



Department of  
**Local Government, Sport  
and Cultural Industries**

# **Local Government Regulatory Approach**

---



# Contents

<b>Acknowledgement of Country</b>	<b>3</b>
<b>Foreword</b>	<b>4</b>
<b>About us</b>	
Our vision	5
Our local government portfolio	5
Local government portfolio strategic priorities	5
<b>Our regulatory environment</b>	
The local government sector	6
Our regulatory responsibilities	7
<b>Our regulatory approach</b>	
Our regulatory mission	9
Our regulatory outcomes	9
Overview of our regulatory approach	9
Our regulatory principles	11
<b>Our regulatory strategy</b>	
How we regulate	12
Our graduated approach	14
Our regulatory enablers	17
<b>Measures of success</b>	
Fostering best practice	18
Understanding performance	18
Ensuring compliance	19

# Acknowledgement of Country

The Government of Western Australia acknowledges the traditional custodians of this land. We pay tribute and our respects to Elders past and present.



# Foreword

The Department of Local Government, Sport and Cultural Industries (DLGSC) brings together a diverse set of portfolios that are all centred around one thing - our vision of creating a vibrant, inclusive and connected WA community.

Local governments play an important role in achieving this vision. They deliver critical services such as waste collection and management, infrastructure maintenance, food inspections, and planning and building approvals. Local governments are integral to building social cohesion and supporting the cultural identity of communities. When local governments have the right capabilities and resources, and receive appropriate support, they can create and make real change for the communities they serve.

Our regulatory approach outlines the DLGSC's approach and strategy for supporting and enforcing effective regulation of the local government sector within WA. It also provides clarity over how our regulatory activities fit within the broader local government environment, the specific functions DLGSC will undertake, and the role that peak bodies will play in supporting local governments.

Local governments are autonomous entities and ultimately responsible for their operations through democratic processes. DLGSC is committed to working in collaboration with local governments. We will support local governments to comply with legislation, empower them to facilitate positive community outcomes, but also enforce compliance when required, as mandated by our regulatory requirements.

We will deliver on this through the nine functions detailed within this document. Our regulatory approach is informed by good practices in regulation and grounded in preventing non-compliance, intervening early, focusing on the greatest level of risks, and encouraging greater transparency within the sector.

The resulting approach is a contemporary document that will guide the regulation of local governments and future reforms.

DLGSC recognises that we cannot achieve this on our own and will partner with local governments, WA Local Government Association (WALGA) and Local Government Professionals (LG Pro).

We look forward to collectively working together to enable our vision of a vibrant, inclusive, and connected WA community.

Lanie Chopping

Director General

# About us

The Department of Local Government, Sport and Cultural Industries (DLGSC) works collaboratively with government, community organisations, peak bodies and other stakeholders to achieve our vision of creating a vibrant, inclusive and connected WA community.

## Our vision

Create a vibrant, inclusive and connected WA community.

