Regulator Performance Framework
FWBC self-assessment 2015–16

Promoting harmonious, productive and cooperative workplace relations in the building industry
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Executive Summary

Fair Work Building and Construction (FWBC) has conducted its first self-assessment against the Regulator Performance Framework (RPF) for the period from 1 July 2015 to 30 June 2016. With the aim of ensuring that it does not impose any unnecessary regulatory burden on building industry participants, FWBC committed to 12 measures against six key performance indicators (KPIs). The report that follows provides an overview of FWBC’s self-assessment methodologies, gathered from a range of existing internal and external mechanisms, and the findings of the self-assessment against each measure.

FWBC is pleased to report that it has achieved positive outcomes against all measures in 2015–16. The table below provides a summary of the measures FWBC self-assessed against and the status of FWBC’s progress. Although this self-assessment covers the 2015–16 period, FWBC will continue to be subject to the RPF, and as such will continue to work to achieve and improve upon the KPIs in future reporting periods as part of the agency’s ongoing commitment to continuous improvement.

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Introduction

Fair Work Building and Construction (FWBC) promotes harmonious, productive and cooperative workplace relations in the building industry by ensuring compliance with designated building laws and the Building Code 2013. FWBC’s vision is that all Australian building and construction workplaces are productive and harmonious. FWBC’s mission is to ensure that the Rule of Law prevails in the Australian building and construction industry.

In accordance with its responsibilities under the Fair Work (Building Industry) Act 2012 (FWBI Act), FWBC:

- enforces workplace relations laws in the building and construction industry through the provision of education, assistance and advice, and where necessary, civil penalty litigation in the courts; and
- ensures compliance with the Building Code 2013 (Building Code) by educating the industry, monitoring compliance, and where appropriate, seeking rectification by or sanctions against non-compliant contractors.

FWBC achieves this by undertaking five key activities:

1. providing education, assistance and advice to the industry;
2. undertaking compliance activities;
3. pursuing enforcement activities;
4. using information and analysis to inform decision making; and
5. providing quality corporate services.

As a Commonwealth entity with a statutory responsibility to administer, monitor, or enforce regulation, FWBC is subject to the Regulator Performance Framework (RPF). As a result, FWBC is required to commit to six outcomes-based Key Performance Indicators (KPIs) that are intended to assess the agency’s performance against the Government’s overarching expectations of Commonwealth regulators.

The KPIs are:

1. regulators do not unnecessarily impede the efficient operation of regulated entities;
2. communication with regulated entities is clear, targeted and effective;
3. actions undertaken by regulators are proportionate to the risk being managed;
4. compliance and monitoring approaches are streamlined and coordinated;
5. regulators are open and transparent in their dealings with regulated entities; and
6. regulators actively contribute to the continuous improvement of regulatory frameworks.

In 2014–15, FWBC developed its RPF. The performance measures were developed in consultation with internal and external stakeholders, and the RPF was formally externally validated by the National Workplace Relations Consultative Council (NWRCC). FWBC’s RPF can be found at Appendix A.

In line with its responsibilities under the RPF, FWBC is required to perform an annual self-assessment against the KPIs. Data to assess FWBC’s performance against the KPIs has been gathered from a range of existing internal and external mechanisms, including:

- internal guidance, policies and procedures;
- surveys of external clients managed in-house;
- surveys of external clients managed externally;
- feedback obtained from stakeholders; and
- internal assessment and reviews.

FWBC’s self-assessment is subject to external validation as part of the Department of Employment portfolio’s identified consultation mechanism, the NWRCC. The RPF forms part of the suite of documents that FWBC uses to plan and measure its performance, complementing the KPIs set out in the FWBC Corporate Plan, which forms the basis of the performance reporting carried out in the Annual Performance Statement and the Report on Performance contained in the FWBC Annual Report.
KPI 1 summary
FWBC recognises that while regulators have an important role to play in effecting positive ongoing and lasting cultural change in the building and construction industry, poorly implemented and enforced regulation can have a significant negative impact on productivity and economic growth. FWBC aims to carry out its regulatory functions with the minimum negative impact on the industry possible while still achieving effective outcomes.

By developing a thorough understanding of the operating environment, FWBC can ensure that the agency has effective planning in place to identify current and emerging issues that are likely to affect the building and construction industry. In doing so, FWBC can minimise the potential for unintended negative impacts on the industry.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

Measure 1.1: FWBC demonstrates an understanding of the operating environment of the building and construction industry, and the current emerging issues that affect the sector.

