



# **Compliance and Enforcement Strategy 2021–23**

Summary version

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## 1. Introduction

The Residential Tenancies Authority (RTA) is an independent statutory authority established by the *Residential Tenancies and Rooming Accommodation (RTRA) Act 2008 (the Act)*. We provide statewide tenancy information, education and support services and bond management. We also offer a free dispute resolution service to help parties resolve tenancy issues without the need for legal action, and investigate alleged offences under the RTRA Act with the aim to educate and prosecute offenders. The majority of cases the RTA has historically investigated have been received from customers, who could be a tenant, a rooming accommodation resident, a property manager or a landlord. This approach to regulation of the Act will evolve as required by this strategy, which has been created to help the RTA use current resources to provide greatest benefit to the sector.

## 2. Objectives of developing the strategy

This strategy sets the high-level goals for the regulatory function of the RTA in alignment with the *Strategic Plan 2019–2023*. It also explains the priorities, regulatory approach and guiding principles that will form the framework of the RTA’s compliance and enforcement policy.

This strategy will give visibility to the sector about:

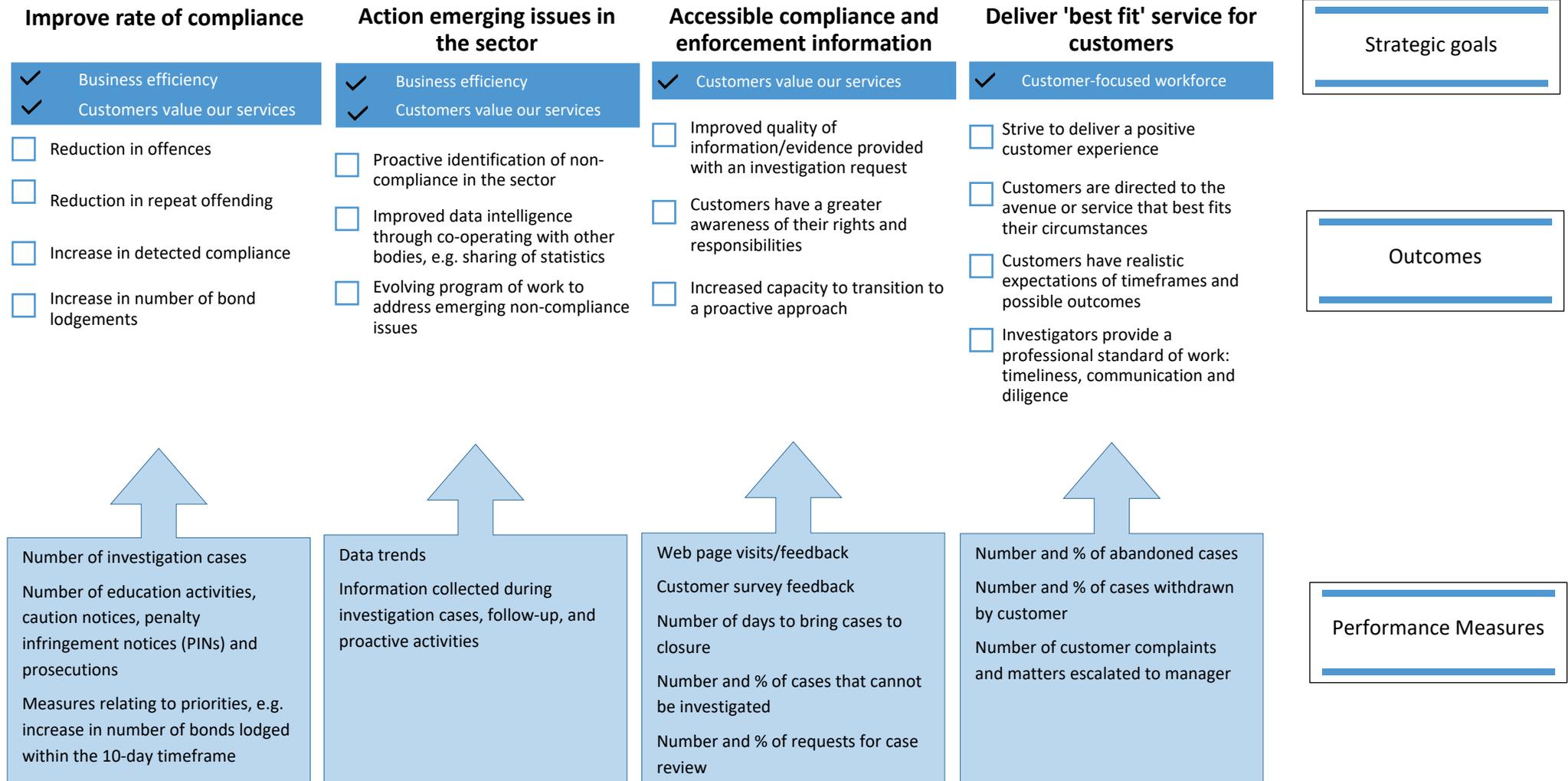
- a) how the policy will be applied during case assessment
- b) how tools and options will be selected to address non-compliance.

