



**Portable  
Long Service  
Authority**

**Regulatory  
Strategy —  
Compliance and  
Enforcement**

# Introduction

**This document summarises the Portable Long Service Leave Authority's (Authority) strategy for making decisions about its compliance and enforcement activity.**

The Authority's strategy is consistent with its **compliance and enforcement approach** which is guided by the principles of fairness, transparency, accountability, proportionality, timeliness and confidentiality.

The strategy is also responsive to the Authority's Corporate Plan 2023-2026. The Corporate Plan sets out four strategic areas of regulatory focus over the coming 3 years as shown in the extract adjacent.

The Authority's regulatory strategy will enable delivery on the Corporate Plan via decision making that is risk based and intelligence led.

**The Authority has identified and will commence strong compliance and enforcement activities over the following four strategic areas of regulatory focus over the next three years:**

**1**

**Registration of non-complying employers:**

these are employers who are covered by the Scheme but remain unaware (or that are wilfully refusing) to register their workers to give them their legal entitlements.

**2**

**Registration of workers:**

this includes all workers who are covered by the Scheme but that have not been registered either because their employer has not registered them or because their employer has under registered the number of workers in their workplace.

**3**

**Timely submission of quarterly returns:**

this includes employers who fail to submit, or are regularly late in submitting their quarterly returns.

**4**

**Prompt or non-payment of levies:**

there continues to be employers who fail to pay their levies or pay their levies promptly.

# Risk-based approach

**The Authority's risk-based approach enables it to make decisions that are based on an assessment of risk, are proportionate to that risk and that consider the best use of its range of regulatory tools to respond.**

To achieve this, the Authority will engage in decision-making that considers the risks associated with the various breaches that exist within the *Long Service Benefits Portability Act 2018*. The Authority will also apply relevant decision-making factors to determine the most appropriate regulatory responses that should be taken.

The approach seeks to ensure the Authority can confidently focus its resources on conduct which reflects the highest risk, enabling it to do less about lower risk matters.



# Detecting and assessing non-compliance

## **There are a range of obligations on employers under the *Long Service Benefits Portability Act 2018 (the Act)*.**

The types of obligations **are set out here**.

Suspected breaches by employers are identified through various sources including:

- complaints from the community;
- referrals from other agencies;
- contact from and with workers;
- notifications from other registered employers; and
- the Authority's own enquiries and systems.

Using the information initially received and any further information obtained through enquiries or investigation, the Authority will determine the risk and seriousness of the alleged non-compliance. To conduct its assessments, the Authority will use data and intelligence it has about regulated entities.

The Authority will have regard to the following decision making factors (as appropriate):

- whether the entity concerned is known to the Authority through previous complaints or suspected non-compliance;
- whether the entity is part of a sub-sector where the Authority is aware there is high risk of non-compliance;
- the impact of the suspected breach on workers;
- the impact of the suspected breach on the operation of the Scheme;
- how cooperative the entity concerned has been or is being with the Authority when these issues have been raised with them.

A key feature of the decision making process is to support those employers that are cooperative and bring themselves into compliance. The Authority is willing to educate and assist employers to comply, but if they do not engage cooperatively, the Authority will escalate its regulatory response.

The Authority may publicise enforcement action amongst the community and scheme stakeholders.

# Taking regulatory action

**There are a range of regulatory actions the Authority can take when it detects non-compliance with the Act. These include the following:**

- educating employers;
- issue a notice to require production of information or documents;
- entering into payment arrangements or extending the time for making returns or payments;
- bringing proceedings in court to recovery amounts unpaid;
- where offences have been committed, bringing prosecution proceedings against employers, directors of companies or members of governing bodies such as Boards or committees of management;
- seeking various court orders for registration, payment of levies or payments to workers.

The response that will be taken will be commensurate with the risk and seriousness assessment that has been undertaken. Other factors that may assist in choosing the appropriate response option include:

- choosing the response which requires the least regulatory effort and has the least regulatory burden necessary to achieve the desired outcome;
- choosing a response which allows for escalation if necessary;
- choosing the response which is most likely to have the effect of deterring the person from engaging in the conduct again; and
- generally having regard to the response which best aligns with the public interest.

# Improving outcomes

**The Authority's regulatory strategy is intended to enhance outcomes by holding employers who are not complying to account. This is likely to involve the Authority initiating court proceedings for debt recovery, prosecutions or court orders more frequently.**

The objective is to ensure that all those employers operating in an industry covered by the Scheme are registered; lodging returns with accurate information quarterly; and making the required payments of long service leave levies. Workers will benefit from an effective regulatory approach because, relevant employment information for each worker will be recorded; levies will be paid and invested for the benefit of workers; and covered workers will claim and receive their long service benefits into the future.





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