

Charter of Consultation and Regulatory Practice

Policy

Purpose

The purpose of this Charter is to outline how Energy Safe Victoria (ESV) consults with its stakeholders and undertakes its regulatory responsibilities. The Charter explains how ESV meets community expectations and upholds our corporate values of respect, integrity, partnerships and accountability.

This document (highlighted in red) is the second of four, which is to be read in conjunction with the other three, to understand ESV's regulatory role, approach and regulatory practice, and strategic direction.



Document structure

ESV must have a charter under section 25A of the Energy Safe Victoria Act 2005 (the ESV Act). The content of the charter must include guidelines relating to the preparation of the corporate plan and for conducting inquiries under Part 3 of the ESV Act.

This document describes how ESV engages and consults with its stakeholders and undertakes its regulatory practice. The sections in the document are structured as follows:

- **About ESV:** explains who ESV is and what it does.
- **Consultation:** explains ESV's approach to consultation with differing groups of stakeholders;
- **Committees:** lists key committees in which ESV participates to enable government and industry liaison, and the development of technical standards;
- **Memorandums of Understanding:** explains how ESV engages with other agencies to facilitate inter-agency relationships and regulatory practice by clarifying roles and expectations;
- **Stakeholder engagement and consultation:** explains the process for public and industry engagement;
- **Regulatory practice:** explains how ESV engages in regulatory activities;
- **Legislation, enforcement and inquiries:** explains the legislative environment, enforcement and conduct of inquiries; and
- **Accountability and review:** explains how ESV remains accountable and to whom.

About ESV

ESV was created under the *Energy Safe Victoria Act 2005* (the ESV Act) and is the state's independent technical safety regulator for the electricity, gas and pipeline industries.

The Corporate Plan documents strategic goals and priorities and how ESV directs and recovers the costs of its resources to meet our statutory objectives and fulfil our functions.

As a safety and technical regulator, ESV operates within a complex legislative framework interacting with energy industry participants, entities and individuals with regulatory obligations, consumers, other regulators and government agencies, all of which have different objectives and responsibilities. Consultation with these stakeholders is essential for developing efficient and effective regulation and industry safety standards to facilitate safety. ESV coordinates and participates in a range of committees that enable such consultation.