It also discloses the measures we will use to evaluate regulatory performance in achievement of goals.

## 3. Our compliance and enforcement policy

### 3.1. Alignment with the RTA’s Strategic Plan 2019–2023

Our regulatory function’s strategic goals contribute to the RTA’s vision of *Renting that works for everyone* through our commitment to the pillars of the Strategic Plan. This primarily includes our focus on business efficiency, providing a service that customers value and having a customer-focused workforce.



## 3.2. The RTA's priorities and mandate

The RTA will allocate regulatory resources to cases and activities for the years 2021–23 to address:

- ✗ failure to pay a rental bond to the RTA (within 10 days)
- ✗ failure to provide a receipt for a rental bond
- ✗ failure to comply with the rules of entry for a rental premises.

As part of ongoing priorities, the RTA will address repeat offending and high-risk conduct, such as providing false or misleading documents to the RTA.



## 3.3. The regulatory approach to be used to reach outcomes

The RTA will use a combination of risk-based and outcome-focused approaches to address regulatory priorities.

A **risk-based approach** will require the application of a risk rating between low and very high when assessing the seriousness of offences. This is used in determining the type of investigation best suited to that case (for example, simple, standard or potentially serious) and therefore allocating resources for cases that stand to deliver the greatest benefit to the sector.

An **outcome-focused approach** will be used in the design of proactive activities to achieve specific outcomes, such as using targeted customer engagement to educate agents and landlords about the requirements of the RTRA Act, or information campaigns aimed at students to introduce them to their tenancy rights and responsibilities.

## The role of intelligence

Intelligence is a key element in informing the organisation’s priorities and the actions taken to mitigate risks. Data used is mainly gathered during our regulatory activities; however, we may also extract publicly available data and co-operate with other regulators and industry bodies, for example, in the sharing of statistical information.

