



Launch of the Treasury's new Regulatory Stewardship Resource

Speech delivered by Caralee McLiesh, Secretary to the Treasury

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Kia ora koutou katoa

Thank you for joining us today and a special thanks to the Government Regulatory Practice Initiative or G-Reg for hosting us. G-Reg makes a tremendous contribution to quality regulation in New Zealand by connecting and supporting regulatory professionals. Our Treasury team is delighted to collaborate with G-Reg on regulatory stewardship. We are here today for an exciting milestone: to launch the Treasury's inaugural resource on regulatory stewardship for public sector agencies.

What is regulatory stewardship and why does it matter?

Stewardship is about leaving things in better shape for future generations. Regulatory stewardship means taking care of our regulatory systems as we would of any other important asset – with sustained attention and improvements over time.

Regulation is a powerful tool. It doesn't always get the same attention as other policy tools like spending and taxation, but a vast body of evidence tells us that regulation matters. It is an important reason for differences in economic performance and broader well-being across countries. When we get regulation right, we set incentives for growth and better living standards, as well as protect people from harm. But get it wrong and we stifle innovation, limit rights and interests and enable exploitation or even worse.

New Zealand compares well on many international measures of regulation. We were ranked first in the World Bank's ease of doing business index. We're near the top of the World Bank's regulatory quality index and above average on OECD measures of effectiveness of regulatory impact assessments and stakeholder engagement in regulatory processes.

But there is much to improve on. We are a long way from the OECD top score and we're well behind the pack on OECD measures of regulatory evaluation. We are slipping in the World Bank rankings of regulatory quality. Costs of regulation are high in some sectors. For example, Te Waihanga, New Zealand's Infrastructure Commission estimates that resource management consents average about 5.5 percent of infrastructure project costs and about 16 percent of small project costs. Compared to other countries, those costs are at the high end. And like virtually every other country, New Zealand has experienced cases of

spectacular regulatory failure, some with great human cost—including mining disasters, leaky homes, mis-selling of financial products and road accidents arising from unsafe vehicles.

Today's policy challenges are complex and require action across a range of different stakeholders. Technology is advancing more and more rapidly, shocks are more frequent and many long-term trends—like climate change, changing demographics, and low productivity growth—are inadequately addressed. A 'set and forget' approach is woefully unfit for this environment. Periodic, 'big bang' reforms with blunt tools like sunset clauses or one-in-two-out rules, will not give us regulatory systems that are adaptable, agile, and high performing for the uncertain future we face. This is where regulatory stewardship comes in. Regulatory stewardship is the governance, monitoring and care of our regulatory systems. It aims to ensure that all the different parts of a system work well together to achieve its goals, while keeping the system fit for purpose over the long term. And the primary responsibility for undertaking regulatory stewardship rests with us, as public servants.

Where are we at today with regulatory stewardship?

Regulatory stewardship has been in place for a while now in New Zealand. The statutory underpinning for regulatory stewardship was established in 2013, when amendments to the State Sector Act made stewardship an obligation for public service chief executives. This was followed in 2013 by the publication of the Government Expectations for Regulatory Stewardship, which were updated in 2017.

Internationally, regulatory stewardship is a relatively novel concept, which means that we are still learning how best to go about it. There is also the relentless challenge of finding the time and space for stewardship amidst a myriad of other urgent priorities. We have seen great progress by some agencies. The Ministry of Business, Innovation and Employment has taken a deliberate and systematic approach through developing Stewardship Maturity Assessments for its regulatory systems. The Parliamentary Counsel Office has established its legislative stewardship role focussing on improving the quality of legislation. And a number of other departments including the Department of Internal Affairs, Ministry for Primary Industries, Ministry of Education and Ministry of Transport have created Regulatory Systems Amendment Bills to improve the maintenance of regulatory systems.

Our major regulatory agencies have learned that to make real progress, they need to clearly assign internal responsibilities for regulatory stewardship, and develop supporting systems, processes and governance arrangements.

We recently surveyed public service agencies about their regulatory stewardship practices. Of the more than 50 agencies surveyed, at least 70 percent have now explicitly assigned resources to support their regulatory stewardship role. That is a really promising start. However, most have not yet developed clear internal guidance or formal collaborative arrangements with partner agencies in the same regulatory system. Only 7 percent have comprehensive plans for maintaining and developing their systems.

The COVID-19 pandemic has steepened our learning curve. There are early signs that in areas where regulatory stewardship work had been undertaken prior to the pandemic, regulatory systems were able to respond more effectively. Stewardship means those systems were already well understood and poised to adapt.

We also saw a number of regulatory innovations that probably would've been unlikely in the absence of the pressures created by the pandemic. One of the more notable innovations was amendments to the Medicines Act and regulations, which enabled a more diverse range of people to administer vaccinations. As well as increasing the number of vaccinators, this innovation meant vulnerable populations were able to be vaccinated by people they already knew and trusted, and vaccination was made available at more convenient times and in more convenient places like pharmacies and on marae. New Zealand's 94 percent vaccination rate would have been a lot harder to achieve without it.