ESV's values

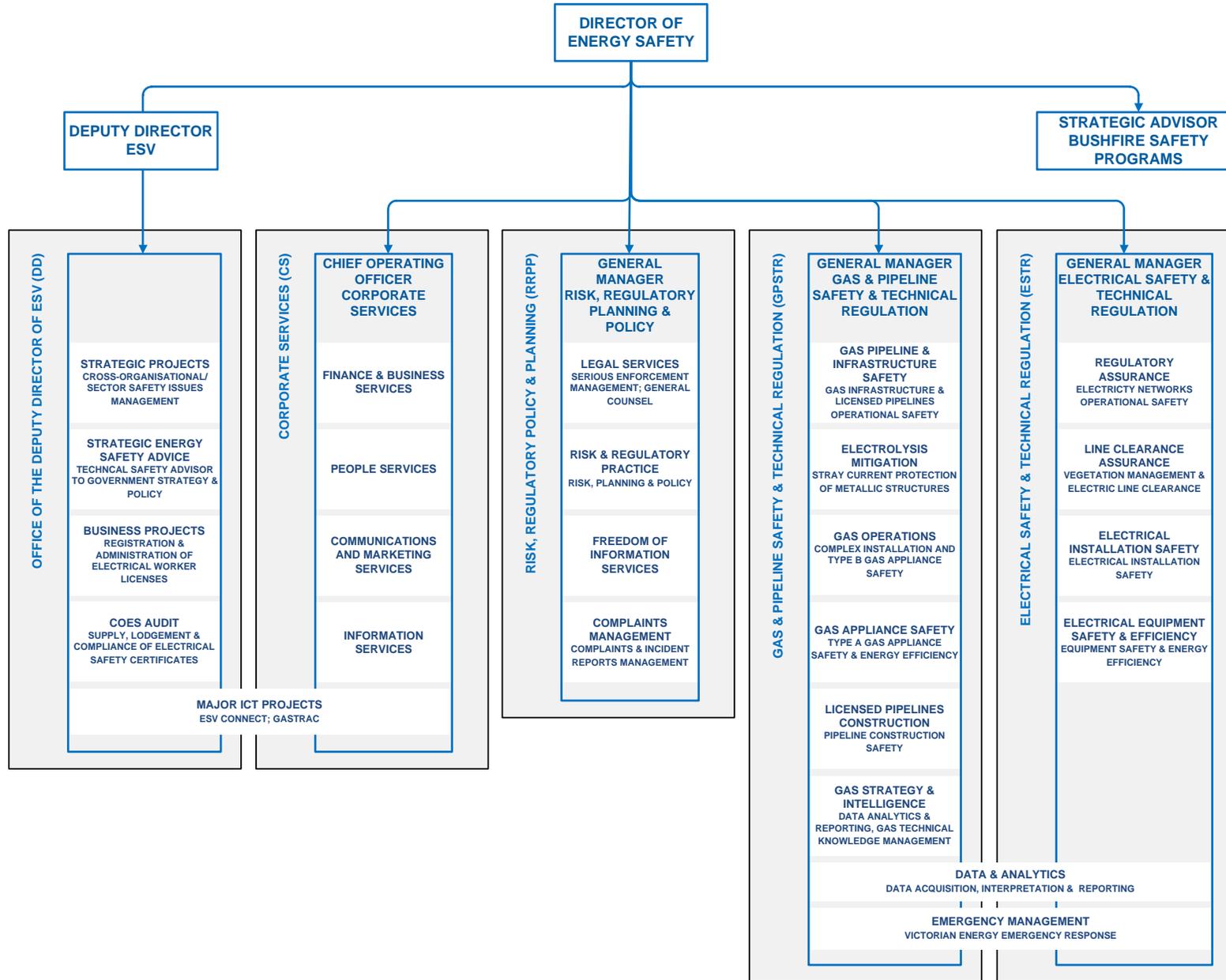
The following core values are expected from all our team and these values are expressed in our day to day actions, decisions and interactions with others.

- Respect
- Integrity
- Partnerships
- Accountability

Management of ESV

ESV consists of the Director of Energy Safety who also performs the role of Chief Executive Officer for the organisation. The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Director. The *Public Administration Act 2004* applies to the Director. The Director shall be appointed for a term of no more than 5 years, and can be re-appointed.

ESV appoints employees or other persons as necessary for performing its functions and determines the terms and conditions of appointment. The organisational structure of ESV is shown on the next page. Each Division is led by an executive reporting to the Director of Energy Safety.



Consultation

Consultation is about sharing information, seeking the views of different stakeholders and taking these into consideration in the design and administration of regulation, in ways that best achieve the objectives of ESV under the Acts. It is not primarily a consensus-building or agreement process.

ESV is involved in consultation with government, other agencies, industry stakeholders and the wider community. ESV consults and communicates with industry, experts and the community in relation to gas and electrical safety, for example, in the development and review of safety standards, codes and guidelines, safety messages and changes to legislation.

ESV consults in a range of ways such as statutory committees and other committees, Memorandums of Understanding, by specific industry or tradespeople stakeholder engagement, and public consultation and information.

Principles of consultation

ESV is committed to productive consultation. The following principles guide the consultation processes used by ESV.

ESV will transparently explain the objectives of consultation and the context within which consultation is occurring.

The level of consultation will reflect the likely impact of decisions on the different stakeholders.

ESV will be accessible to, and inclusive of, relevant stakeholders taking into account the number and type of persons to be consulted and their ability to contribute to consultation.

Consultation will be undertaken in a timely and flexible way.

Committees

ESV establishes and participates in a range of committees as part of achieving its objectives in consultation with key stakeholders. Generally the committee will comprise of a core group of stakeholders with a breadth of specific technical expertise to coordinate provision of advice to relevant parties, or develop technical and safety materials for different uses and audiences.

Energy Safe Victoria Act 2005 - Committees

ESV may establish committees that consist of employees and other people it determined under section 8 of the ESV Act. ESV must appoint one of the members of the committee as Chair.

