

Foundations of Regulatory Practice – Draft Module Content

To note: This is a **Work in Progress** (WiP) document and does not represent completed work. Not all six modules are contain the same amount of detail (some modules contain less information that others).

Module 1: Regulation 101

Module Aims:

This module acts as a broad introductory module covering the ‘basics’ of regulation: what regulation is, who regulates, approaches to and styles of regulation. It provides some ‘context’ to the Australian regulatory landscape (Commonwealth, States/Territories, Local Gov regulators). Module aims to allow students to ‘see themselves’ and the job that they do reflected in the course and in the larger regulatory landscape. It teases out the differences between the job of a regulator and that of other public service roles. This module also starts the conversation about how difficult it is to define what ‘good regulation’ looks like.

Topics/Content:

What is regulation

Objectives of regulation

Addressing our regulatory objectives (Consumer protection; Safety; Environmental protection; Welfare; Probity)

What we do as regulators (Educate and Inform; Authorise; Monitor; Respond; Manage risk; Support; Plan; Decision-maker)

The Regulatory **Toolkit** (broad regulatory approaches)

Who regulates?

Creating a **regulatory mindset:**

Creating a **regulatory mindset:**

What does ‘good’ regulation look like

Module 2: Regulatory Tasks and Functions (Part A - Authorising)

Module Aims:

This module aims to introduce the broad tasks and functions of a regulator at the authorising level. The module will cover licensing, permitting and accrediting. The module begins by providing a broad working definition of ‘licensing’ to enable students to orientate their thinking and learning around a common language and common terms, in order to appreciate the important role and function that licensing plays in the broader regulatory environment. The module then makes the case for ‘why we license’ (the value of licensing to the wider regulatory environment).

The module utilises a range of **case studies** to illustrate how licensing works in practice, demonstrating that this regulatory function applies to people, products, places and environments. Cases will be drawn from a range of sectors and will detail all aspects of a licensing program. For example, probity, background checks, registrations, risk assessments, the setting of special conditions, the use of administrative sanctions, and so on....

Topics/Content:

This first introductory section of this module deals with setting up a working definition of licensing and using every day, relatable examples of licensing so that students can relate to 'licensing as a regulatory task and function'.

Why we license? (making the case for licensing)

Rationale for Licensing

Case studies

Licensing – an umbrella term (many other terms under this umbrella)

Accreditation; Permits; Registration; Certification

Why we license?

How we license?

Differentiate between **privilege licensing** and **permission licensing**.

Administrative sanctions

Licensing is not a set-and-forget

Module 3: Understanding and achieving Compliance

Module Aims:

This module is framed using concepts and language about compliance that resonates with Australian regulators.

This module seeks to introduce the *concept of compliance* to the student, prompting the student to think about: “*what does it mean to be compliant?*” The module will demonstrate that ‘compliance’ is a messy concept and does not necessarily follow a linear path (for example, if we do X it does not always follow that Y will happen). At the end of this module, the student will appreciate that there are many variables involved in achieving compliance.

Topics to be covered: understanding what motivates regulatees to comply; exploring reasons why regulatees may not comply; examining the role that inspections and site visits play in achieving compliance; regulatory tools that are used to achieve compliance; and a look at additional compliance concepts that can have an impact on our regulatory environment and regulatory actors.

Topics/Content:

Understanding motivations for compliance:

organisational capacity to comply

What role do ‘**inspections**’ play in securing/achieving compliance?

What happens when non-compliance is detected?

What does 'being compliant' mean?

A look inside a **compliance toolkit**

Additional compliance concepts: **going beyond compliance; creative compliance; façade of compliance; ritualistic compliance**

Module 4: Regulatory Tasks and Functions (Part B – Monitoring)

Module Aims:

This module aims to introduce the broad tasks and functions of a regulator at the implementation and monitoring level.

The module will cover auditing, inspecting, investigating and the ever-present role of education and communication which flows throughout these tasks.

Note: Educating and Communicating is considered to be a component of all regulatory tasks and functions. Regulators need to be cognizant of the opportunities and benefits of weaving in educational opportunities with regulatees throughout all stages of engagement - educational opportunities are a component of all regulatory interactions, not just those which occur during an inspection or an audit.

Topics/Content:

Auditing

Inspecting

Investigating

Joining up the dots: Regulatory intelligence: how we work out what's going on, turning data and info into actionable intelligence.

Module 5: Effective Regulatory Communication

Module Aims:

This module is broken into two (2) separate components. The first section aims to equip students with an understanding of the importance of regulatory communication. The second section seeks to provide students with an understanding that regulation and regulatory tasks are carried out within a 'context' that includes other people/groups of people and factors that may have an impact upon how they conduct their job.

Topics/Content:

Regulatory Comms

Knowing your stakeholders & the environment in which you operate

- Ethical challenges
- Conflict of interests
- Regulatory capture

Module 6: Knowing your legal environment and maintaining ethical standards

Module Aims:

This module seeks to provide students with a broad introduction to the legal environment in which regulation is conducted in Australia. The module covers the separation of powers, how legislation and regulation is made and administered, provides practical guidance and skills to students on how to access and refer to legal documents (e.g., Legislation), and includes a broad introductory topic on ethics and ethical decision-making for regulators.

Topics/Content:

Levels/branches of Gov in Australia

Appeals to Regulatory Decisions

Admin law principles

Reading and Referring to Legislation & Regulation

Ethics

Ethical decision-making (definitions)

Regulatory decision-making (proportional; fair; transparent; due process; documented; respect; timely)

Conflict of interests

Regulatory capture

Misuse of information or regulatory resources; Protection of sensitive or confidential data

Abuse of power: (Big C & little C corruption; Regulatory capture; Is this behaviour/action collaboration or corruption?)