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**CCCP**  
Compliance Common Capability Programme

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Dear Murray

### **Submission to the draft Regulatory Institutions and Practice Report (draft Report)**

#### **Introduction**

1. This submission is made on behalf of the Compliance Common Capability Programme (CCCP) and follows submissions made to the Commission's issues paper in 2013 (submissions 12 and 12a).
2. It focusses primarily on Chapters 11 (Regulatory Practice) and 12 (Workforce Capability), with some references to Chapter 6 (Regulator Culture and Leadership).
3. Chapters 11 and 12 already draw on information provided in the CCCP's earlier submissions and provide a useful challenge to the CCCP to be clear about its place in the regulatory system and the contribution it can make to improving regulatory practice and workforce capability. The CCCP is developing a business case to do that, with a view to the business case being available to officials advising the referring Ministers on the Government response to the Productivity Commission's final report. The business case will be completed immediately after the Commission's final report is released, with the intention of providing officials and Ministers considering the final report with clear options to consider when deciding how to address the Commission's final recommendations regarding regulator culture, leadership, regulatory practice and workforce capability.

#### **General comments**

4. The draft Report addresses regulatory practice and workforce capability, and regulator culture and leadership in separate Chapters. The need for some kind of structure in addressing key issues is obvious. However, presenting these themes separately risks the possibility that they are not seen as being as closely intertwined as they need to be for long term system wide improvement. Regulatory practice and workforce capability go hand in hand. Both are (as acknowledged in the draft Report) significantly influenced by culture and leadership.
5. The strong linkage between regulatory practice and workforce capability was recognised by the CCCP early in its existence in the following ways:
6. Regulatory practice – while the origins of the CCCP were in the development of specific functional qualifications, early in its existence it realised that having qualified people in organisations that didn't understand or follow good regulatory practice wouldn't deliver sustainable improvement. This led to the development of the 'Achieving Compliance Guide' (referred to on page 271 as being developed by the Department of Internal Affairs)

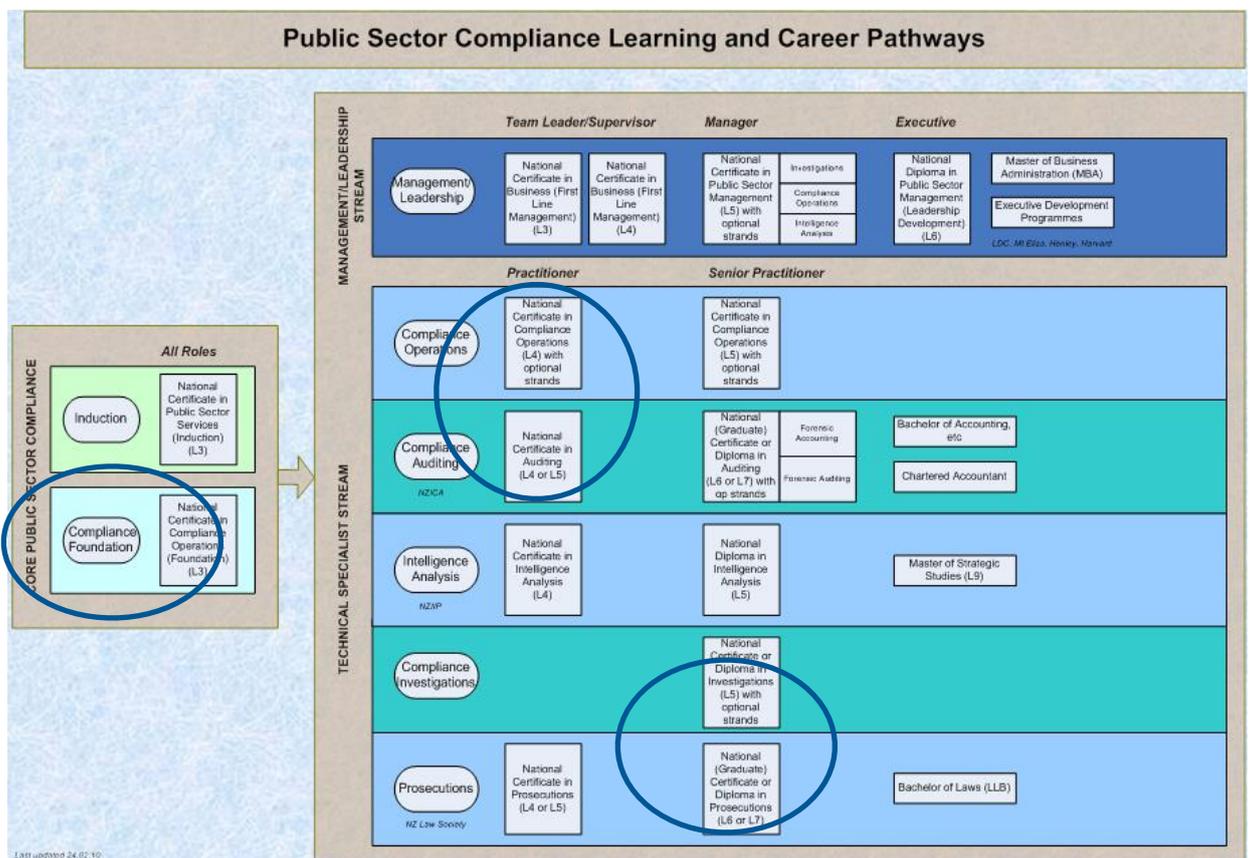
for the CCCP – in fact the guide is a product of the CCCP, informed by an advisory group made up of CCCP members and sponsored by the Department of Internal Affairs).