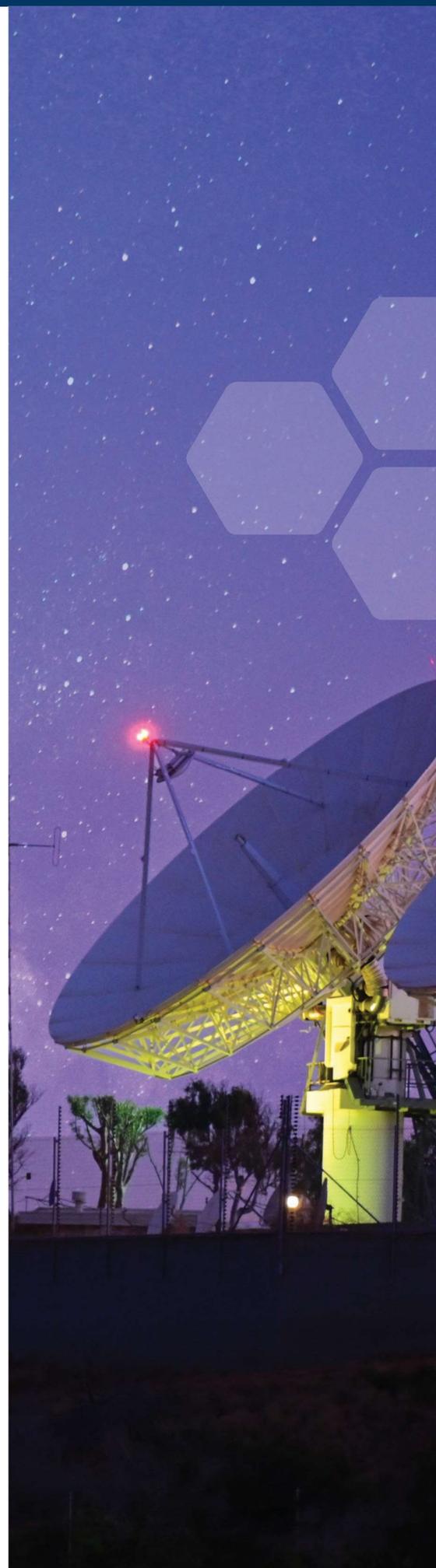
## Our local government portfolio

The local government portfolio area contributes to our vision by supporting and enabling a robust local government sector to achieve positive outcomes for communities in WA.

### Local government portfolio strategic priorities

1. Deliver a streamlined and contemporary legislative framework by reforming the Local Government Act and other relevant legislation.
2. Develop the supporting environment and provide local governments with the tools to build a transparent, robust, and innovative sector.
3. Deliver on our current commitments of existing projects and programs of reform.

These strategic priorities will be achieved through a number of initiatives detailed within our [Local Government Plan on a Page](#).



# Our regulatory environment

## The local government sector

Local governments are independent entities who administer local laws and deliver a range of essential and non-essential services that directly impact communities. They are responsible for their own conduct and have the power to deliver a broad range of services outlined in legislation.

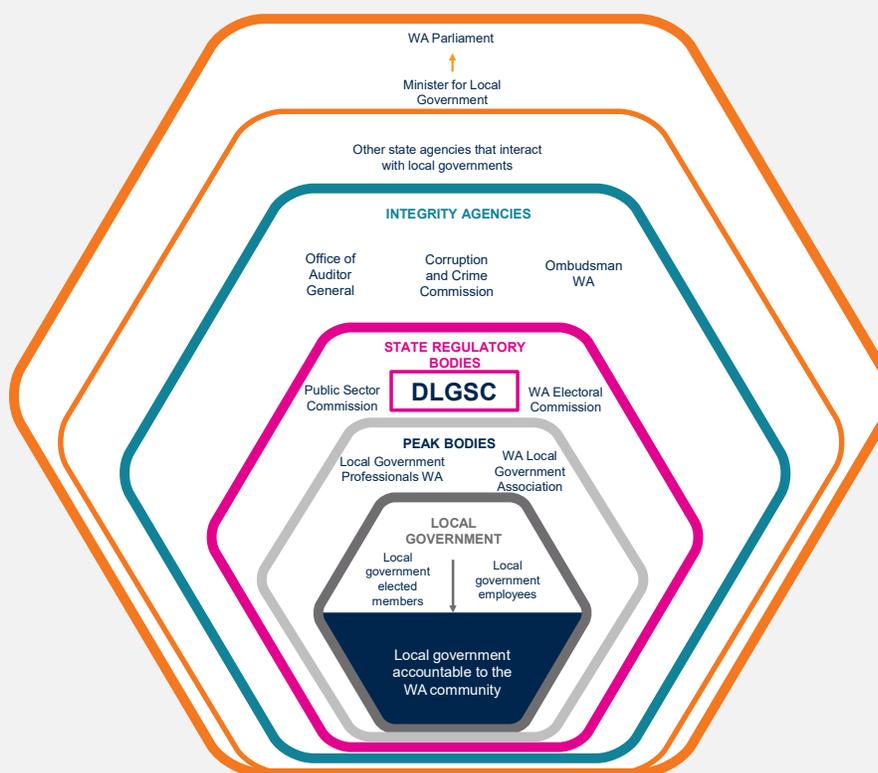
The *Local Government Act 1995* is the principal Act that details the responsibilities and powers of local governments. In addition to this, local government services, such as transportation, public works and emergency medical services, are guided by relevant legislation.

Due to the broad environment in which local governments operate, they work with a range of organisations that ensure service quality and legislative compliance. These organisations have varying levels of formal and informal regulatory responsibility over local government services.

