



Agency Board Meeting 27 April 2021

Board Report Number: SEPA 12/21

Regulation – Landfill & Aquaculture Sectors

Summary:	As we have previously advised the Board, we have some good examples of progress in implementing our Phase 2 way of regulating, however, we have experienced challenges in comprehensively embedding the new approach in all our work. AMT has now approved a revision of the implementation model and is starting to deploy it and, in this agenda item, we explain this revised approach.
Risks:	The key risk is that a failure to implement our Phase 2 regulatory business model will undermine our ability to most effectively drive compliance and beyond compliance environmental outcomes.
Resource and Staffing Implications:	No extra resources are needed for this initiative. We are exploring some options to better organise some existing resources.
Equalities:	There are no new equalities issues. The key equalities issues will be addressed in any processes for shifting staff resources and this will be managed as part of our established processes.
Environmental and Carbon Impact:	There are no environmental or carbon impacts.
Purpose and audience of the report:	That the Board: (1) notes the improved approach to implementing our Phase 2 regulatory model; and (2) provides any feedback on the improved approach.
Report Author:	Ian Buchanan, Chief Officer, Compliance & Beyond John Kenny, Chief Officer, Circular Economy Terry A'Hearn, Chief Executive
Appendices:	Revised Chapter 2 of the <i>Phase 2 EPA Book</i>

1. Introduction

- 1.1 As we have previously advised the Board, we have some good examples of progress in implementing our Phase 2 way of regulating, however, we have experienced challenges in comprehensively embedding the new approach. AMT has approved a revision of the implementation model and is starting to deploy it and, in this agenda item, we explain this revised approach.

2. Background

- 2.1 Our Phase 2 approach to regulating under our One Planet Prosperity strategy is a radically improved way of regulating. It is designed to drive businesses to achieve compliance more quickly and to encourage as many businesses as possible to go 'beyond compliance' on a voluntary basis.

- 2.2 As a reminder, the key differences between Phase 1 and Phase 2 are:

Phase 1	Phase 2
Outcomes: Compliance	Outcomes: Compliance and Beyond Compliance
Methods: 1. Our previous toolkit (e.g. permits, licences, prosecutions, advice, etc)	1. Expanded Toolkit (e.g. in our previous toolkit plus everything Fixed Monetary Penalties, Enforcement Undertakings, Sustainable Growth Agreements, Place-Making, etc.)
2. Largely working on our own	2. Working with other influencers (e.g. supply-chains, NGOs, financiers, etc)
3. Largely using administrative processes to deploy our toolkit.	3. Deploying our toolkit under our clear organisational strategies of Sector Plans.

- 2.3 We have had some good initial success in using this new business model, but as with much major change, it has been challenging to implement it in a comprehensive way across all of our regulatory work.
- 2.4 Many staff have embraced the Phase 2 way of working and are using it drive environmental outcomes (e.g. the Leven SGA, some planning and flooding work, some of our tough compliance challenges, etc). However, many staff are still finding the new business model confusing and difficult to use. This was reflected in some of the results in the 2020 Staff Survey.
- 2.5 Some of the challenge can be attributed to the pandemic as it slowed down some of our change processes and, in some cases, the type of interactions we needed to work with staff on change would operate much better in face-to-face discussions. However, the pandemic just made our task a bit harder; the core challenges relate to the normal set of factors in an organisation that can make change difficult

3. The Issues

3.1 Based on this situation, AMT took two key steps in the third quarter of 2020-21:

(a) we used the business planning for the 2021 -22 Annual Operating Plan to develop concrete actions plans for each of our 34 sectors. This work was giving a stronger and more practical focus to our sector planning work (e.g. much more specific target-setting for compliance and beyond compliance outcomes and actions). Unfortunately, we have not yet recovered much of this work following the cyberattack. Nevertheless, we haven't lost the learning from it and this is helping us deploy the business model more effectively now; and

(b) in November and December last year, we ran four Senior Leadership Team workshops with some other staff members involved in regulation in which we discussed any refinements needed to make the business model work more easily in practice.

3.2 We have now refined the explanation and presentation of the business model and added a new tool which makes it much easier to apply practically. This will form the chapter on regulation in the revised *Phase 2 EPA Book*. This is presented in Appendix 1.