1.1.1: FWBC maintains a knowledge base of regulated entities, their environment and issues impacting them.
As a regulator in the building and construction industry, FWBC pursues a proactive intelligence-led strategy. This approach aims to ensure that the agency uses the most current and relevant information to drive evidence-based decision making. FWBC conducts regular environmental scanning to ensure a broad and thorough understanding of the agency’s operating environment. The environmental scanning undertaken involves a broad range of internal and external data sources, which are reviewed and analysed, and form the basis of regular reports. The reports are delivered to FWBC’s Executive Team, the agency’s peak decision-making body, and inform strategic decision-making at all levels of the business. In this way the results of the environmental scanning conducted by the agency flow through to all areas of FWBC as the agency’s priorities are directed to where the greatest impact can be made.

1.1.2: Review and continuous improvement of the knowledge base of regulated entities.
FWBC maintains a database of all enquiries, on-site activities, investigations and legal proceedings, and the data contained within is used to develop a clear picture of the entities that FWBC has regulatory responsibility for. The database undergoes constant enhancement to ensure that it is an accurate, relevant and comprehensive knowledge base.

1.1.3: Regular engagement with stakeholders on policies and procedures.
The agency provides avenues for and encourages the industry to provide informal feedback, including by email or over the phone. All feedback from the industry is recorded and actioned when appropriate. FWBC also seeks formal feedback from the industry at least quarterly through a commissioned survey undertaken by an external service provider. This feedback forms part of the broad body of evidence that is considered in the formulation and review of internal policy, and as a result supports the agency’s efforts at continuous improvement.

FWBC seeks opportunities to lead proactive engagement with the industry on policies and procedures, including on the agency’s implementation of legislative requirements. A case study outlining this is contained on page 7 under the heading ‘Case study: new drug and alcohol requirements introduced to the industry’.

1.1.4: FWBC refers relevant matters to other regulators.
When FWBC becomes aware of an issue that falls outside the scope of its remit, the agency can refer individuals or matters to other state/territory and federal agencies that are better placed to manage the issue. When an individual who has contacted FWBC is referred to another agency, this occurs within three working days. When a matter is referred to another agency, a formal letter of referral is attached from a person of authority at FWBC. By referring individuals and matters in this way, FWBC aims to provide its stakeholders with a seamless experience...
of government, with their ultimate needs being met by the agency best-placed to provide advice or assistance. In 2015–16, FWBC referred 1,080 individuals to relevant state/territory or federal agencies and four matters to other state/territory or federal agencies. The key agencies FWBC refers matters to, both informally and through formal memorandums of understanding, are outlined in KPI 4.2.1. Further information on the referrals made by FWBC in 2015–16 can be found on page 32 of FWBC’s 2015–16 Annual Report.

**Measure 1.2:** FWBC takes action to minimise the potential for unintended negative impacts of regulatory activities on the industry.

1.2.1: FWBC responds to feedback from industry participants, including feedback from complaint mechanisms and surveys.

FWBC has a transparent complaints process that is outlined on the agency’s website. Complaints are handled within strict parameters and are subject to internal and external review at the request of the complainant.

Feedback received through the agency’s quarterly survey is reviewed by the agency’s Executive Team and forms part of the broad body of evidence that is considered in the formulation and review of internal policy.

1.2.2: FWBC has a nationally consistent process that identifies uniform points of escalation and management intervention during an investigation.

All investigations conducted by the agency are reviewed internally. Comprehensive investigation planning processes are in place, and decisions to commence, escalate and close investigations must be quality assured internally. These uniform points are identified in the agency’s comprehensive Operations Guide, which outlines FWBC’s Operations processes.
Case study: new drug and alcohol requirements introduced to the industry

Following amendments to the Building Code announced by the Minister for Employment on 18 September 2015, all building contractors covered by the Building Code have been required to ensure that their management of drugs and alcohol in the workplace is reflected in their workplace health, safety and rehabilitation management system since 16 October 2015. On projects with Commonwealth funding of a particular threshold, building contractors must also have a fitness-for-work policy that includes drug and alcohol testing.

While the new requirements help to ensure that no person attending a site to perform building work does so under the influence of alcohol or other drugs – and therefore promotes higher workplace safety standards for construction sites – FWBC acknowledged that the new requirements would impose a regulatory burden on contractors.

To help the industry to implement the new drug and alcohol requirements with minimal unintended negative impacts, FWBC announced and undertook a phased three-stage approach to auditing the drug and alcohol testing requirements.

Stage 1: Education

Following the Minister’s announcement on 18 September 2015 that the new requirements were to commence from 16 October 2015, FWBC focused on educating the building and construction industry about the new requirements by disseminating information and helping contractors to understand the implications of the drug and alcohol policy. Educational material included the launch of a Building Code section in the FWBC On Site mobile phone application with a compliance questionnaire on drug and alcohol requirements; presentations to industry stakeholders; and voluntary FWBC reviews of principal contractors’ drug and alcohol policies.

