EPA Compliance: Our Approach
Contents

Part One: Setting the scene
   a) Purpose
   b) What we do
   c) Our Vision, Mission and Strategic Intentions
   d) The Māori perspective and compliance

Part Two: Our approach to compliance
   a) The proportionate model of compliance
   b) Our operating model
   c) Our compliance response

Appendix One – Relationship between the EPA and other agencies

Appendix Two – Prosecution Policy
Part One: Setting the scene

1A: Purpose

1. This sets out the Environmental Protection Authority’s compliance approach for the range of areas for which it has responsibility.

2. The Environmental Protection Authority (EPA) carries out a wide range of activities to protect people and the environment – from raising public awareness through to prosecuting serious breaches of the law. Compliance with ‘rules’ is important because it ensures that there are good outcomes for the environment and for human health. The New Zealand public and the regulated community need to know that the right action will be taken against those that do not comply.

3. This describes how we approach our compliance role, set priorities, target our compliance effort, and use compliance tools. It is important for us to be clear and open to provide the people and businesses that we regulate and the public with understanding and certainty about our approach. This helps us to do our job better so that we can contribute towards the efficient, effective and transparent management of New Zealand’s environment.

1B: What we do

4. The EPA is responsible for certain regulatory functions concerning New Zealand’s environmental management. These include:
   - management of the New Zealand Emissions Trading Scheme (ETS) and New Zealand Emission Unit Register
   - regulation of hazardous substances, new organisms, ozone depleting substances, and hazardous waste exports and imports
   - regulating the environmental effects of activities in the Exclusive Economic Zone (EEZ) and Continental Shelf
   - processing nationally significant proposals under the Resource Management Act
   - assessing environmental effects in Antarctica.

5. The functions, duties and powers of the EPA and other government agencies with related responsibilities are set out in these Acts:
   - Climate Change Response Act 2002 (CCR Act)
   - Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act)
   - Hazardous Substances and New Organisms Act 1996 (HSNO Act)
   - Imports and Exports (Restrictions) Act 1988 (IERA)
   - Ozone Layer Protection Act 1996 (OLP Act)

1C: Our Vision, Mission and Strategic Intentions

6. The EPA's vision is to be a “world-leading environmental regulator”. Its mission is “To protect people and the environment.” In order to do this the EPA's strategy states that “we deliver robust, objective decisions and ensure compliance with rules”. This recognises that regulating or providing approvals is not enough – ensuring compliance is also essential.

7. The EPA's four strategic intentions are:
   a. Improve the efficiency of the regulatory framework for hazardous substances.
   b. Maximise confidence in the integrity and service delivery of the ETS.
   c. Embed the regulation of activities in the EEZ and Continental Shelf.
   d. Develop improved business capability through enhanced EPA systems.

8. Ensuring compliance with the requirements set for people and businesses is essential to the achievement of the first three of these strategic intentions, and the rest of the EPA's core functions, while the fourth priority will improve the way that we do our job.

1D: The Māori perspective and compliance

9. The EPA has a number of legislative and other obligations to Māori arising from the Environmental Protection Authority Act 2011 and many of the environmental Acts for which the organisation is responsible (RMA, HSNO Act, and EEZ Act in particular).

10. Our approach recognises the unique relationship of Māori to the environment and is guided by the principles identified in He Whetū Mārama. He Whetū Mārama is a broad framework that aims to guide the EPA in achieving our obligations in an effective and sustainable way.

11. The EPA acknowledges Māori as tāngata whenua, as well as the important role that Māori play in New Zealand’s economic, environmental, social and cultural wellbeing. Māori are land managers and owners, business owners, guardians, and governors of significant natural resources, as well as having a range of knowledge, skills and experience valuable to decision-making. With this in mind it is important that our compliance approach carefully considers, where necessary, what the impact could be to Māori, and how we might enable Māori to participate in all their roles.