Stakeholders in the local government regulatory environment are striving to support local councils to achieve the best outcomes for their communities. They acknowledge that local governments are rarely purposefully non-compliant. Many local governments are experiencing rising community expectations, as significant changes to the way we work and live has highlighted the importance of community, and the role local government can play in delivering solutions. Local governments that are struggling usually need support to manage these new and complex challenges.

Figure 1 overleaf illustrates the regulatory environment that local governments operate in and the key organisations that work within this environment. DLGSC is one of the state regulatory bodies that have a high involvement and regulatory responsibility supporting local governments. Peak bodies, and other state government agencies, also play an important role in supporting local governments to be accountable to the WA community. Local governments are formally accountable to local residents, rate payers, and eligible body corporates within local government districts, and they are also responsible for other members of the community such as children, adolescents and visitors to the community.

Figure 1 | Local government regulatory environment



## Our regulatory responsibilities

Within this regulatory environment, DLGSC plays an important role supporting good governance within the local government sector, providing effective regulation and strengthening the capability of the sector to meet community expectations. As a statutory authority, we are responsible for administering our regulatory requirements set out in relevant local government legislation.

Our regulatory responsibilities can be thought of in two ways:

1. Legislation that DLGSC administers that directly relates to the functioning of local governments. For example, the *Local Government Act 1995*.
2. Legislation that DLGSC administers that relates to areas that local governments may have to comply with. For example, the *Dog Act 1976*.

We have regulatory oversight of several Acts including the:<sup>1</sup>

- *Local Government Act 1995*
- *Local Government (Miscellaneous Provisions) Act 1960*
- *Local Government Grants Act 1978*
- *Caravan Parks and Camping Grounds Act 1995*
- *Cat Act 2011*
- *Cemeteries Act 1986*
- *Control of Vehicles (Off-road Areas) Act 1978*
- *Dog Act 1976*

A selection of key activities DLGSC has a level of regulatory oversight over is detailed in Figure 2.

Figure 2 | Local government activities DLGSC has a level of oversight over



<sup>1</sup> This list of Acts is not exhaustive, there are also a number of key supporting regulations.

# Our regulatory approach

## Our regulatory mission

To support and regulate WA local governments using a capability building and risk-based approach where oversight, support and intervention efforts are targeted based on analysis of greatest risks, and informed by relevant legislation and an understanding of the challenges local governments experience.

The regulatory approach recognises that local governments are responsible for their operations and for complying with legislative requirements. It also embraces themes regarding early intervention, effective regulation, greater transparency and accountability, and clear roles and responsibilities.

Our regulatory approach is in line with our vision to create a vibrant, inclusive and connected WA community.