### 3.4. Our guiding principles

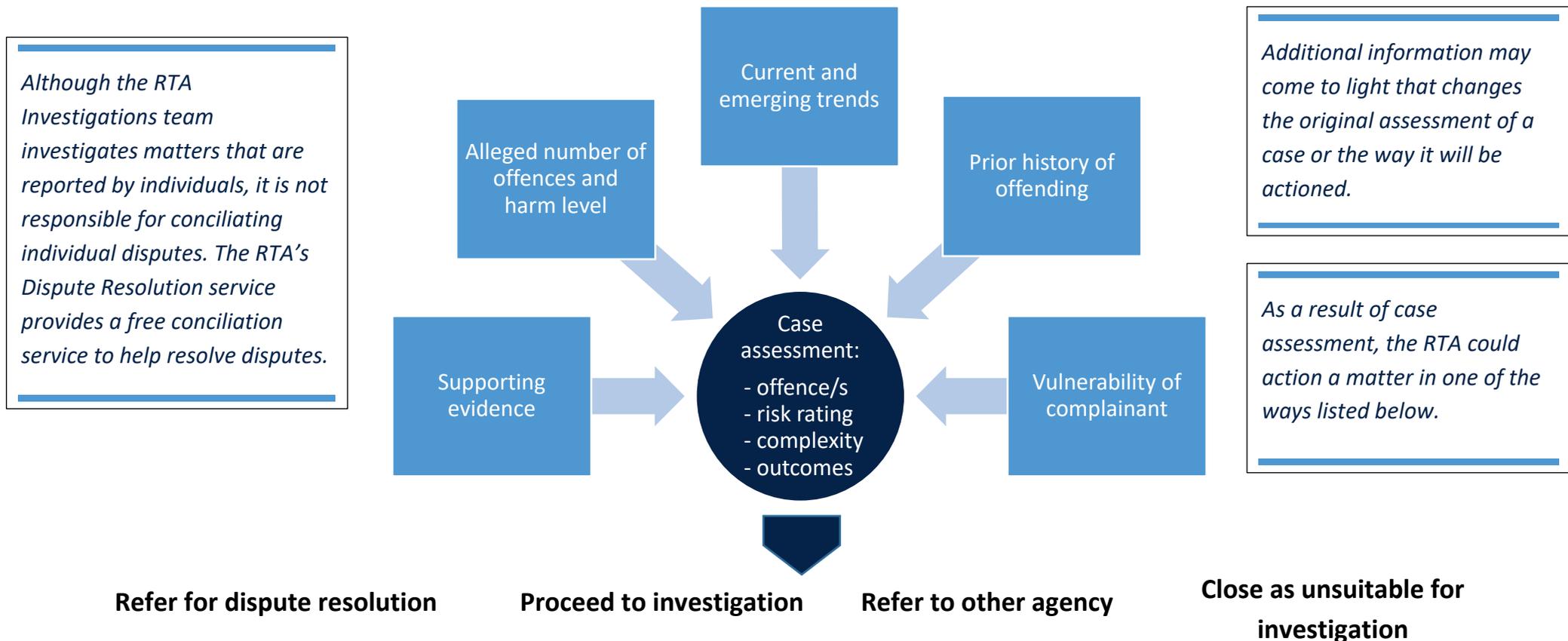
As a regulator, the RTA exercises its enforcement responsibilities fairly, impartially and in the public interest. The following principles govern our compliance and enforcement work.

Guiding principle	How is it applied?
<b>Proportionality</b>	Investigative skills and resources are directed according to the needs of the investigation case. Decisions about actions and compliance/enforcement outcomes are in proportion to the seriousness of the matter, the level of harm to the complainant and the extent of the conduct within the sector.
<b>Efficiency</b>	RTA staff are trained to make an accurate assessment of whether a customer should receive an investigation request or seek an alternative resolution. Investigators act to close investigation requests and inform customers as early as possible if a matter is not suitable for investigation. They apply simplified processes to minor offences and low complexity investigation cases.
<b>Targeted</b>	Investigations make effective use of finite resources, use data driven intelligence to target ongoing and new trends, develop proactive activities aimed at curbing repeat offences, and partner with other regulators to target uncooperative repeat offenders.
<b>Effectiveness</b>	The most appropriate approach is selected to achieve voluntary compliance in the sector, which includes collecting intelligence to guide efforts and using other tools such as targeted educational activities and working co-operatively with other regulators.
<b>Transparency</b>	Interactions with customers are equitable, open and transparent. Customer feedback is sought, and investigators provide education about the mandate of the Investigations function including outlining processes and how decisions are made. There are review processes in place and decisions can be reviewed through several avenues including directly to the RTA and via the Queensland Ombudsman.

Guiding principle	How is it applied?
<b>Accountability</b>	The Investigations function contributes to achieving the organisation’s strategic goals and vision of <i>Renting that works for everyone</i> . Methodologies, processes and responsibilities are documented, and progress is measured.