12. Engagement between the EPA and Māori can improve compliance and we acknowledge in particular circumstances it is appropriate to create compliance obligations that incorporate Māori interests. Effectively incorporating Māori perspectives, for example in EPA decision-making on hazardous substances and new organisms, requires Māori have an appropriate level of input, influence and information.
Part Two: Our approach to compliance

13. Put simply, we expect everyone to comply with the law. The person or business carrying out an activity needs to ensure they know the rules and follow them. Although we believe most people and businesses are willing to comply, we acknowledge there can be barriers such as a lack of awareness or understanding that may prevent some people from achieving compliance. Some may comply reluctantly and others will not comply at all. A key focus for the EPA is to remove barriers to compliance and use a range of different tools to educate, help, encourage and require compliance.

2A: The proportionate model of compliance

14. Our approach to compliance reflects guidance for New Zealand government agencies set out in *Achieving Compliance – A Guide for Compliance Agencies in New Zealand June 2011*. In particular, we have adopted the following:

“A successful and cost-effective compliance strategy will draw on a range of options for responding to non-compliance. Responses can range from encouraging and assisting an individual or business to comply where the risk is presented as minor, to revoking an operating license and bringing criminal or civil court action in cases of serious risk and deliberate non-compliance.”

“Having a toolkit of graduated responses enables the compliance agency to impose a response that is proportionate to the risk posed by non-compliance. This flexibility also enables the compliance agency:

- to target the most serious and highest-priority risks presented by the non-compliance
- to minimize the costs associated with the agency’s response
- to take account of the willingness and capacity of the non-compliant entity to return to compliance
- to signal to the non-compliant entity concerned, and to the wider regulated sector, the level of seriousness with which the agency views the non-compliance and the risks it poses
- to adjust its response in an individual case by escalating or de-escalating the level of its approach as necessary.”

15. Our compliance approach builds on this and is based on the following core principles:

- Compliance activity is **proportionate to the risk** presented across and within sectors, and the **attitude and behaviour** of each person or business.

- We act **consistently with the law** and New Zealand’s international obligations, and **in the public interest**.
• We use **accurate and reliable information and evidence** to make appropriate compliance decisions.

• We exercise our role in a way that is **fair and impartial**, so that all stakeholders have confidence and trust in the compliance regime and how it is applied.

• We are **responsive** to the regulated community, and **innovative** and proactive.

• Our regulations and compliance activity are **cost effective** for both the EPA and operators.

16. The following diagram\(^1\) illustrates a proportionate approach where the level and type of response is influenced by the level of risk, and the factors that influence the behaviours of people and businesses.\(^2\)

---

\(^1\) Adapted from Braithwaite J 2002. *Restorative justice and responsive regulation*. Oxford University Press.

\(^2\) Note that the pyramid is a generic representation, and the size of the different parts of the pyramid will differ depending on the regulated community.
17. **A successful compliance approach should consider risk.** An informed and nimble risk-based approach, combined with public interest considerations, helps guide the choice and scale of activity both in individual cases and for particular regulated sectors.

18. **The objective of our compliance activity (as represented by the arrow in the centre of the diagram) is to use compliance tools to ‘encourage’ people to stay at or migrate towards the bottom of the pyramid (where they are compliant).** This will see good environmental outcomes, and reduce costs for people and businesses who voluntarily comply (as they will not generally be the subject of active compliance focus). It will free up compliance resources to focus on those towards the top of the pyramid.

19. **The left hand side of the diagram looks at the different attitudes to compliance.** It illustrates:

   - there are several reasons why a person or business may or may not have complied
   - if a person or business has not complied their decision may not have been deliberate
   - people or businesses cannot be categorised as having the same attitude (and behaviour) all of the time as these will change over time in response to a variety of influences.

   Our compliance activity tries to change attitudes towards being knowledgeable and compliant. One of the things that we think about when we make compliance decisions is the effect of those decisions on compliance and attitudes to compliance.

20. **The right hand side of the pyramid looks at the options that we consider and use to encourage compliance.** Operating within our particular legislative frameworks, we make informed judgements about which tool(s) to use to sustain downward pressure to increase compliance and discourage non-compliance.

2B: **Our operating model**

21. The EPA’s compliance role varies depending on the legislation and sector in question. For some areas (such as under the CCR and EEZ Acts) we have a defined enforcement role – in other areas enforcement is carried out by a range of other agencies.