## Our regulatory outcomes

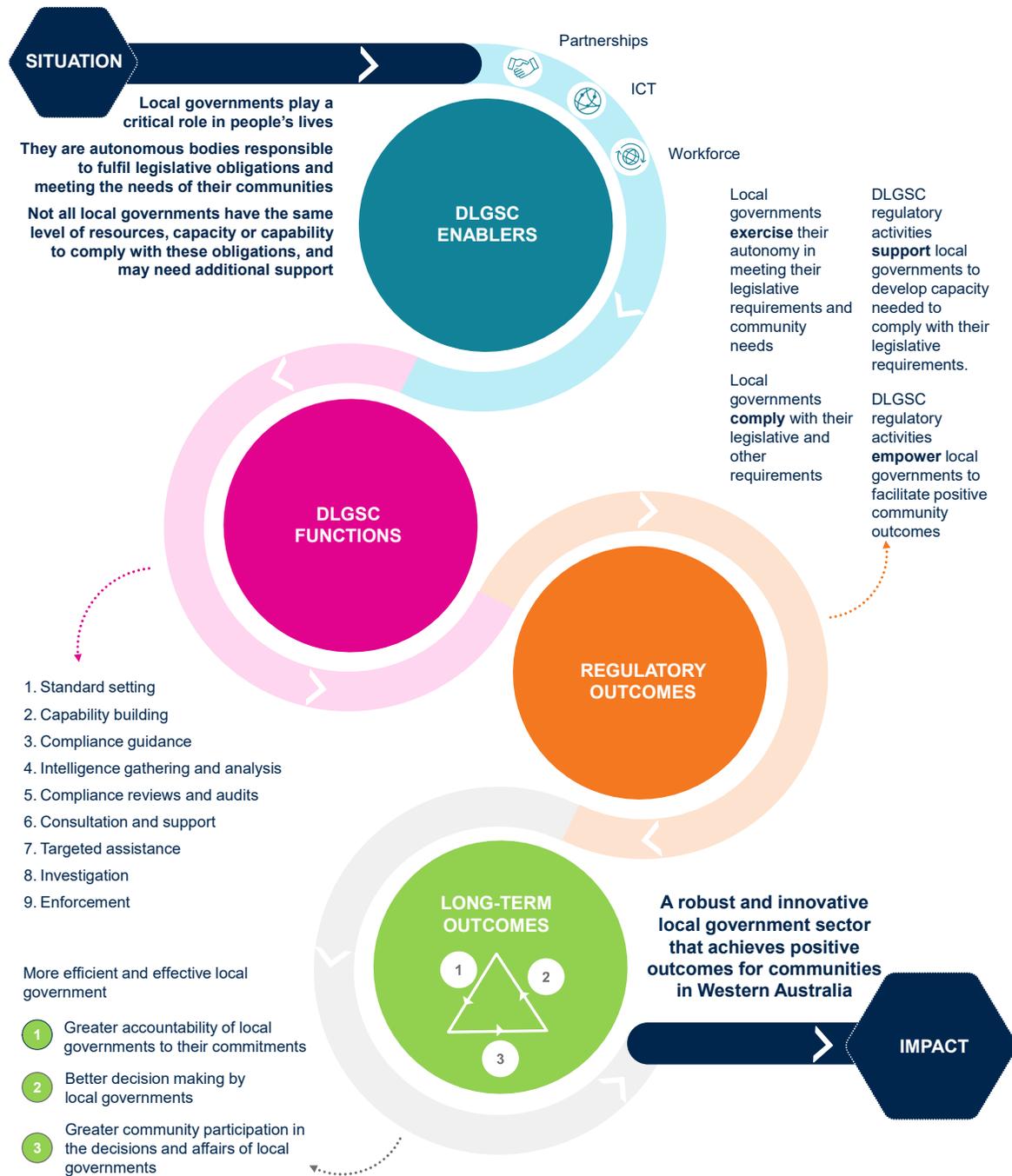
To achieve on our regulatory mission, we will work to deliver on the following outcomes:

- Local governments **exercise** their autonomy in meeting their legislative requirements and community needs.
- Local governments **comply** with their legislative and other requirements.
- DLGSC regulatory activities **support** local governments to develop capacity needed to comply with their legislative requirements.
- DLGSC regulatory activities **empower** local governments to facilitate positive community outcomes.

## Overview of our regulatory approach

This document is underpinned by our regulatory approach which guides all regulatory activities. Figure 3 provides an overview of how key enablers and regulatory functions lead to regulatory outcomes, long-term outcomes and a lasting impact.

Figure 3 | Our local government regulatory theory of change



## Our regulatory principles

Our regulatory approach toward local government is underpinned by six principles which guide our regulatory activities.

1. **Informed and adaptive:** DLGSC's approach acknowledges that local governments are diverse and experience different challenges. We will tailor our efforts to reflect this based on legislation and current best practice approaches that support ongoing monitoring of trends, issues and compliance.
2. **Risk based:** DLGSC makes regulatory decisions that are proportionate to the level of risk posed to local government operations and the communities they serve, with consideration of level of non-compliance, intent and cumulative impacts.
3. **Capability focused:** DLGSC's approach is focused on capability building and encouraging compliance so that local governments can provide high-quality services to community.
4. **Collaborative:** DLGSC partners with local governments, peak bodies, and other stakeholders to avoid duplication of effort, share information, support early intervention and education, and drive positive community outcomes.
5. **Responsive:** DLGSC's approach is responsive to the needs of local governments and will continuously be refined to ensure effectiveness.
6. **Accountable and transparent:** DLGSC and local governments are individually accountable for their responsibilities and foster transparency through communicating responsibilities, providing clear publicly available information and consulting with relevant stakeholders.



# Our regulatory strategy

## How we regulate

To achieve a risk-based approach that is grounded in our six principles, DLGSC, in collaboration with other agencies and peak bodies, undertakes nine functions. These functions are critical to effective regulation and represent the key activities required to monitor compliance and support good governance within the local government sector.