ESV has four committees active under section 8. These are the:

- Electrical Safety Committee (The Blue Book Committee);
- Victorian Rail and Tramway Electrical Safety Committee (The Orange Book Committee);
- Powerline Bushfire Safety Committee; and
- Emerging Technologies Advisory Committee.

Electricity Safety Act 1998 - Committees

The Minister appoints members for committees established under the *Electricity Safety Act 1998*. There may be requirements for particular technical expertise, agency representation for specific committees, or specific community representation. The functions of these statutory committees may be specified under the Electricity Safety Act.

Statutory committees

Committee	Purpose
Electric Line Clearance Consultative Committee (Section 87)	<ul style="list-style-type: none"> Provides advice to ESV or the Minister on matters relating to the clearance of electric lines, including preparation and maintenance of the Code of Practice for Electric Line Clearance. This committee provides an annual report to the Minister.
Victorian Electrolysis Committee (Section 91)	<ul style="list-style-type: none"> Provides advice to ESV on any matter related to electrolysis and the regulations relating to cathodic protection and the mitigation of stray current corrosion. This includes the establishment and maintenance of standards for systems for cathodic protection and for the mitigation of stray current corrosion.

Other Committees

ESV participates in a variety of other consultative committees, with a range of different external stakeholders.

Committee	Purpose
Consultative Committees – Gas appliances	<ul style="list-style-type: none"> ESV participates in separate consultative committees with the plumbing industry, gas distributors and gas appliance certifying bodies.
Consultative Committee – Gas - Building Industries Regulators Forum	<ul style="list-style-type: none"> Representatives from government agencies share information and develop protocols with respect to gas safety issues.
Consultative Committees- gas transportation and supply, gas retailers, and LPG	<ul style="list-style-type: none"> ESV coordinates separate meetings for the industry representatives of gas transportation and supply, gas retailers and LPG to share information and discuss industry issues.
Electrical Regulatory Authorities Council	<ul style="list-style-type: none"> Coordinates liaison between the safety and electrical regulatory functions of Australia and New Zealand to encourage a uniform regulatory environment in Australia and New Zealand.
Energy Industry Response Committee	<ul style="list-style-type: none"> Vets the operational strategy for, and provision of strategic advice to, government for level 5 gas emergencies.
Gas Emergency Management Consultative Forum	<ul style="list-style-type: none"> Planning and coordination forum for the effective management of emergencies relating to the Victorian gas system.
Gas Emergency Management Group	<ul style="list-style-type: none"> Coordinates and plans the gas industry's response to and recovery from an extended gas emergency.
Gas Technical Regulators Committee	<ul style="list-style-type: none"> Association of government agencies responsible for the safe use of gas with representatives from each state and territory in Australia and New Zealand.
LPG Safety Committee	<ul style="list-style-type: none"> Provides advice and develops guidance materials to support the safety of the LPG industry.

National appliance and equipment energy efficiency Committee	<ul style="list-style-type: none"> Manages the Australian end-use energy efficiency program and consists of representatives from Australian and New Zealand government agencies.
Pipeline Consultative Meeting	<ul style="list-style-type: none"> ESV coordinates meetings to share information and discuss issues with non-gas industry participants.
Plumbing Industry Advisory Council	<ul style="list-style-type: none"> Industry advisory group established under the Building Act 1993 to provide advice to the Minister for Planning and the Plumbing Industry Commission.
Sector Resilience Network	<ul style="list-style-type: none"> Supports the development of Sector Resilience Plans by government to identify and articulate risks which may result in state-wide emergencies.
Standards – Energy – Technical Committees	<ul style="list-style-type: none"> Review and develop relevant Australian and International standards in relation to electricity and gas.
Victorian Electricity Emergency Committee	<ul style="list-style-type: none"> Supports the management of demand reduction, load shedding and restoration of electricity, including liaison with government and emergency services.

Memorandums of Understanding

ESV enters into Memorandums of Understanding (MOUs) and information sharing agreements with other agencies from time to time. The purpose of these documents is to transparently and publicly set out the arrangements that promote effective communication, cooperation and coordination between ESV and the other party in the performance of their roles in Australia's energy industry. Generally, the MOU is with another government agency (State or Commonwealth).