22. The EPA’s approach to compliance applies across all of our functions, some of which are established and mature, and others that are new and developing. It sets out the direction that the EPA is heading, and is the first step in an incremental approach that will develop and evolve over time. The key elements of our operating model are:

---

3 See Appendix 1 for further detail.
How we determine what to do

**A focus on outcomes** – compliance needs to be achieved in a way that best protects people and the environment, and reduces costs for them and us. Well defined indicators and targets help us to assess our performance, and help focus our compliance work.

**Intelligence-led** – a range of information sources help us monitor the different regulated sectors, and identify trends and patterns of problems or issues, risks, attitudes and behaviours. These information sources include:

- audits and inspections.
- information from automated compliance systems.
- investigations.
- information gathering tools such as surveys and questionnaires.
- our knowledge of the regulated sectors.
- information and intelligence from other compliance agencies, sector participants, members of the public and others.

This information enables us to focus and adapt our efforts, target compliance activity towards the areas of greatest concern, assess the right compliance tools to use, and help with policy review and development. We review and learn from our actions to identify what worked and where changes are needed.

The EPA retains and manages the knowledge and information it gathers, and protects confidentiality and sources where this is appropriate.

**Risk aware** – we use our information and intelligence to identify where the greatest areas of risk lie. Risk can be seen in several ways, including the aggregation of small risks that lead to systemic failure, through to low-frequency, high-consequence events. It can include perceived risks. We use risk assessment to help us make decisions about where our compliance activity should be directed.

Risks can involve the possibility of damage to the environment or harm to people, or the credibility of the regulatory regime.

How we collaborate and make things easier

**Working with others** – the EPA does not carry out the compliance function by itself. We have a range of partners that are essential to the success of the environmental regulatory system.
The EPA is clear about its role under each piece of legislation, and makes sure others understand their roles, and that this is clearly communicated to stakeholders.

We work with other agencies to gather intelligence and facilitate an integrated approach to compliance. This includes:

- Identifying gaps and overlaps in compliance roles.
- Ensuring clear, easily understood compliance messages and approaches so that the regulated communities understand their obligations and the reasons for them.
- Sharing the EPA’s compliance approach and agreeing compliance priorities.
- Using other agencies’ sources of intelligence, data and expertise, where this is appropriate.
- Using other agencies’ existing compliance systems to reduce costs and make compliance easier.
- Sharing the EPA’s specialist knowledge and skills and leveraging the skills and experience of our partners.
- Participating in formal and informal reviews of compliance decisions.
- Using other agencies’ communication channels and industry contacts and sharing our own.
- Learning from others’ compliance approaches.

Memoranda of Understanding and other agreements with compliance partners set out formal protocols for our cooperation.

**Example**
The EPA has produced a detailed decision process to provide enforcement agencies for hazardous substances with certainty about when they should be the lead agency, and/or when they need to be involved.

**Example**
The EPA and the Ministry for Primary Industries have agreed to review each other’s enforcement decisions under the ETS.

**Targeted and tailored strategies for each regulated community and particular operators** – we provide guidance and encouragement to the regulated communities, support disclosure of unintentional non-compliance, and access their thinking on the strategies and information that would be most effective. This is tailored to the specific regulatory and operational circumstances of each sector.

From time to time we develop specific plans or targeted programmes, sometimes in conjunction with other agencies and/or with sector organisations and participants.
Where we see patterns or risk relating to a particular person or business, we adjust our compliance activities accordingly. This may result in additional inspections and audits and possibly more directive action. It may result in greater efforts to make the regulated communities aware of what they need to do. It may lead us to engage with a wide range of people and businesses rather than a few large ones.

We are clear about our relationship with regulated communities – we are cooperative, working with people and businesses and helping them to comply, but we will take enforcement action when necessary.

**Simplifying compliance** – we make compliance as straightforward as possible in the circumstances. We are committed to working with the regulated community to reduce the cost of compliance, and to provide easy-to-use ways of reporting and interaction with the EPA and its partner agencies. We make use of online and automated systems where this is worthwhile.

### Example

We agree specific priority areas for compliance attention for hazardous substances with WorkSafe New Zealand.

How we make sure we do the right things

**Robust and objective compliance decisions** – audits, inspections and investigations are well founded, focussed and fair. Compliance decisions are evidence based, made impartially, and are consistent with the law.