Stage 2: Feedback and voluntary rectification

Building on the foundations of the education stage, FWBC continued reviewing contractors’ compliance with the new drug and alcohol requirements through the audit process, providing feedback, and assisting contractors with voluntary rectification to achieve compliance.

Stage 3: Audits

On 1 February 2016, FWBC began the final stage of its implementation of the drug and alcohol requirements. The agency moved to auditing contractors’ fitness-for-work policies and the practical implementation of drug and alcohol testing on site through the standard Building Code Audit processes.

In implementing the new drug and alcohol requirements, FWBC considered the operating environment of the building and construction industry and remained cognisant of the potential for unintended negative impacts. As a result of this approach, FWBC was able to put adequate processes in place to ensure that the new regulatory requirements did not unnecessarily impede the efficient operation of regulated entities. FWBC has received positive feedback from industry on the phased three-stage implementation of the new compliance requirements.
KPI 2: communication with regulated entities is clear, targeted and effective

KPI 2 summary
In line with FWBC’s aim of imposing effective regulation with minimal negative impact, the agency accepts that clear, targeted and effective communication with regulated entities is essential for the efficient delivery of regulatory services and the achievement of positive regulator outcomes. FWBC aims to communicate clearly and provide advice on the scope of entities that are subject to the agency’s regulation, what is required of those regulated entities, and what the consequences of non-compliance are, in a straightforward and concise manner.

By ensuring guidance and information provided by the agency is clear, accessible and concise, FWBC can ensure that regulated entities have a readily accessible source of information. By providing decisions and advice in a transparent and timely manner, FWBC provides clarity to stakeholders about the agency’s expectations and how they can comply and/or improve compliance in the future.

FWBC’s ability to provide advice and assistance is constrained by the necessarily generic nature of the materials provided. FWBC acknowledges clearly on all printed resources that the information contained is for general information only, and that the materials provided are no substitute for legal advice in relation to particular circumstances. To support the general information provided by FWBC’s mobile phone application, users are provided with a list of ways to contact FWBC directly for more information on their rights and responsibilities in relation to their own specific circumstances.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

Measure 2.1: FWBC’s decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.

2.1.1: Guidelines on how FWBC conducts investigations are available and accessible, with clear advice for complaints and feedback.

FWBC’s investigation and litigation processes are clearly outlined on the agency’s website. These processes are updated as soon as practicable to reflect any changes in internal policy. When an investigation is closed, the complainant is informed of the outcome. The closure of all investigations must be accompanied by a Case Decision Record outlining the reasons for the closure and endorsed by a team leader.

2.1.2: Maximum, minimum and average time for decision/response to enquiries.

FWBC is committed to ensuring that the agency is responsive and provides decisions and advice in a timely manner. FWBC’s 1800 hotline is a popular method of communication with the industry. In 2015–16, FWBC received 2,285 enquiries through the hotline. Of those incoming phone calls, 97% were answered within 60 seconds. An additional 1,297 enquiries were received through other methods, including through the FWBC website and over email, meaning that a total of 3,564 enquiries were received in 2015–16. The agency has a target of 100% of enquiries receiving a response within 1 working day, and in 2015–16 FWBC achieved a result of 99.6%. A detailed discussion of the enquiries received by FWNC in 2015–16 can be found on page 28–31 of FWBC’s 2015–16 Annual Report.

In 2015–16 FWBC set an ambitious target of 75% of legal matters being filed within 12 months of a complaint, a tightening of the previous target from 75% in 18 months. FWBC did not achieve the target in 2015–16, with 41% of matters being filed within 12 months of complaint in the financial year. A backlog of older matters was cleared in 2015–16, which contributed to the below-target outcome. Although FWBC’s target was not met, the matters were filed within statutory timeframes. This result was explored in further detail in FWBC’s Annual Performance
Statement on page 20 of the 2015–16 Annual Report. The agency has made significant progress toward the achievement of the target in the next reporting period, and will continue to set itself ambitious targets that demand high performance.

**Measure 2.2: FWBC provides guidance and information that is up to date, clear, accessible and concise.**

**2.2.1: Percentage of guidance materials that complies with government accessibility guidelines.**

FWBC’s website was externally assessed in the previous financial year as achieving Web Content Accessibility Guidelines (WCAG) 2.0 AA level accessibility compliance. All development undertaken on the website since has been consistent with the principles of WCAG 2.0 AA accessibility and the agency remains committed to ensuring that guidance materials are available and accessible to all stakeholders. FWBC’s On Site mobile application was assessed for accessibility compliance in 2015–16, and as a result a number of suggested changes were implemented.