3.3 As part of the 103 projects approved for April to June, we included developing annual action plans for the Aquaculture and Landfill sectors. We are prioritising deploying resources and the new approach in these two sectors. As the detail in these plans includes tactics on compliance and enforcement issues, these two plans are presented for discussion in the private session of today's Board meeting.

3.4 AMT believes we are taking a major step forward with (a) the clearer and more practical expression of the business model and (b) the use of the business model in two trial sectors. We would, therefore, welcome Board feedback on this work to help us make sure we get implementation of it as successful as possible.

4. Recommendations

4.1 The Board is asked to:
(1) note the improved approach to implementing our Phase 2 regulatory model; and
(2) provide any feedback on the improved approach.

Author(s) and Date

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22 April 2021

CHAPTER 2: REGULATION

OUR VISION FOR REGULATING FOR ONE PLANET PROSPERITY

As a society we are over-using our planet's resources. If everyone lived as we do in Scotland, we would need three planets to sustain ourselves. In the 21st century and beyond, only those businesses that operate in harmony with our one planet will thrive.

One Planet Prosperity is designed for this decade - the scientific evidence tells us there are many systemic environmental problems that must be urgently addressed. Originally, EPAs correctly focused on specific environmental issues (eg. noise, water discharges, air quality etc.). Now, under our One Planet Prosperity regulatory approach, we will continue to focus on these specific environmental compliance issues *and*, at the same time, also focus on the bigger systemic environmental issues (e.g. climate change, biodiversity loss, plastics pollution).

Four main characteristics of SEPA's One Planet Prosperity Regulatory Approach

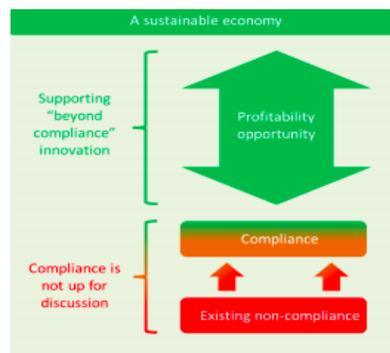
WHAT we are aiming to achieve:

1. Compliance and Beyond Compliance outcomes

HOW are we going to achieve it:

2. We organise our work strategically through sectors
3. We work with external influencers
4. We use our expanded toolkit

OUR REGULATORY OBJECTIVES



Environmental compliance is non-negotiable. Every Scottish business will comply with the law, and we'll work to ensure as many as possible will go even further. In this diagram, we specify what compliance is for a sector and what beyond compliance opportunities exist for the environmental parameters we regulate and those we don't regulate.

Figure 1: SECTOR ROAD MAP DIAGRAM

This diagram is used to work out **WHAT** we are aiming to achieve:

1. Compliance and Beyond Compliance

WE USE THE INFLUENCERS MAP & OUR TOOLKIT TO DECIDE OUR

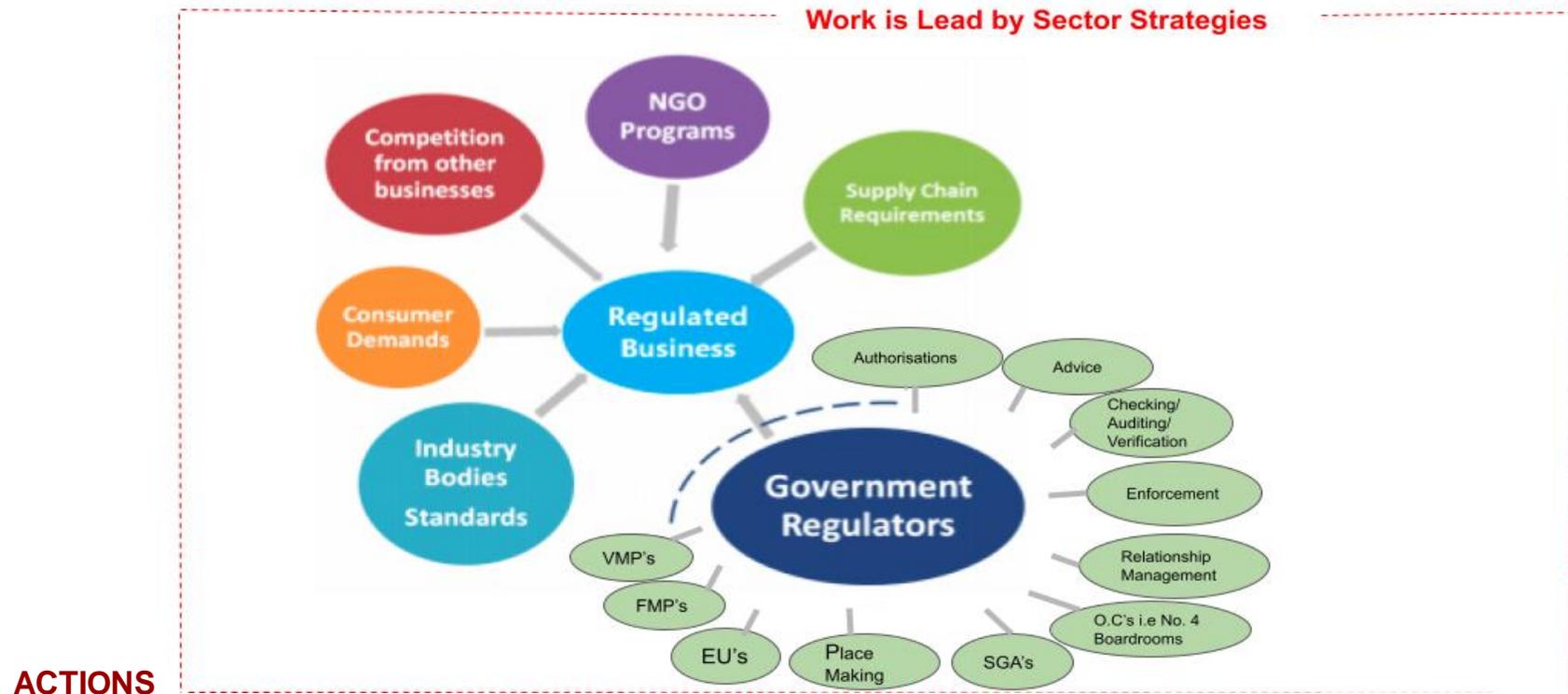


Figure 2: INFLUENCERS MAP & TOOLKIT

We will use this diagram to work out HOW are we going to achieve it:

- We will organise our work strategically through sectors
- We will work with external influencers and our expanded toolkit to maximise our influence on compliance and beyond compliance outcomes.

For a full list of tools click here. All work will be guided by our new decision making culture.

OUR SECTOR WORK PLAN ACTIONS

Authorisations (Compliance)	Advice & Support (Compliance & Beyond Compliance)	Verification (Compliance)	Enforcement (Compliance)	Opportunities (Beyond Compliance)
<i>Licences and permits will be short clear and easily enforceable.</i>	<i>Advice will be clear and helpful.</i>	<i>Verification will be powerful and targeted.</i>	<i>Enforcement will be targeted, powerful and quick.</i>	<i>Opportunities will be identified to move beyond compliance</i>
<p><u>What does SEPA do?</u> In the majority of cases, we will make quick decisions on authorisations. A quick yes, a quick no, or a quick rejection if application is incomplete.</p> <p><u>What do we want businesses to do?</u> We want businesses to understand their compliance obligations, take responsibility for meeting them and demonstrate how they have been met.</p>	<p><u>What does SEPA do?</u> We will offer advice to help businesses understand their compliance obligations and will have discussions with businesses on exploring beyond compliance opportunities.</p> <p><u>What do we want businesses to do?</u> We want businesses to talk to us about issues with compliance and to discuss opportunities to go beyond compliance.</p>	<p><u>What does SEPA do?</u> We have an efficient system for checking compliance to a high degree of confidence.</p> <p><u>What do we want businesses to do?</u> We want businesses to be able to clearly demonstrate compliance with their obligations and show us how they have done this.</p>	<p><u>What does SEPA do?</u> We hold businesses to account with fair and efficient enforcement where appropriate.</p> <p><u>What do we want businesses to do?</u> We want businesses to respond to enforcement action with significant improvements in performance.</p>	<p><u>What does SEPA do?</u> We will work with businesses to identify beyond compliance opportunities and support them to achieve their aims. Some of these opportunities may also help fix compliance issues.</p> <p><u>What do we want businesses to do?</u> We want businesses to engage with us on identifying and harnessing beyond compliance opportunities.</p>

10%

90%

Time spent on tasks

Work to Support Delivery

The workplan describes how we will work directly with regulated businesses. There will also be a separate stream of work to support the delivery of actions (e.g. strategic relationships, organisational support, technical and policy support etc.).