**Skills** – the EPA identifies the competencies it needs for the different compliance functions, and recruits, retains and builds talent.
How we review and improve

**Lifecycle approach to regulation** – environmental compliance and enforcement programmes occur as part of a comprehensive environmental management cycle that starts with defining the problem well. It includes the way obligations (legislation, rules, decisions and approvals) are designed, written and communicated so that people and businesses understand the need for them, and agree the outcome sought is achievable and credible. This is set out below:

**The Regulatory Lifecycle**

<table>
<thead>
<tr>
<th>Assess and review</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Regulatory systems need review to see if they are meeting their objectives.</td>
</tr>
<tr>
<td>• We can improve compliance in a number of ways, such as through:</td>
</tr>
<tr>
<td>• better regulation</td>
</tr>
<tr>
<td>• better design of operational policy</td>
</tr>
<tr>
<td>• improving internal process and guidance by applying learnings from previous efforts</td>
</tr>
<tr>
<td>• internal/external audit</td>
</tr>
<tr>
<td>• improving information collection and analysis</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Identify the issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Clearly define the problem and options to resolve it.</td>
</tr>
<tr>
<td>• Use data, analysis and intelligence systems.</td>
</tr>
<tr>
<td>• Identify compliance concerns.</td>
</tr>
<tr>
<td>• Identify the best responses both regulatory and non-regulatory.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Administer and implement</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Use risk assessment to help with the choice and scale of compliance activity.</td>
</tr>
<tr>
<td>• Use different compliance tools and how they are chosen. The response can be any number or a combination of compliance tools – ranging from a simple letter, a fine, a cancellation of consent, right up to proceeding.</td>
</tr>
<tr>
<td>• Provide accurate, informed advice and guidance.</td>
</tr>
<tr>
<td>• Work with regulated communities.</td>
</tr>
<tr>
<td>• Integration of approach and effort with relevant compliance partners.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legislate/control</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Establish and communicate clear rules and requirements.</td>
</tr>
<tr>
<td>• Establish a range of compliance tools.</td>
</tr>
<tr>
<td>• Establish roles and responsibilities of compliance partners eg MPI, WorkSafe NZ.</td>
</tr>
<tr>
<td>• Decision making needs to be supported by an agreed approach and appropriate governance arrangements.</td>
</tr>
</tbody>
</table>

The EPA actively monitors and influences activity across this lifecycle. This includes:

- working with the Ministry for the Environment to use our operational experience to help develop, review and improve policy and legislation
- working with other compliance agencies and the regulated community to make administration and implementation efficient and effective
- measuring and reviewing the effectiveness of our compliance systems, and working to improve them.
2C: Our compliance response

26. We use a range of responses and tools to get good compliance outcomes. In most cases we facilitate and encourage compliance. There are occasions when this is not the best option and our approach is not graduated and does not start with education. The tools that we use address the particular circumstances of the case and the problems identified, and have the best influence on compliance. We use the following factors to guide our choice about the compliance tools we use in each particular case:

- the extent of harm or risk of harm
- the public interest
- fairness
- the conduct and compliance history of the person or business
- attitude to compliance – the general attitude (or level of willingness) to be compliant.

27. There are no individual interventions that will work all of the time. We will need to use a variety of interventions, often in combination with each other, to improve compliance. An important consideration is how this combination of tools works in each sector, or for each person or business, and whether these change over time.

28. The tools that we use include:

**Communication and education** – people and businesses need good quality information and guidance on their legal requirements and how they can comply. We provide sector-wide and individual information in a variety of ways – newsletters, website updates, conferences, presentations, emails, letters, and phone calls. We help people or businesses when they have tried to comply but do not have the knowledge to do so. Standard reporting and system automation can both help people and businesses to comply, and provide a source of information for monitoring.

**Setting obligations** – the EPA can set obligations – whether this involves consents to do something (such as a marine consent in the Exclusive Economic Zone and Continental Shelf (EEZ)), specific conditions that might attach to a particular operation, or general conditions (such as the storage and handling of a new organism or hazardous substance).

**Inspection and audit** – we carry out inspections and audits on both a programmed and unscheduled basis, using our own staff, other compliance agencies, and third parties.