**2.2.2: Feedback sought from stakeholders on guidance and advice provided by FWBC via a wide range of mechanisms, including stakeholder surveys.**

FWBC investigators and senior managers regularly deliver presentations to building industry participants. In 2015–16 a total of 187 presentations were delivered to 2,984 attendees. FWBC surveys all industry participants who requested presentations after the presentations have been delivered. Of those who provided feedback, 100% were satisfied or highly satisfied with the presentations delivered. This result was explored in further detail in FWBC’s Annual Performance Statement on page 24 of the 2015–16 Annual Report.

FWBC is committed to providing guidance and information that is up-to-date, clear, accessible and concise, and in 2015–16 a total of 83% of surveyed industry participants were satisfied or highly satisfied with the quality and timeliness of advice and assistance provided. This result was explored in further detail in FWBC’s Annual Performance Statement on page 21 of the 2015–16 Annual Report.

**2.2.3: Publish regular and timely updates on enforcement activities and outcomes.**

The agency publishes regular and timely updates on enforcement activities and outcomes, with a view to informing the industry of the latest developments in FWBC’s areas of responsibility. To this end, in 2015–16 FWBC published 58 media releases, predominantly to inform stakeholders that a proceeding had been commenced or finalised by the agency. A total of 15 E-Alerts – short, issue-specific articles on emerging and topical matters in the building construction industry that are sent to participants on FWBC’s subscriber list – were published in 2015–16. Six industry update newsletters were published to provide the industry with information about industry trends and issues, including workplace disputes and industrial action. Legal case summaries are published on the FWBC website and these are updated regularly.
KPI 3: actions undertaken by regulators are proportionate to the risk being managed

KPI 3 summary
Central to FWBC’s effective regulation of the building and construction industry is the concept that actions must be proportionate to the risk that is being managed. FWBC ensures that the agency’s resources are targeted to where they can have the greatest impact.

By regularly assessing its approach to regulatory risk FWBC can ensure that its strategies, activities and enforcement actions continue to reflect the priorities that result from new and evolving regulatory threats and opportunities. In doing so, FWBC gathers the evidence required to implement a risk-based, proportionate approach to the actions undertaken by the agency.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

Measure 3.1: FWBC applies a risk-based, proportionate approach to compliance obligations, engagement and enforcement actions.

3.1.1: FWBC risks reviewed regularly.
FWBC’s Audit Committee provides independent assurance and assistance to the Director and the Executive Team on the agency’s risk oversight and management, and systems of internal control. The Audit Committee met four times in the 2015–16 financial year to assess and monitor agency risks and mitigation strategies.

In 2015–16, FWBC undertook a wholesale review of the agency’s Risk Management Framework. The aim of the framework is to provide an overview of the risk management processes adopted by FWBC, and to outline the process for reporting on risk and the ongoing monitoring and review of risk management activities. The Risk Management Framework consists of a suite of documents and tools that provide a structured approach to managing risk and supporting a positive risk culture. The framework also aims to embed risk management processes into all FWBC activities, from business-as-usual practices through to strategic decision-making. The topic of risk management is covered extensively throughout FWBC’s 2015–16 Annual Report.

The environmental scanning carried out by the agency (see measure 1.1) is considered when formulating site visit and audit plans, and contributes to the risk-based approach to compliance, engagement and enforcement that FWBC aims to employ.

3.1.2: Agreed quality assurance processes are in place for staff use.

The agency’s case reporting database has a rigorous quality assurance program, which ensures that all information recorded is quality assured by the database’s managing group within seven working days. This process is explored in further detail in FWBC’s Annual Performance Statement on page 23 of the 2015–16 Annual Report.

Measure 3.2: FWBC’s approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.

3.2.1: FWBC risks reviewed regularly.
Environmental scanning undertaken by FWBC (see measure 1.1) includes activities aimed at identifying trends and threats that may impact on the agency’s ability to regulate efficiently or effectively. Where trends or threats are identified they are considered in agency planning and in the setting of future priorities.
3.2.2: Review investigations and litigation to identify areas of excellence or for improvement and circulate any improvement ideas across agency.

Agency investigations and litigation activities are regularly reviewed to identify instances of high performance or opportunities for lessons to be learned. The outcomes of these reviews are shared with the agency’s Executive Team to ensure that national strategies are amended to consider changing agency priorities.

3.2.3: Professional Standards Unit audit findings.

FWBC’s Professional Standards Unit reviews a wide range of matters identified by the agency Director or through other internal mechanisms. This process assists in the assessment of risks and the identification of areas where there is potential for lessons to be learned. From lessons learned, recommendations are proposed and, if accepted, are implemented within the agency. This cycle of identification, recommendation, implementation and reassessment provides a positive environment to facilitate and embed a culture of continuous improvement.
KPI 4: compliance and monitoring approaches are streamlined and coordinated

KPI 4 summary
FWBC aims to reduce its impact on the regulated community by ensuring that compliance and monitoring processes are streamlined and coordinated. As an industry-specific regulator, FWBC has limited opportunities to share data with other regulators, but where opportunities are identified they are pursued by the agency.