## 4. Applying our compliance and enforcement policy

### 4.1. How case assessment will be performed



## What is unsuitable for investigation?

The RTA defines cases that are unsuitable for investigation as:

- \* The tenancy involved was not within Queensland and therefore not within our jurisdiction.
- \* The date that the offence occurred precludes action because the two-year statutory limitation period has expired.
- \* The matter is exempt from actioning according to the RTRA Act.
- \* The alleged conduct of the other party does not constitute an actual offence.
- \* There is insufficient evidence to determine whether an offence has been committed.
- \* The complainant wishes to remain anonymous and, therefore, the allegation cannot fairly be put to the other party to allow an informed response, and the complainant is unable to be called as a witness.
- \* The allegation constitutes an offence under another Act that a different regulatory agency is responsible for enforcing.
- \* The complainant does not maintain contact with the investigator to enable an effective and timely investigation to be conducted.

## The role of risk management in assessment

- \* A risk matrix tool will be used during case assessment as a consistent platform to guide investigators in deciding a case's risk categorisation.
- \* The risk matrix is used in conjunction with the judgement of the investigator.

## Referral of matters to other agencies

- \* Referral of matters to other agencies will be considered on a case-by-case basis and decisions will be based on the best outcome for the complainant's circumstance. For example, an investigator is unable to return property to the complainant during investigation of an offence for *seizure of tenant's goods for rent* and therefore reporting to the Queensland Police Service is the best avenue to achieve that outcome.
- \* A decision to partner with another agency in a joint operation would consider whether better outcomes could be achieved, for example, higher penalties are afforded to the other agency by their legislation.

- \* In order to manage partnerships with other regulators effectively, the RTA will apply criteria to ensure that they are relevant and actionable under that regulator’s legislation.

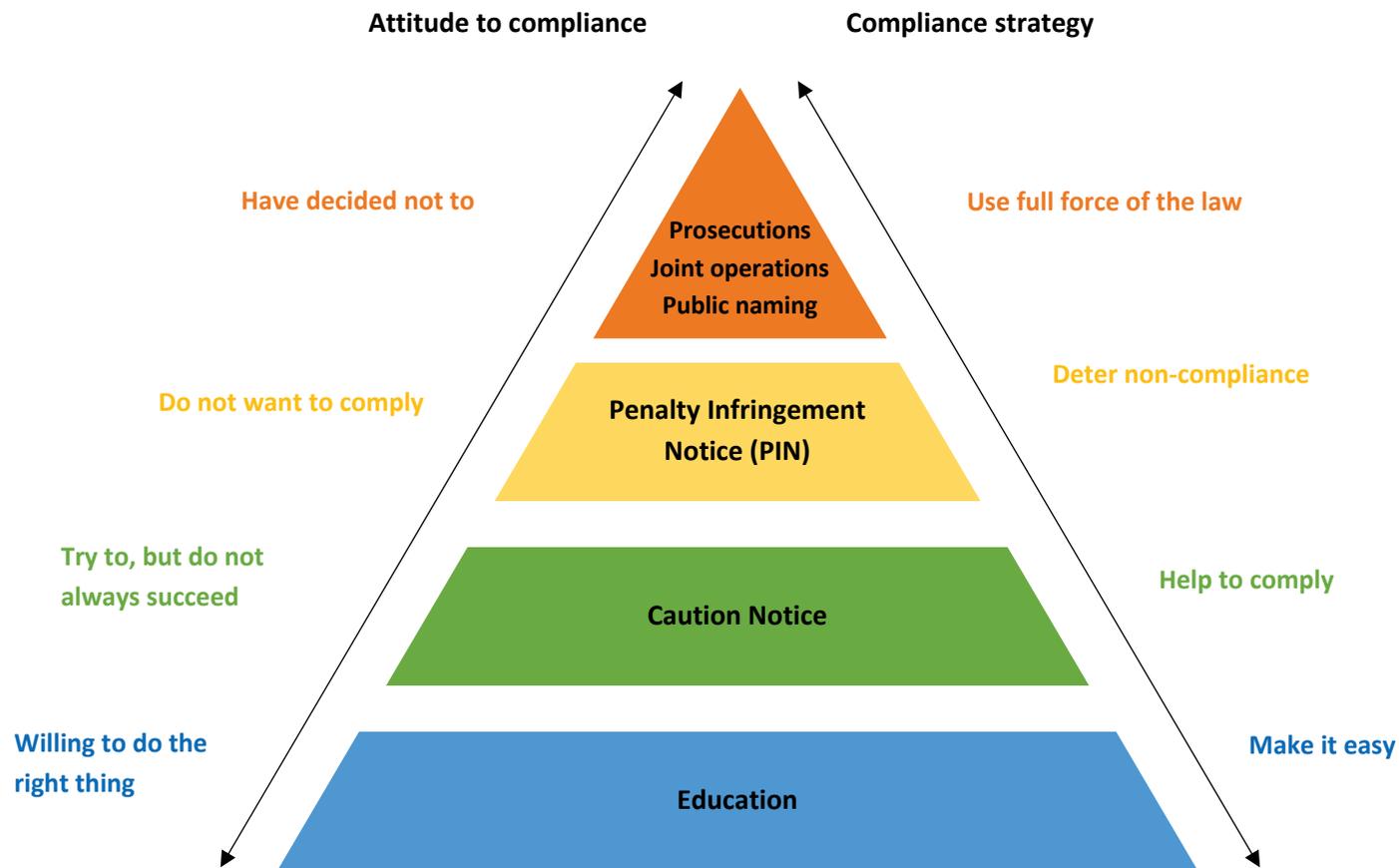
## 4.2. Compliance and enforcement tools/options that may be used

