- Accountable for the coordination and strategy of CLE in DOC.
- Promotes compliance with CLE policies, SOPs and guidelines.
- Final approval and policy sign-off.

Business owner – National Compliance Manager

- In addition to responsibilities as a manager (above), is responsible for the implementation of CLE practices and systems including the oversight of appropriate documentation, training, monitoring and review.

3. DOC's enforcement structure

This part gives a high-level summary of key components.

DOC sets up people, processes and mechanisms so that enforcement activities, decisions and reporting are sound. This section briefly outlines that structure.

DOC's compliance function is led by the National Compliance team. This team includes Principal Compliance Officers and Compliance Officers. Their role includes leading complex criminal investigations and investigating serious breaches of concessions.

Principal Compliance Officers also train and coach other Warranted Officers (warranted under the [Conservation Act 1987](#)). Every DOC district office has Warranted Officers who carry out CLE work at district scales. DOC's legal team support compliance staff, and lead prosecutions.

Enforcement decision-making roles and accountabilities are clear in the structure. These include:

- Warranted Officers can decide to issue Warning Letters and Infringement Notices and can recommend prosecutions. Internal processes provide support and review functions.
- Legal and senior operations staff make prosecution decisions, in accordance with DOC's Prosecution Policy (based on the Solicitor-General's Prosecution Guidelines). The Prosecution Policy is separate to this policy.

The central mechanism is an internal digital database, known as CLE Works. It is the primary mechanism for recording, managing and reporting on compliance incidents. Warranted Officers and all other compliance staff must use it.

DOC aims to record all reports of non-compliance in CLE Works, from internal or external sources, and investigate priority matters.

There are internal procedures and training in place regarding authorisation to access and use CLE Works, [Privacy Act 2020](#) requirements and information standards.

4. Enforcement tools

Compliance laws cover a very wide range of offences and circumstances. For many offences, the legislation allows for either an Infringement Notice or prosecution by way of enforcement action. This recognises that the same offence can be more or less serious, depending on the circumstances of the offending. Further, DOC may instead take non-statutory action (issue a Warning Letter, give information) or take no enforcement action.

DOC's response to each case of non-compliant activity will be reasonable in the circumstances. First, evidence must support enforcement action. Second, other factors will be considered to ensure a reasonable response (below).

Doing what is reasonable in the circumstances could mean, for example, that not every case of offending will result in enforcement action. On the other hand, if formal enforcement action does occur, it does not have to start with a Warning Letter for a first offence.

Enforcement outcomes may not always appear consistent due to, for example, particular circumstances and conservation priorities. DOC will consider relevant factors in each case and exercise judgement.

DOC's formal enforcement tools are: Warning Letter, Infringement Notice and prosecution. We will also use information, advocacy and education as a tool to promote compliance.

Information, advocacy and education. This may be appropriate in cases of very minor or trivial non-compliance. It can be useful where we consider informing and educating the offender is mostly likely to achieve compliance in future. It may be also be used alongside formal enforcement action.

Warning Letter. A Warning Letter identifies an offence but gives no penalty. It can be a simple, effective way of dealing with minor situations of non-compliance. The Letter will be recorded and considered in future (for example, if future non-compliance occurs, the enforcement response may be stronger).

Infringement Notice. This is a notice alleging that an offence has been committed and requires the offender to pay a fine. Infringement fines are set by law and DOC can issue a fine ranging from \$200-\$800. Infringement Notices give an efficient and straight-forward way of dealing with many breaches that are not serious enough for prosecution. Infringement offences can't result in a criminal record. DOC records them and they are considered if there is future non-compliance.

A person receiving an Infringement Notice may write to DOC seeking that the notice be cancelled ('dismissed'). A request for a Court hearing, instead of paying the fine, may also be made. If the Court finds the alleged offender guilty, it may impose a higher fine (maximum \$1600) and costs.

Prosecution. This is a process that's taken through the Court. The Court can impose sanctions if the defendant is found guilty. The general objective is to hold to account those who break the law in a serious or repeated manner, and to deter the defendant or others from future non-compliance. If a defendant is convicted, the potential penalties include fines, community work, and imprisonment. The offender may receive a criminal record. Some offences under compliance laws can only be prosecuted (i.e., infringement notices are not available).