By tailoring the information requests made by FWBC to ensure that they are only made when it is necessary to secure the agency’s objectives, FWBC can contribute to minimising the impact of regulation on the regulated community. The agency further contributes to this goal by utilising existing information where possible, and sharing that information with other regulators when appropriate.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

Measure 4.1: FWBC’s information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.

4.1.1: Monitoring and enforcement strategies allow for a range of regulatory responses.

In May 2016 FWBC was given responsibility for assessing enterprise agreements for compliance with the Building Code 2013, a role that was formally undertaken by the Department of Employment. In implementing this role, FWBC developed and introduced a simplified online submission process for enterprise agreements. Prior to the transfer of the function from the Department of Employment to FWBC, all contractors were required to submit enterprise agreements and awards for assessment and receive a letter of compliance in order to be eligible for work on Commonwealth funded construction projects. When the role of assessing agreements was transferred to FWBC the previous requirement for contractors covered only by a modern award to obtain a letter of compliance was rescinded. This removed the requirement for those contractors to apply for a letter confirming their agreement’s compliance with the Building Code 2013, reducing the regulatory burden on a wide range of stakeholders.

Similarly to the Fair Work Ombudsman (FWO), under section 712 of the Fair Work Act 2009 (FW Act) FWBC Inspectors may require a person to produce records or documents under certain circumstances. There is a set of legislative criteria that must be met to issue a notice. FWBC ensures that notices to produce documents are used appropriately by requiring that every ‘fresh version’ of a section 712 notice that is intended to be actioned be vetted by agency legal staff prior to being served. The section 712 notice templates used by FWBC Inspectors are also subject to ongoing review by the agency legal branch to ensure that content requirements are consistent with any changed circumstances arising from recent judicial interpretation.

All investigations commenced by FWBC are audited to ensure that an appropriate decision to commence was recorded and approved.

Measure 4.2: FWBC utilises existing information to limit the reliance on requests from industry participants and share the information among other regulators, where possible.

4.2.1: Percentage of information shared and received among regulators.

When FWBC becomes aware of an issue that falls outside the scope of its remit, the agency can refer individuals or matters to other state/territory and federal agencies that are better placed to manage the issue. When an individual who has contacted FWBC is referred to another agency, this occurs within three working days. When a matter is referred to another agency, a formal letter of referral is attached from a person of authority at FWBC.

Pursuant to a memorandum of understanding between FWBC and the Department of Immigration and Border Protection, FWBC investigators monitor compliance with a number of requirements for Temporary Work (Skilled) (subclass 457) visa holders who work in the commercial building and construction industry. The outcomes of this monitoring are shared with the Department of Immigration and Border Protection, with
potential breaches of relevant immigration provisions formally referred. Investigators perform this function in the course of regular compliance activities such as site visits. In the 2015–16 financial year, FWBC referred the outcomes of subclass 457 visa monitoring to the Department of Immigration and Border Protection on 19 occasions, and also referred one suspected illegal immigration matter.

The FWO has specialist expertise in the areas of wages and entitlements and sham contracting. To ensure that the industry is provided with the best advice, and that there is not a duplication of effort between the two regulators, there is a memorandum of understanding in place that allows FWBC to refer these types of matters directly to the FWO. In the 2015–16 financial year, FWBC referred 354 individuals to the FWO, and one suspected wages and entitlements matter.

FWBC recognises the importance of Work Health and Safety (WHS) in the building and construction industry, but has no jurisdiction over the laws that govern it. FWBC refers all WHS matters to the relevant federal or state/territory body. In the 2015–16 financial year, FWBC referred 46 individuals in respect of WHS or WorkCover issues.

In 2015–16 FWBC also formed part of the working group of regulators to deal with civil referrals made by the Royal Commission into Trade Union Governance and Corruption. The role includes a responsibility to facilitate information sharing and collaboration among member agencies, and to coordinate the efforts of member agencies to ensure ongoing monitoring of registered organisations’ and related individuals’ compliance with legal obligations.

**4.2.2: Evidence of collected information being acted upon, stored and re-used.**

FWBC’s case reporting database records all enquiries, on-site activities, investigations and legal proceedings, and the data contained within is reused when possible. The database is regularly audited for accuracy and any issues identified are rectified.