The nine functions will be delivered in cohesion and do not represent a scale of increasing involvement.

A high-level outline of the nine functions can be found in Figure 4.

Our approach to each function is detailed in Figure 6.

Fostering best practice, understanding performance and ensuring compliance wraps around the nine functions. They reflect our desire to continuously encourage innovation within the sector, deeply understand local governments and deliver support. To ensure long-term success, we will periodically evaluate and improve our approach to ensure it is aligned with best practice, and effectively identifies and responds to emerging risks.

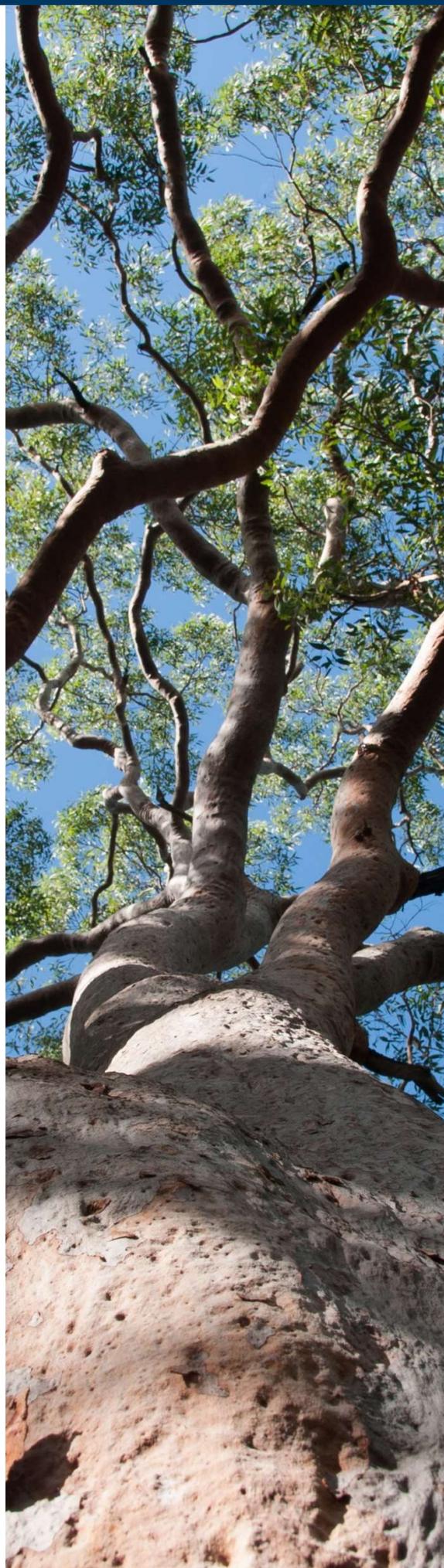
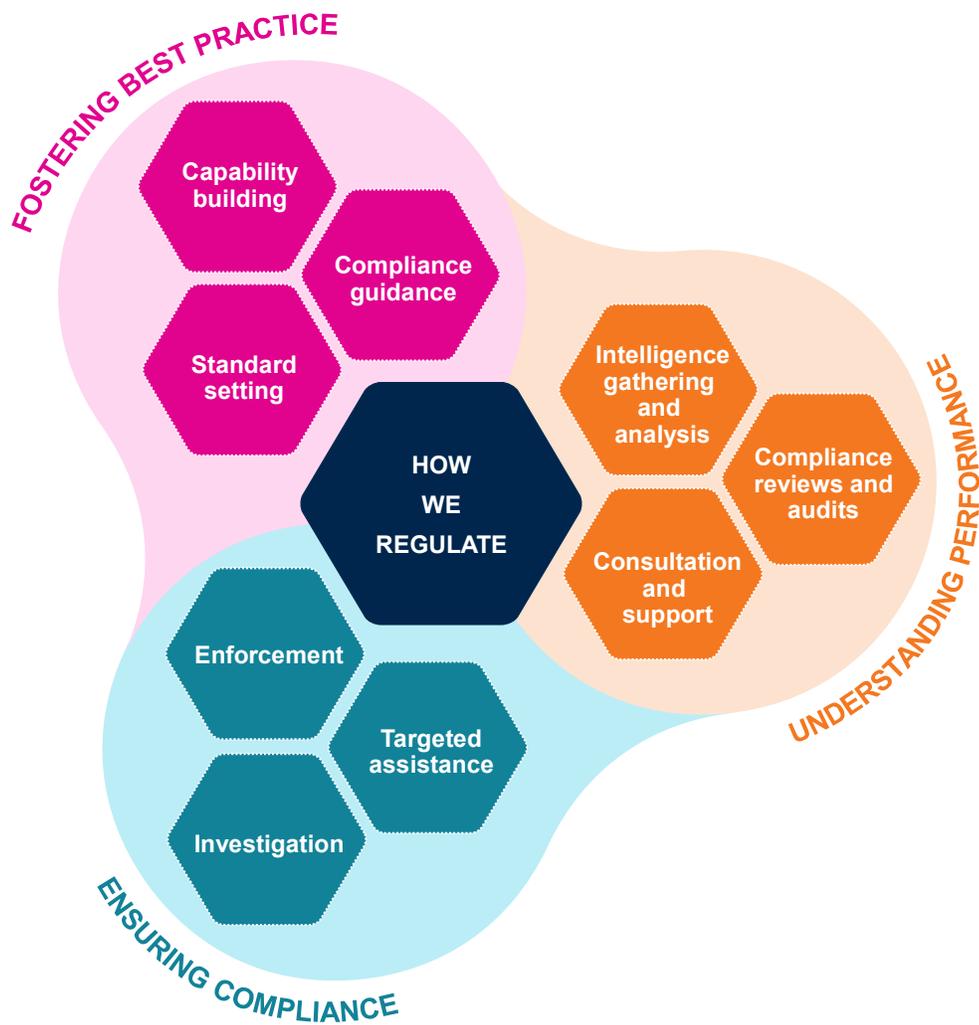