Another case of regulatory innovation was in the transport sector: in this case providing the Director of Land Transport with a new package of emergency powers. The pandemic made clear that the director's existing powers to waive regulatory requirements in some critical emergencies were quite limited. For example, waivers for warrants of fitness and vehicle licensing services required a complex and time-consuming process to change regulations. The review prompted the Ministry of Transport to provide the Director of Land Transport with powers that can be used across different land transport regulatory regimes to make emergency interventions. This future-proofs the regulatory system to be more responsive to emergencies.

More than 110 regulatory changes were agreed through fast-tracked pandemic-related regulatory approval processes. A number of those changes have brought more permanent improvements, like enabling electronic transactions for corporate governance functions and in courts. Other systems showed resilience and adaptability without new regulatory change. For example, existing emergency powers under the Public Finance Act ensured funding of government services was uninterrupted. With a stewardship lens, we need to ask what lessons can the COVID-19 experience provide for building regulation that is resilient to future shocks?

How are we going about building regulatory stewardship?

In 2020, the Public Service Commissioner gave me a new functional leadership role for regulatory stewardship. This builds on the Treasury's long-standing mandate for strategic coordination of the regulatory management system, including the regulatory impact analysis system.

My functional lead role is supported by a Chief Executives Group which comprises the CEs of nine public service departments and Crown Entities. Our CEs group guides and oversees the stewardship work of our Treasury Regulatory Strategy team, which is also connected to agencies across the public sector through a Regulatory Stewardship Advisory and Support group. We are engaged in a collaborative effort to build regulatory stewardship capability across government. Our survey results show that agencies are keen to learn more about regulatory stewardship.

To help with this, we have produced the new regulatory stewardship resource that we are releasing today. The resource outlines nine topics that agencies can work through to help develop their regulatory stewardship practice—from system fundamentals (like mapping the regulatory system and assessing for gaps and overlaps) to the international context (like understanding international regulatory obligations, or opportunities to recognise international regulatory standards).

Each topic includes prompts for agencies to discuss and test their stewardship practice. We outline what early indicators of progress could look like, as well as markers of agencies that are taking their practice further. The value will be in the conversations that are sparked by bringing the right people together in a room and working through the resource. Having stepped through it with Treasury's regulatory systems in mind I came away with a large set of improvements identified.

We recognise that all regulatory systems are different. Individual agencies are best placed to consider what good looks like in their own unique context. However, the resource highlights some common issues that apply across a wide range of regulatory systems.

The resource is primarily aimed at agencies who are early in the stewardship journey. You do not need an in-depth understanding of regulatory stewardship practice to be able to use it. At the same time, the questions and prompts are ones that even the most sophisticated regulatory policy advisor or practitioner should be asking themselves frequently. For example, no one should ever be above reflecting on whether their leadership culture values stewardship, or is open to negative findings, or escalates risks to the right levels.

This resource is one of many tools that you might use to guide your stewardship practice. In each topic we provide links to other tools and resources that are available across the public sector. We would like to continue developing this resource over time, as our collective regulatory stewardship practice improves. So as you use it, we would really appreciate your feedback.

Beyond the resource document, I also wanted to highlight today that the Treasury and G-Reg have recently established a regulatory stewardship community of practice. We encourage anyone who has an interest in regulatory stewardship to join this group, whether you're an experienced practitioner or whether you're just starting out. We are really excited to be partnering with G-Reg to enable us all to share knowledge and experience and learn from each other. Members can choose to join the regular meetings, engage with the Teams channel, take specific discussions offline in smaller groups, or a bit of everything. We're optimistic that this community will get us collaborating more and be a key part of growing regulatory stewardship in Aotearoa.

Collaboration was critical to the development of the resource we are releasing today. We see it very much as a living document – and, much like regulatory stewardship as a concept, it needs to be tested and adapted as our understanding of stewardship evolves. Our hope is that the Community of Practice will help us to learn and develop new resources over time.

In closing: some thanks, a request, and a whakataukī

My thanks to all those who have put in a tremendous amount of effort to get us to today's launch of our *regulatory stewardship resource*, starting with our team in Treasury. I am grateful to our colleagues at G-Reg for facilitating our event today; the Regulatory Stewardship Advisory and Support group, who have provided enormously valuable input to the work; and my fellow Chief Executives in the Regulatory Stewardship CEs group, who are a source of such rich insights and advice on stewardship practice. Thank you for your ongoing support of this important mahi.

My request is for all here to take a look at the resource, and (most importantly) consider how you will you leave your regulatory system in better shape for the future. Will the regulatory system you work on be responsive to the next new technology? Resilient to the next crisis? Or will it be the next regulatory failure?

And putting those thanks and that request together, let me close with the with the G-Reg whakataukī: *me mahi tahi tātou mo te oranga o te katoa*". Let us work together for the good of all, and in this case for regulatory stewardship, which is really about lifting living standards for all New Zealanders.

Acknowledgements

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