FWBC acts upon information received throughout the course of enquiries or from the public, and investigates fully any suspected breaches of the FW Act or Building Code. In the case of a breach of the FW Act, FWBC investigates suspected breaches, and when it is in the public interest to proceed, pursues these matters through civil penalty proceedings. Where there are breaches of the Building Code, FWBC seeks rectification by contractors, and where rectification is not achieved, makes recommendations that sanctions be imposed.
KPI 5: regulators are open and transparent in their dealings with regulated entities

KPI 5 summary

FWBC aims to ensure the confidence of its stakeholders and the broader community by regulating in a way that is open and transparent. In promoting transparency, FWBC aims to provide the regulated community with greater understanding of what the agency’s expectations are and how they can be met.

By offering the public avenues to provide feedback, FWBC demonstrates its commitment to better understanding the needs of its stakeholders. By publishing performance results in an accessible and timely manner, FWBC is accountable to the public.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

Measure 5.1: FWBC’s performance results are published in a timely manner to ensure accountability to the public.

5.1.1: Performance results are published.

FWBC’s performance against the Key Performance Indicators outlined in the agency’s Portfolio Budget Statements and Corporate Plan is assessed and published in the Annual Performance Statements, which are a key component of the Annual Report. The Annual Report is published each year in hard copy format and made available on the agency’s website soon thereafter.

The Regulator Performance Framework provides another avenue for FWBC to detail its performance results, regularly and publicly.

Measure 5.2: FWBC is open and responsive to requests from industry participants regarding the operation of FWBC.

5.2.1: Number of responses to requests from industry participants provided within specified timeframes.

As outlined in measure 2.1, FWBC has a target of 100% of enquiries receiving a response within one working day. In 2015–16 the agency worked toward this target, with 100% compliance achieved from October 2015 to the end of the financial year. The full year average was 99.6% compliance.

5.2.2: Advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support and inform continuous improvement.

FWBC’s website traffic is monitored at least monthly and key trends are reported to the agency’s Executive Team. This provides the agency a level of insight into the types of information that FWBC’s stakeholders are seeking from the website, allowing the content available on the website to be refined accordingly.

In the 2015–16 financial year, 83% of surveyed industry participants were satisfied or highly satisfied with the quality and timeliness of advice and assistance provided. High level trends as well as verbatim comments from the customer service satisfaction survey are reviewed by the FWBC Executive Team and inform strategic decision-making and internal policy direction.

As outlined in measure 2.2, FWBC investigators and senior managers regularly deliver presentations to building industry participants. This includes the Director and other senior executives providing regular presentations to peak industry bodies and at public forums. These presentations are usually requested by industry participants, and in 2015–16, 100% of surveyed industry participants who requested presentations were satisfied or highly satisfied.

All materials delivered to the public provide at least one means of contact for FWBC through which industry participants can make requests and provide feedback.
**KPI 6 summary**

In line with FWBC’s commitment to communicate with regulated entities in a way that is clear, targeted and effective, the agency seeks to foster a regular feedback cycle with regulated entities. While FWBC is responsible for the implementation of government policy rather than its development, within its sphere of responsibility the agency aims to influence good practices that achieve reductions in the cost of compliance.

By establishing cooperative and collaborative relationships with stakeholders, FWBC aims to improve the efficiency and effectiveness of the regulatory framework. FWBC encourages this by seeking feedback from the industry, and ensuring its distribution within the agency.

FWBC met this KPI in 2015–16, and will continue to work toward improving its performance in 2016–17.

**Measure 6.1: FWBC establishes cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.**

6.1.1: Documented procedures are in place to allow active and regular engagement with stakeholders.

FWBC encourages active and regular engagement with the industry through a range of activities, including by publishing regular industry update newsletters and E-Alerts, and by publishing a media release when a proceeding is commenced or finalised by the agency (see measure 2.2 for more information).

FWBC recognises that stakeholder engagement is an important part of building the cooperative and collaborative relationships that promote trust and improve the efficiency and effectiveness of FWBC’s regulatory function. In addition to the presentations delivered by FWBC executives and investigators, in 2015–16 the agency recorded more than 150 separate instances of formal stakeholder engagement activities.

6.1.2: Feedback mechanisms are available and made known to all stakeholders.

Feedback mechanisms, including the process for complaints and suggestions, are clearly outlined on FWBC’s website. Contact phone numbers and email addresses are provided on hard copy materials delivered to the industry.

**Measure 6.2: FWBC regularly shares feedback from stakeholders and performance information (including from inspections) within the agency to improve the operational and administrative processes.**

6.2.1: Documented procedures are in place to facilitate the flow of information between teams.

Internal communications are prioritised at FWBC, with fortnightly Operations Managers’ Meetings and weekly Legal Manager’s Meetings that occurred over the 2015–16 financial year contributing to the dissemination of information across geographical boundaries. Monthly Executive Team meetings were also conducted, with stakeholder engagement listed as a standing agenda item. FWBC conducts regular performance reporting against the Corporate Plan and other KPIs, and this is delivered to the Executive Team for consideration.