Figure 4 | Our key regulatory functions



## Our graduated approach

We work to deliver these functions with a graduated approach, where the intensity of our response is proportionate and appropriate to the situation, and relative to our available tools and resources. This encourages local governments to adopt self-regulation and voluntary compliance.

Our [Local Government Risk Assessment Policy](#) sets out DLGSC’s approach to monitoring and compliance, which targets resources towards the greatest risks.

Our approach to situations escalate relative to compliance attitudes and the level of risk, utilising formal compliance tools only when prior options are exhausted or do not adequately mitigate the risk.

Attitudes to compliance are important when considering the risk of non-compliance. We promote voluntary and proactive compliance through capacity building and education. Poor attitudes toward compliance, such as opportunistic and intentional non-compliance, are high risk so our response begins with understanding performance and providing consultation and support to adjust attitudes and non-compliance behaviours. However, if these activities are unsuccessful, our approach will graduate to ensuring compliance through investigations or enforcement.

**Figure 5 | Our graduated response appropriate to risk**



We focus our compliance guidance, monitoring, and targeted assistance efforts towards addressing these risks. Our approach to delivering each of our functions is detailed in Figure 6 below.

Figure 6 | Our approach to each function

Our functions	Our approach
<b>Fostering best practice</b>	
<b>Standard setting</b>	<ul style="list-style-type: none"> <li>• We clearly define the responsibilities of local governments through targeted and appropriate standards. This involves tailoring requirements and expectations to account for the different types of councils and their unique contexts.</li> <li>• We ensure all standards are accessible and determine the appropriate levels of risk that are aligned to our legislative requirements and achieve positive outcomes.</li> </ul>
<b>Capability building</b>	<ul style="list-style-type: none"> <li>• We support local governments to continuously improve their ways of working to align with best practice. We collaborate with peak bodies to facilitate training and education opportunities to improve capability across the sector.</li> </ul>
<b>Compliance guidance</b>	<ul style="list-style-type: none"> <li>• We focus our efforts on delivering education on standards and assisting local governments with compliance. This involves being trusted advisers and having a partnership relationship where local governments feel comfortable to seek support.</li> </ul>