<p><b>Education</b></p> <p>Explain the requirements of the legislation.</p> <p>Increases the rate of voluntary compliance by strengthening knowledge or reducing ignorance of rights and responsibilities under the RTRA Act.</p>	<p><b>Caution Notice</b></p> <p>Reminder of legislative obligations.</p> <p>Taken into consideration if instances of future offending are found.</p>	<p><b>Prosecutions</b></p> <p>Criminal proceedings are commenced in the Magistrates Court.</p> <p>There are approvals needed to proceed and a two-tiered test must be met:</p> <ul style="list-style-type: none"> <li>a) is there sufficient evidence?</li> <li>b) is it in the public interest?</li> </ul> <p><b>Public statements</b></p> <p>At the conclusion of a successful prosecution, the RTA may publicly release information as a deterrent or to warn customers about the conduct.</p>
<p><b>Inspection</b></p> <p>Power to enter and conduct a search or inspection of records.</p> <p>May also take the form of a desk audit/interview in co-operation with the other party.</p>	<p><b>Working with other agencies</b></p> <p>The RTA may work with other regulators in order to reach the best outcome.</p> <p>This might take the form of a joint exercise.</p> <p><b>Penalty infringement notices (PINs)</b></p> <p>Monetary penalties for a prescribed offence asserting a breach of the RTRA Act.</p>	

## 4.3. How a compliance option will be chosen

Where case assessment determines that there is sufficient evidence of an offence to proceed to an investigation, the investigator makes enquiries into the facts, gathers supporting evidence and considers appropriate compliance or enforcement action. The sufficiency of evidence, risk and seriousness of the offence/s, and attitude and conduct of respondent are key to selecting the appropriate outcome for the case.

Figure 1: Compliance and enforcement pyramid



The peak of the pyramid represents the regulatory activities that the RTA engages in the least. These options are resource intensive and are used for matters that are high risk, particularly if conduct is recurring and other options have been exhausted.

If the investigator believes that the respondent is willing to try to comply with their obligations, the RTA will often seek to provide education and information to encourage voluntary compliance.

#### 4.4. Responding to change

The RTA’s Compliance and Enforcement Strategy 2021–23 may evolve during the period of its operation to enable the RTA to respond to and address any emerging risks, trends in customer behaviour or legislative changes that require resources to be reallocated and reprioritised.