6.2.2: Percentage of performance data, feedback from industry participants, and/or advice shared with the relevant teams in FWBC.

Performance information is regularly reviewed and shared internally. The agency’s Professional Standards Unit reviews cases to gather lessons learned, and develops policy recommendations to improve operational and administrative processes as a result. These recommendations are implemented by the agency when appropriate.

Performance data, including statistical information and feedback from industry participants, is frequently shared on the agency’s intranet.
Appendix A: FWBC’s Regulator Performance Framework

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

<table>
<thead>
<tr>
<th>Measure</th>
<th>Evidence</th>
<th>Self-assessment methodology (how is evidence captured)</th>
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</thead>
</table>
| 1.1 FWBC demonstrates an understanding of the operating environment of the building and construction industry, and the current emerging issues that affect the sector. | 1.1.1 FWBC maintains a knowledge base of regulated entities, their environment and issues impacting them. | • Quarterly report prepared and circulated to staff.  
• AIMS is operational on all business days, with a scheduled outage for maintenance and updates every 3 weeks. |
| 1.2 FWBC takes action to minimise the potential for unintended negative impacts of regulatory activities on the industry. | 1.2.1 FWBC responds to feedback from industry participants, including feedback from complaint mechanisms and surveys. | • Appropriate action taken following receipt of customer satisfaction survey report.  
– Formal process for consideration and implementation of improvements following on from surveys/feedback.  
– Example—Processes x, y and z have been improved during the course of the financial year, based on feedback received. |
| 1.3 Regular engagement with stakeholders on policies and procedures. | • Feedback from stakeholders is incorporated into revised policies and procedures, including feedback from complaint mechanisms and surveys. | |
| 1.4 FWBC refers relevant matters to other regulators. | • Informal matters are referred to relevant agencies within 3 working days.  
• Formal matters are referred to relevant agencies by a letter of referral from a person of authority from FWBC (EL2 or above). | |
| 1.2 FWBC responds to feedback from industry participants, including feedback from complaint mechanisms and surveys. | 1.2.2 FWBC has a nationally consistent process that identifies uniform points of escalation and management intervention during an investigation. | • 100% of investigations have an approved decision record recorded in AIMS.  
• Case review meeting conducted to discuss appropriate enforcement activities.  
• Comprehensive use of investigation plans and evidence matrix to ensure appropriate focus and decision making on investigations. |
## KPI 2: Communication with regulated entities is clear, targeted and effective

<table>
<thead>
<tr>
<th>Measure</th>
<th>Evidence</th>
<th>Self-assessment methodology</th>
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</table>
| 2.1 FWBC's decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions. | 2.1.1 Guidelines on how FWBC conducts investigations are available and accessible, with clear advice for complaints and feedback. | • 75% of customer satisfaction survey respondents agreed that materials were open and accessible.  
• Guidelines published and updated on the FWBC website when relevant changes occur. |
|  | 2.1.2 Maximum, minimum and average time for decision/response to enquiries. | • 100% of enquiries are responded to within 1 working day.  
• 75% of proceedings filed within 12 months of complaint date. |
| 2.2 FWBC provides guidance and information that is up to date, clear, accessible and concise. | 2.2.1 Percentage of guidance materials that complies with government accessibility guidelines. | • Website meets internal assessment against Web Content Accessibility Guidelines 2.0 (ensures people with disabilities have the same access information and services as others in the community) AA level compliance. |
|  | 2.2.2 Feedback sought from stakeholders on guidance and advice provided by FWBC via a wide range of mechanisms, including stakeholder surveys. | • 75% of clients satisfied with the quality and timeliness of advice and assistance provided (measured through the customer service satisfaction survey).  
• 75% of industry participants were satisfied by presentations delivered by FWBC inspectors. |
|  | 2.2.3 Publish regular and timely updates on enforcement activities and outcomes. | • Media releases published on proceedings commenced and outcomes.  
• Monthly Industry Updates circulate to industry and published on the FWBC website.  
• Legal cases section of the FWBC website updated as required in a timely fashion. |
KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed

<table>
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<tr>
<th>Measure</th>
<th>Evidence</th>
<th>Self-assessment methodology</th>
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</thead>
<tbody>
<tr>
<td>3.1 FWBC applies a risk-based, proportionate approach to compliance obligations, engagement and enforcement actions.</td>
<td>3.1.1 FWBC risks reviewed regularly.</td>
<td>• 4 audit committee meetings held a year in which progress against risk is assessed.</td>
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<td>3.1.2 Agreed quality assurance processes are in place for staff use.</td>
<td>• All information recorded in AIMS is quality assured within 7 working days by Planning and Performance.</td>
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<td>3.2 FWBC’s approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</td>
<td>3.2.1 FWBC risks reviewed regularly.</td>
<td>• Environmental scans conducted regularly to identify changing priorities, e.g. EA expiry database requested biannually.</td>
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<td>3.2.2 Review investigations and litigation to identify areas of excellence or for improvement and circulate any improvement ideas across agency.</td>
<td>• Case closure reviews conducted for all cases and joint operations/legal conferences undertaken for major or significant cases. Monthly report to the Executive Board meeting.</td>
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<td>3.2.3 Professional Standards Unit audit findings.</td>
<td>• Recommendations implemented where appropriate.</td>
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KPI 4: Compliance and monitoring approaches are streamlined and coordinated