7. Workforce capability – again while the origins of the CCCP were in the development of specific functional qualifications for “traditional” compliance roles, when the CCCP was contributing to the Industry Training Organisation’s (then Learning State – now The Skills Organisation) development of the three current NZQA linked Compliance Qualifications it explicitly acknowledged the importance of all regulatory practitioners understanding regulatory practice as the key context for the application of their specific skills.

Specifically, the qualification titled “**National Certificate in Public Sector Compliance (Foundation) (Level 3)**” notes that

*“People awarded this qualification are able to demonstrate knowledge and skills in: operating in a public sector regulatory environment, regulatory theories and a regulatory model, options for achieving compliance...”*

8. Additionally, one of the CCCP’s early considerations was to identify a comprehensive Compliance Learning and Career pathway model<sup>1</sup>, with the initial focus on the first 3 Compliance Qualifications referred to above (and circled in the diagram below).



9. The purpose of this was to acknowledge that workforce capability extended from the front line to executive level.

<sup>1</sup> Of course the direction of the compliance qualifications and the proposed Compliance Learning and Career Pathways model is evolving as a result of the Government’s targeted review of qualifications, and the replacement of Learning State by The Skills Organisation (commented on below). But these changes have not undermined the fundamental vision of well qualified people at all levels, in organisations that understand and operate good regulatory practice, that have appropriate cultures and effective leadership.

10. Overall the focus of the CCCP – bringing together an interest in regulatory practice and workforce capability – along with the engagement activities that are required to undertake work in those areas that tend to strengthen the community aspect of being a regulator – essentially combine around the notion of developing a “professional compliance community of compliance professionals”.
11. The purpose of spending time canvassing the issues above is to highlight that thinking in an integrated way around regulator culture and leadership, regulatory practice, and workforce capability brings into sharp focus the notion of developing a “profession” of regulators as an organising concept for pursuing improvements in regulatory practice over time.
12. Thus instead of considering (in Chapter 7) how to improve culture and leadership - on the one hand; (in Chapter 11) the need for formal recognition of regulator forums or networks and the development of guidance material – on the other hand; and (in Chapter 12) the need for workforce capability development - on yet another hand!, it may be useful to promote the idea of developing a ‘professional’ body to support and develop regulatory culture, leadership, practice and capability overall from a system wide perspective.
13. Advantages of making the step to acknowledging being a regulator as a ‘profession’ in its own right include:
  - a) Providing for the possibility of a career in this important area of government work – including signalling the importance of this to tertiary level institutions to consider in further developing options for professional study
  - b) Creating a vehicle for excellent regulatory practice to be studied, and constantly considered and reviewed
  - c) Overcoming the notion that professional skills applied to regulatory activity are confined to professional sub-groups
  - d) Creating the possibility of establishing a system wide regulatory culture that is aligned with the high standard of regulatory practice that is required.

### **Specific comments: Chapter 11 - Regulator Practice**

14. The Findings are all consistent with the experience of the CCCP across its engagements over a number of years – which reflect (increasing) patches of good/excellent practice, significant investment in and deep understanding of good regulatory practice driven more by individuals and individual agencies than a system wide expectation and support for this.
15. The CCCP proposed “some form of functional leadership model<sup>2</sup>” in its submission to the issues paper (submission 12a). The Productivity Commission canvassed this option, preferring an approach that would formally recognise existing networks in the regulatory management system and strengthen incentives for regulators not currently participating.
16. The reasons expressed as to why the Commission does not prefer the functional leadership model are set out in its draft Report under section 11.5. Paraphrased and responded to below, they are:

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<sup>2</sup> In recommending ‘some form’ of functional leadership model the CCCP is suggesting that a model could be developed along the lines of the functional leadership model that exists for ICT, procurement, finance and property management – but it does not necessarily have to have the same level of formality.