As explained above, any decision to prosecute is made under DOC's Prosecution Policy (not this Enforcement Policy).

5. Enforcement policy statements

We make decisions at the appropriate level in DOC with support and review mechanisms, so that decisions are robust and impartial.

We recognise that taking enforcement action impacts on the individual(s) concerned, and some actions have more impact than others. Therefore, responsibilities for enforcement decisions must be set at the right levels and have the right support.

Our enforcement structure is designed so that we have the appropriate people involved at the various levels of enforcement decision-making. Key roles are summarised under Section 3 Enforcement Structure and are further described in internal documentation so that roles and accountabilities are clear.

Decision-makers are supported through internal procedures, guidelines, expertise (such as Compliance Officers and legal advisors) and managerial support.

Every decision to take formal enforcement action will be recorded with reasons. Decisions not to do so will also be recorded.

DOC carries out its enforcement function in accordance with its [Conflict of Interests Policy](#) (doc-2870312). That Policy guides staff on where a conflict of interest may arise, and how to avoid or manage potential conflicts. The Policy provides a mechanism to ensure any actual or potential conflict of interest is disclosed and managed appropriately.

We make enforcement decisions that are evidence-based and reasonable in the circumstances. Factors indicated below will guide decision-makers.

Legislation permits enforcement action to be taken if someone does not comply with the law. We will also consider other factors to ensure the type of enforcement response (what tool we use), if any, is reasonable.

Relevant factors for decision-makers are the specific circumstances of the offending and the offender(s), and DOC's statutory objectives and enforcement priorities.

Specific factors may include:

- Previous offences or warnings issued to those involved.
- The accidental, deliberate or planned nature of the offending.
- Any explanation given by the offender for their actions.
- Whether the offending was commercially motivated.
- Conservation values of the affected resources and environment.
- Harm to or negative impact on conservation resources, including the risk of that happening.
- Negative behaviour towards DOC workers (such as verbal or physical abuse, hostility, harassment etc).
- Impact on or harm to iwi/hapū/whānau cultural values of the affected resources or environment (also see below – Treaty Principles).
- Prevalence of the type of offending (how common or widespread it is).

- Maintaining the integrity of DOC’s regulatory role (e.g., doing an activity without the required permission).
- The ability or willingness of the offender to remediate (fix or make right) their actions.

This is not an exhaustive list, and additional factors may be relevant in any given case.

Internal guidelines give decision-makers further information about relevant factors.

DOC will communicate enforcement priorities publicly from time to time, such as through the National Compliance Strategy and media.

We give effect to Treaty of Waitangi principles

DOC is required to give effect to the principles of the Treaty of Waitangi when administering conservation legislation ([section 4 Conservation Act 1987](#)).

We will take care to ensure that any established Treaty right is respected. For example, a Treaty settlement agreement relating to take of cultural materials may impact existing legislative requirements or restrictions.

Cultural value to iwi / hapū / whānau of resources or the environment affected by offending is a factor that may be relevant to the enforcement action we take. For example, offending that harms taonga species or that impacts a wahi tapu may elevate the seriousness of the offence.

We may engage with iwi / hapū / whānau on these matters and, where we do, the decision-maker will take into account their views.

6. Related documents

These include:

- [Prosecution Policy](#) (docDM-1199575)
- [Information collection for Compliance, Law Enforcement and Security Policy](#) (doc-5960847)
- [Conflict of Interest Policy](#): (doc-2870312)
- [Privacy Policy](#): (doc-5568567)
- [Warrants of Authority Standard Operating Procedure \(SOP\)](#) (docDM-930999)
- [Enforcement Decision-making Guideline](#) (doc-6092411)
- [Enforcement System \(CLE Works/Pūnaha Tūtohu and managing information\) SOP](#) (doc-6407414)
- www.legislation.govt.nz
- [DOC National Compliance Strategy 2017-2020](#)

7. Document history

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