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<thead>
<tr>
<th>Measure</th>
<th>Evidence</th>
<th>Self-assessment methodology</th>
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<tbody>
<tr>
<td>4.1 FWBC’s information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</td>
<td>4.1.1 Monitoring and enforcement strategies allow for a range of regulatory responses.</td>
<td>• s.712 (notice to produce) files notes are complete and audited for appropriate use.</td>
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<td>• 100% of investigations have an approved decision record recorded in AIMS.</td>
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<tr>
<td>4.2 FWBC utilises existing information to limit the reliance on requests from industry participants and share the information among other regulators, where possible.</td>
<td>4.2.1 Percentage of information shared and received among regulators.</td>
<td>• Informal matters are referred to relevant agencies within 3 working days.</td>
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<td>• Formal matters are referred to relevant agencies by a letter of referral from a person of authority from FWBC (EL2 or above).</td>
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<td>4.1.2 Evidence of collected information being acted upon, stored and re-used.</td>
<td>• AIMS audit conducted regularly and any issues identified are rectified.</td>
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<td>• TRIM files complete at close of investigation.</td>
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<td>• Number of duplicate requests for information.</td>
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### KPI 5: Regulators are open and transparent in their dealings with regulated entities

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<tr>
<th>Measure</th>
<th>Evidence</th>
<th>Self-assessment methodology</th>
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<tbody>
<tr>
<td>5.1 FWBC's performance results are published in a timely manner to ensure accountability to the public.</td>
<td>5.1.1 Performance results are published.</td>
<td>• Performance results published in the Annual Report – available in hard copy and digital. • Relevant performance stats published in monthly Industry Update newsletter.</td>
</tr>
<tr>
<td>5.2 FWBC is open and responsive to requests from industry participants regarding the operation of FWBC.</td>
<td>5.2.1 Number of responses to requests from industry participants provided within specified timeframes.</td>
<td>• 100% of enquiries are responded to within 1 working day.</td>
</tr>
<tr>
<td>5.2.2 Advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support and inform continuous improvement.</td>
<td>5.2.2 Advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support and inform continuous improvement.</td>
<td>• Website traffic monitored. Search Engine Optimisation/Search Engine Marketing strategy in place to direct traffic to relevant information based on keyword searches. • 75% of clients satisfied with the quality and timeliness of advice and assistance provided (measured through the customer service satisfaction survey). • All public facing material provides contact details for feedback (inc. Industry Update, FWBC website, online enquiry form, education materials etc.).</td>
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### KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

<table>
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<tr>
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<th>Evidence</th>
<th>Self-assessment methodology</th>
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<tbody>
<tr>
<td>6.1 FWBC establishes cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</td>
<td>6.1.1 Documented procedures are in place to allow active and regular engagement with stakeholders.</td>
<td>• Case study of the stakeholder engagement strategy in operation. • Monthly industry update e-newsletters issued. • Media release issued for every new legal proceeding commenced and the outcomes of litigated matters.</td>
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<tr>
<td>6.1.2 Feedback mechanisms are available and made known to all stakeholders.</td>
<td>6.1.2 Feedback mechanisms are available and made known to all stakeholders.</td>
<td>• 1800 number published on all documents/website. • 75% clients satisfied with feedback and complaint process (measured through the customer service satisfaction survey).</td>
</tr>
<tr>
<td>6.2 FWBC regularly shares feedback from stakeholders and performance information (including from inspections) within the agency to improve the operational and administrative processes.</td>
<td>6.2.1 Documented procedures are in place to facilitate the flow of information between teams.</td>
<td>• fortnightly operations managers meetings. • weekly legal managers meetings. • Monthly Executive Board meetings – standing agenda item.</td>
</tr>
<tr>
<td>6.2.2 Percentage of performance data, feedback from industry participants, and/or advice shared with the relevant teams in FWBC.</td>
<td>6.2.2 Percentage of performance data, feedback from industry participants, and/or advice shared with the relevant teams in FWBC.</td>
<td>• Intranet articles. • Planning and Performance page on the intranet publishes the performance data (also sent to Operations and Legal management in report form).</td>
</tr>
</tbody>
</table>
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