- a) *It may not be easy for a central “leader” to drive performance improvement* – the CCCP notes that its recommendation relating to some form of functional leadership would see the “central” leader being an addition a formal networked approach which would form a vehicle to deliver improvement
  - b) *Considerable expertise lies in Crown entities and only departmental chief executives can be appointed as “functional leaders”* - the CCCP’s view is that having a departmental chief executive as a “functional leader” is entirely appropriate. Crown entities are already engaged in areas where functional leadership occurs. It makes more sense for the Chief Executive of a Ministry or Department to have such a role and it should be one that has a relationship with the Minister responsible for the regulatory management system.
  - c) *Establishing new leadership arrangements for regulatory practice would cut across existing networks* - the CCCP’s view is that it (as a significant existing network) would align to the functional leadership model and evolve or change as appropriate to meet the interests of system-wide improvement rather than seek to maintain its own role.
17. Accordingly, the CCCP view is that the Recommendations in Chapter 11 point in the right direction in terms of improving the sharing of good practice and the production of good guidance material. It questions whether these recommendations go far enough in underpinning the kind of step change that might be possible, and is undoubtedly required, based on the Findings.
  18. It continues to recommend some form of functional leadership model, suggesting that this should have some alignment to the Minister responsible for the regulatory management system (refer Chapter 16) and with clear links to any enhanced mechanisms for accountability and performance monitoring and system-wide regulatory review (Chapters 14 and 15).
  19. Additionally, it suggests (as noted above) that explicitly ‘framing’ regulatory work as being a ‘profession’ would have advantages over time.
  20. The CCCP also urges careful thought in terms of the balance between efforts to build regulatory practice and work force capability, and to strengthen accountability and performance monitoring. An enhanced focus on accountability and performance monitoring, in the absence of a strong improved practice and capability focus will represent a compliance approach, rather than a strengths-based approach to system improvement.

### **Specific Comments: Chapter 12 - Workforce Capability**

21. Attached as an appendix is some information that seeks to clarify some elements of the draft Report in this Chapter that relate to the CCCP’s role compared to that of The Skills Organisation as discussed in this Chapter.
22. The Findings in this Chapter are consistent with the experience of the CCCP. The CCCP agrees with recommendation R12.1 and as noted above suggests that work in this area would be enhanced by a clear functional leadership/network model that supports on-going culture, leadership, practice and workforce capability development.
23. In terms of Recommendation R12.2, as noted in the introduction, the CCCP is developing a business case. To be clear however, while this is referred to as a business case that responds to the challenge of the CCCP being clear about its place in the regulatory system and the contribution it can make to improvement, the CCCP is not wedded to continuing in its current form. Indeed it would prefer to become part of a refreshed approach with stronger governance, a clearer mandate and broader leadership (as signalled in this submission, which builds on submission 12a to the Issues Paper).

24. The key issue for CCCP members is supporting significant and lasting system-wide improvements by building on the work done to date. Members of the CCCP will invariably be interested in taking part in whatever organisational form this takes.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'K' followed by a horizontal line and a small dot.

**Keith Manch**  
Chair, Compliance Common Capability Programme

## Appendix 1

- The CCCP is (simply) a network of local and central government agencies that are going about the business of meeting their own capability development needs, and the needs of other agencies like them, as part of a joined up, shared services approach. The three key things the CCCP has been focused on are:
  - building organisational capability, including exploring and promoting good practice in relation to this
  - building people capability, including exploring and promoting good practice in relation to this
  - building and supporting the compliance community as a community of professionals
- The CCCP is not a training provider. It is not in the business of providing learning and development services to others, or to profit from any activity in relation to this. However, it does coordinate and facilitate agencies own training initiatives. These tend to be at a different level to what is expected of the Skills Organisation.
- The draft Report notes that the CCCP has been involved in similar areas to The Skills Organisation as it both designed national qualifications and accredited training providers.
- From the CCCP perspective it worked on these issues alongside the ITO predecessor of The Skills Organisation (Learning State) - drawing on its role as a network that through its membership was able to advise and work with Learning State. While the CCCP worked closely with Learning State, it considered this to be an appropriate arrangement in terms of an ITO/industry partnership.
- The CCCP's on-going interest in a regulatory skills framework has been intended to complement and support the ITO work, and the intention of mapping current learning and development initiatives across the sector is to ensure that investments people and organisations make in learning and development on their own initiatives work seamlessly with the system that The Skills Organisation has responsibility for.
- All of the above reflects the reality that industries not only have an interest in working with their ITO's in order to see qualifications being available for their people (the origins of the CCCP in partnership with the then ITO – Learning State); but also have an interest in learning and development initiatives that supplement access to formal NZQA linked qualifications.
- The CCCP's view is that future system-wide improvement will require a strong strategic and operational collaboration between The Skills Organisation in fulfilling its role(s) and whatever body/bodies/networks exist to advance regulator culture, leadership, practice and capability.