This ensures that the parties are aware of each other's regulatory responsibilities and facilitates the provision of advice and sharing of information between them. The MOU is not intended to create legally enforceable obligations between the parties. An individual MOU may describe the approach to consultation.

The MOUs held between ESV and other agencies are available on the ESV website at www.esv.vic.gov.au.

Stakeholder engagement and feedback

ESV conducts separate stakeholder surveys on safety messages and advertisements to seek feedback to enable improved delivery of services to the community.

ESV also undertakes public surveys seeking information about the recognition and recall of advertised safety messages in relation to electricity and gas.

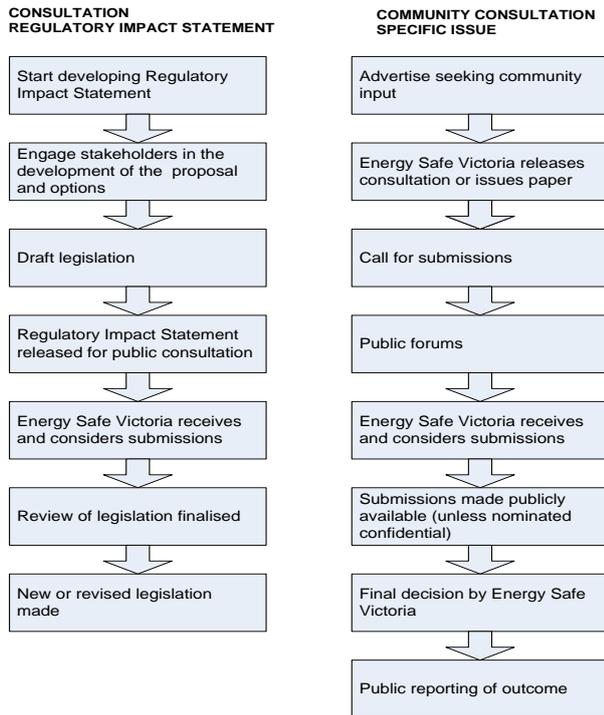
Public consultation

There may be times when ESV, or an established committee, seeks to formally consult with the wider community about a particular issue, or as part of preparing a Regulatory Impact Statement in relation to legislation.

If introducing legislation or amending legislation that has a significant economic or social burden on a sector of the public then preparation of a Regulatory Impact Statement is required under the *Subordinate Legislation Act 1994*.

Changes to the *Victorian Guide to Regulation* issued by the Office of the Commissioner for Better Regulation requires stakeholder engagement prior to the preparation of Regulatory Impact Statements.

In these instances the following processes will typically be applied.



For public consultations engaging the wider community ESV advertises via a range of channels to encourage community input, for example daily state-based newspapers and local newspapers, and social media.

ESV is subject to legislative obligations with respect to confidentiality, commercially sensitive information, privacy matters and freedom of information when conducting public consultation.

Community Information

ESV issues reports, consultation papers, safety alerts, product recalls, safety advice and media releases. These are available on the website (www.esv.vic.gov.au) and also by contacting ESV directly.

ESV runs public awareness campaigns to ensure the safety of the Victorian community in relation to all aspects of electricity, gas and pipelines.

There are brochures, posters and online videos available for educational purposes from ESV or on the website.

Regulatory practice

ESV is responsible for the safety and technical regulation of electricity, gas and pipelines in Victoria. The objectives and functions of ESV are conferred by legislation, which are described in the Acts and the Corporate Plan.

Consultation and provision of advice and information by ESV to the industry and the community form a part of the regulatory practice of ESV.

Corporate Plan

The ESV Act requires ESV to prepare a Corporate Plan each year that provides a public statement of ESV's corporate intent. A copy of the Corporate Plan must be provided to the Minister and the Treasurer no later than 31 May each year.

The Corporate Plan outlines the assessment of the external environment, emerging risks and how ESV intends to build and deploy resources to ensure electrical and gas safety for Victorians. The key goals and strategic challenges for ESV are identified. Regulatory initiatives and priorities are included along with corresponding goals, targets and performance measures across all parts of the ESV organisation.

The Corporate Plan includes financial statements: income statement, balance sheet, budget summaries and accounting policies which form the basis for determining relevant fees, charges and levies on industry and the community.