Our functions	Our approach
<b>Understanding performance</b>	
<b>Intelligence gathering and analysis</b>	<ul style="list-style-type: none"> <li>• We regularly gather and analyse data at the macro level to monitor local government compliance and performance. This includes systematically collecting local government financial, administrative and service delivery data for benchmarking and analysis.</li> <li>• We monitor the key risks that concern each local government when we identify a risk of non-compliance that exceeds our risk tolerance, and communicate to impacted local governments to raise awareness and promote action.</li> </ul>
<b>Compliance reviews and audits</b>	<ul style="list-style-type: none"> <li>• We undertake regular and proactive compliance reviews to assess individual local government compliance. Reviews and audits will be targeted.</li> <li>• We communicate review findings to support local governments with business improvement practices and strengthening internal controls.</li> </ul>
<b>Consultation and support</b>	<ul style="list-style-type: none"> <li>• We consult with local governments, peak bodies and other stakeholders regularly to discuss concerns and opportunities, to strengthen a collaborative relationship.</li> <li>• We encourage local government to innovate, strive for high performance, and implement best practice.</li> </ul>
<b>Ensuring compliance</b>	
<b>Targeted assistance</b>	<ul style="list-style-type: none"> <li>• We provide targeted assistance to local governments using intelligence from macro level monitoring and micro level reviews. We deliver support collaboratively, in partnership with peak bodies and other stakeholders.</li> </ul>
<b>Investigation</b>	<ul style="list-style-type: none"> <li>• We undertake investigations or inquiries as a compliance tool in response to formal complaints. Investigations are administered where it is appropriate but formal investigations are undertaken only when other options in our graduated approach are exhausted.</li> <li>• We use findings from investigations to inform the education and support delivered to local governments as this can mitigate the risk of future non-compliance.</li> <li>• We can also use findings to inform proactive enforcement practices for the sector.</li> </ul>
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>• We compel compliance to regulatory requirements using a hierarchy of tools that are proportionate to the level of non-compliance and intent. This can vary from a notice of non-compliance to an injunction or prosecution.</li> <li>• We use enforcement tools in a graduated approach when education, compliance, and investigative efforts are unsuccessful.</li> <li>• We undertake reactive compliance enforcement as a result of investigations and reported non-compliance that exceed our risk tolerance.</li> </ul>

## Our regulatory enablers

Successful implementation of a capability building and risk-based regulation will require a well-resourced workforce, partnerships with both local governments and peak bodies, and effective Information and Communications Technology. An overview of these enablers are detailed below:

- **Our workforce** - DLGSC's staff are equipped with the required resources and capability, and operate within a culture that encourages proactive engagement with local governments.
- **Our partnerships** – DLGSC develops a strong partnership across the sector, including local governments, Western Australian Local Government Association (WALGA), Local Government Professionals WA (LG Pro) and other state regulators, in a manner that fosters trust and collaboration.
- **Our Information and Communications Technology** – DLGSC's internal systems support effective data gathering and rigorous monitoring of local government activity.



# Measures of success

We will hold ourselves accountable with appropriate measures of success. We will regularly monitor our performance against these measures while being adaptive and responsive to changes in the local government sector.

## Fostering best practice

We will know our approach is on track if we have:

- Increased transparency of local governments for communities and reduced administrative burden.
- Collaborated with other government agencies to provide presentations to local governments on a range of conduct and integrity matters, and deliver multi-agency briefings.
- Delivered mentoring, executive coaching and feedback sessions to local government CEOs, governance practitioners.
- Collaborated with LG Pro and WALGA to support their activities, and regularly attend local government and WALGA zone meetings.
- Work with industry peak bodies to manage behavioural complaints.
- Communicated proactively with local governments via phone, email and local government alerts, and built strong relationships.
- Responded to inquiries and complaints in a timely manner via phone or email.
- All key stakeholders publicly hold each other accountable.

## Understanding performance

We will know our approach is on track if we have:

- Undertaken proactive compliance reviews to assess individual local government compliance, that contributes to local government understanding of performance and compliance.
- Conducted face-to-face visits to local governments to foster positive attitudes towards compliance, and provide consultation and support.
- Communicated local government performance through comprehensive gathering and analysis of indicators, that allows local government to benchmark performance.

## Ensuring compliance

We will know our approach is on track if we have:

- Proactively reduced the prevalence of severe non-compliance through a graduated approach.
- Conducted formal reviews or investigations only when other approaches to supporting compliance have been exhausted.
- Delivered compliance support that is informed by up-to-date performance indicators and consultation with local government.
- Assisted small and/or regional local governments to improve financial management, reporting and resource and information sharing.
- Assisted local governments and communities to meet planning and reporting requirements which may include a Strategic Community Plan, Corporate Business Plan or clear vision for each local government.