**Investigations** – where we think there is a problem we may use the legal powers we have to carry out an investigation. Our approach is measured and proportionate, targeting the areas of greatest risk.
Graduated range of sanctions – the different pieces of legislation the EPA operates under provide a range of sanctions that might be used, depending on the circumstances.

Example
These include actions such as automatic penalties (for example when a person fails to surrender or repay ETS units), or placing additional obligations or conditions on operators (for example, for activity in the EEZ).

Cancelling, suspending, or changing approvals – sometimes the right thing to do will be to recognise the extent of the risk by removing the right to operate, or putting further obligations on an operation.

Example
We can revoke permits under the IERA and seek enforcement orders for activity in the EEZ.

Prosecution – sometimes the EPA (or its compliance partners) will initiate prosecutions. The EPA’s Prosecution Policy (see Appendix 2) sets out the guidelines and standards to be followed by EPA staff when deciding whether to prosecute, and in conducting prosecutions. The Policy includes advice from an Enforcement Panel to the delegated decision-maker.

29. The EPA uses this compliance approach to guide its decisions at an operational level, including further detail on how the approach can be used on a day to day basis, in different circumstances, and related to the specific regulatory obligations. An Enforcement Panel maintains a cross-organisational perspective on compliance decisions and policies.

30. Where a person who is affected by a decision of the EPA is able to request the EPA review the decision under the relevant legislation then the decision-maker on the review will be different from the original decision-maker.
Appendix One – Relationship between the EPA and other agencies

The following diagram illustrates the relationship between the EPA and other government agencies with related roles.
Appendix Two

Prosecution Policy

Overview

Purpose

1. This document sets out the Environmental Protection Authority's (EPA) prosecutions policy. The purpose of the policy is to set out the guidelines and standards to be followed by EPA staff when deciding whether to prosecute, and in conducting prosecutions. The prosecutions policy is based on the Crown Law Solicitor-General's Prosecution Guidelines, published 1 July 2013, and are attached to this Policy as Appendix 1.

Introduction

2. The EPA's objective is to undertake its functions in a way that contributes to the efficient, effective, and transparent management of New Zealand's environment and natural and physical resources; and enables New Zealand to meet its international obligations.

3. The EPA has enforcement responsibilities with respect to the following Acts:
   - The Climate Change Response Act 2001
   - The Hazardous Substances and New Organisms Act 1996
   - The Imports and Exports (Restrictions) Act 1988
   - The Ozone Layer Protection Act 1996
   - The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

4. The Acts set out a number of offence provisions.

Decision guidelines

5. This section sets out the principles and guidelines that the EPA will apply when deciding whether or not to prosecute. The guidelines are based upon the Solicitor General's Prosecution Guidelines but have been tailored to meet the EPA’s objectives.

Test for prosecution

---

4 Crown Law Office, July 2013

May 2016
6. Prosecutions should be initiated only where the EPA is satisfied that the test for prosecution is met. The test for prosecution is met if:
   • The evidence which can be adduced in Court is sufficient to provide a reasonable prospect of conviction (the Evidential test).
   • Prosecution is required in the public interest (the Public Interest test).

7. Each aspect of the test must be separately considered and satisfied before a decision to prosecute is made. The Evidential test must be considered before the Public Interest test is considered.

8. The Solicitor General’s Prosecution Guidelines sets out indicative matters to be taken into account for determining whether the evidential test is satisfied and if a prosecution is required in the public interest.

9. Even if a matter meets the test for prosecution in terms of the Solicitor General’s Prosecution Guidelines, the decision whether the EPA will undertake a prosecution in a specific case will be made following advice by the Enforcement Panel. In some cases, where prosecution is possible, it may be considered that a different compliance response is more appropriate.

Decision-making process

10. The enforcement officer responsible for conducting the investigation will prepare a report setting out whether the test for prosecution as set out in the Solicitor General’s Prosecution Guidelines is met.

11. The Enforcement Panel will be responsible for providing advice on whether to prosecute.

12. In appropriate cases, a decision may be made that prosecution under other legislation (for example the Crimes Act) is appropriate.

13. Other enforcement bodies (including local authorities and the Police) may also seek to prosecute under any of the above environmental Acts in some cases.

14. Certain statutory offences can only be prosecuted with the consent of the Attorney-General. Where the EPA considers that consent should be sought, the EPA will comply with the process set out in the Prosecution Guidelines.

15. As a matter of practice, the EPA will ensure that the Solicitor-General is informed of any matter relating to an EPA investigation or prosecution that is of general public or legal importance or which gives rise to substantial or new forms of legal risk.

Management and Oversight of EPA prosecutions

16. Once a decision to prosecute has been made, the file will be referred to a prosecutor who will review the file and the recommended charges.

---

5 The Enforcement Panel is a committee established to oversee EPA compliance activity and provide advice on enforcement action and compliance policies.
17. All EPA staff involved in managing a prosecution will maintain a high standard of professional and ethical conduct and manage the case in a way that is consistent with the defendant's right to a fair trial. In particular, those involved in the prosecution should:

- Act in a manner that is fundamentally fair, performing their obligations in a detached and objective manner, impartially and without delay.
- EPA lawyers should conduct themselves in accordance with their ethical obligations and the rules of professional conduct.
- Prosecutors can prosecute their case forcefully, however this needs to be done in a dispassionate manner, avoiding inflammatory language and protecting the right to a fair trial.
- Comply with the disclosure obligations contained in the Criminal Disclosure Act 2008.
- Be aware of the needs of victims and ensure that in accordance with the law and the requirements of a fair trial, victims and witnesses are treated with care and respect.

18. The key statutes that apply to the prosecution process are the Criminal Procedure Act 2011, the Criminal Disclosure Act 2008, the Evidence Act 2006 and the Victim’s Rights Act 2002 and the relevant Crown Solicitor will be responsible for ensuring compliance with these processes. Under the Criminal Procedure Act 2011, the Solicitor-General has a responsibility to maintain general oversight of the conduct of public prosecutions, including prosecutions taken by the EPA.

19. The EPA Board will be advised of any decision to seek a prosecution.

**Victims and witnesses**

20. The EPA will ensure that victims of crime are treated at all times with courtesy and compassion and with respect for their dignity and privacy.

21. The relevant enforcement officer will be the primary point of contact with victims and ensure that they are provided with information at each stage of the process to ensure that they understand the process and are aware of what is happening. The EPA will comply with the Crown Law protocol, *Victims of Crime – Guidance for Prosecutors*.

22. The relevant enforcement officer will also ensure that witnesses are kept informed and treated with courtesy throughout the prosecution process.

23. Where EPA employees are witnesses in a prosecution the EPA solicitor or the enforcement officer in charge of the prosecution will inform their Manager. The employee will attend the Court and assist as requested.

24. EPA employees who act as expert witnesses must comply with the required standards of conduct applicable to expert witnesses.

25. In the event that an EPA employee is required to be a witness for the defense in a prosecution the employee should promptly inform their Manager and the Chief Advisor Legal of this requirement.
Media and publicity

26. In communicating with the public through the media in relation to a prosecution, EPA staff will act in accordance with the Crown Law Media Protocol for Prosecutors, and will

- Act in a way that does not prejudice the right to a fair trial.
- Supports the administration of justice and the integrity of the criminal justice system.
- Respects the principle of open justice.
- Treat victims of crime with courtesy and compassion and respect their dignity and privacy.

27. The EPA will publicise the outcome of a prosecution where appropriate. This will be managed by the General Manager Compliance or General Manager Emissions Trading in co-ordination with the Communications Team.

Interactions with defendants

28. Once charges are filed, no EPA staff members involved with the prosecution will have any communication with the defendant, or the defendant’s legal representative, unless this has first been discussed and agreed to by the Crown solicitor acting for the EPA.

29. Because defendants may have other dealings with EPA staff during the course of the prosecution process, the relevant General Manager will ensure that relevant staff are aware of any prosecutions underway. EPA staff must ensure that they do not interact with defendants during the course of the prosecution in a manner that could jeopardise the right to a fair trial or adversely affect the prosecution.

Appeals

30. Any decision by the EPA to appeal a prosecution decision will follow advice from the Enforcement Panel and the process outlined in section 26 of the Solicitor-General’s Prosecution Guidelines will be followed.