ESV must act only in accordance with its Corporate Plan, unless the Minister has provided written approval to do otherwise.

The outcomes of ESV's activities and initiatives identified in the Corporate Plan, and financial statements for the previous financial year, are included in the Annual Report tabled by the Minister in Parliament each year.

Separately the Minister will issue ESV with a Statement of Expectations. This is referenced in the Corporate Plan. The Statement and ESV's response are available on ESV's website at www.esv.vic.gov.au.

Guidelines relating to preparation of the Corporate Plan

The Corporate Plan must include:

- Statements of corporate intent. Each statement must specify information for the current financial year and each of the two following financial years, as follows:
 - objectives of ESV;
 - nature and scope of activities to be undertaken by ESV;
 - accounting policies to be applied;
 - performance targets and other measures in relation to the stated objectives;
 - the kind of information to be provided to the Minister during the year; and
 - other matters as agreed between the Minister and ESV.
- A business plan containing information as required by the Minister.
- Financial statements containing information as required by the Minister.

The Corporate Plan may be published or made publicly available only after approval by the Minister and ESV.

The latest publicly available plan is on ESV's website at www.esv.vic.gov.au.

Legislation administered by Energy Safe Victoria

ESV administers a range of legislation that is prescriptive in parts, and outcome-based in other parts. Prescriptive legislation tends to specify the conditions for compliance and the ways by which compliance may be satisfied. There are advantages to this approach where there are limited options to safely achieve an outcome, for example; licensing, elements of electric line clearance and gas and electricity installations.

In contrast, outcome-based regimes complement a risk-based and evidence-based approach where the business aligns their objectives and processes with the outcomes specified by legislation. The use of gas safety cases, electricity safety management schemes and safety management plans (non-gas pipelines) are examples of this approach.

ESV manages the remaking of regulations that it administers under the ESA and GSA, as each set of regulations sunset (typically every five to ten years). ESV undertakes consultation with stakeholders as part of the remaking process.

The legislation administered by ESV is listed on the website (www.esv.vic.gov.au).

Compliance and enforcement

As a regulator, ESV employs good decision making taking into account its duty of care, natural justice, evidence and a consistent approach to compliance and enforcement. ESV has officers (enforcement officers/gas inspectors) who have legislated powers conferred under the Acts to determine and enforce compliance.

ESV has a published compliance and enforcement policy, and regulatory strategy. These are available on its website at www.esv.vic.gov.au

ESV seeks to improve compliance with safety legislation through education and awareness campaigns in a number of ways. In some circumstances, enforcement action, such as the issue of direction or improvement notices, or prosecution, may be necessary to ensure safety and ensure more serious contraventions are dealt with appropriately. To do this, ESV employs a range of escalating enforcement activities based on established principles in relation to enforcement, when required.

Enforcement options considered by ESV include the following:

- Warnings
- Improvement Notices
- Infringement Notices – fines for selected offences
- Prohibition Notices
- Directions – instructions to take certain action or provide information or materials
- Prosecution – via the court system, and
- Non-renewal of licence or registration, or attaching conditions to the licence or registration.

The option selected is determined after considering the individual circumstances of the event and parties involved. In some cases the legislation determines possible courses of action ESV may undertake.

Inquiries

ESV may, after consultation with the Minister, conduct an inquiry for the purpose of carrying out its functions under Part 3 of the ESV Act.

The Minister may also refer matters for inquiry to ESV, by written notice, that specify the terms of reference for the inquiry. The Minister may change the terms of reference.

Inquiries are separate to general regulatory activities undertaken by ESV and confer specific obligations and powers on ESV.

Guidelines relating to inquiries

The Minister may:

- specify a time period which a report is to be submitted to the Minister;
- require ESV to make a draft report publicly available or available to specified persons or bodies during the inquiry;
- require ESV to consider specified matters; and
- make specific directions to ESV with respect to the conduct of the inquiry.

ESV must report to the Minister on the results of any inquiry. The Minister may extend the period within which the report is to be submitted to the Minister.

Notice of inquiry

After notifying the Minister, ESV must publish notice of an inquiry:

- in the Government Gazette;
- in a daily newspaper in general circulation in Victoria; and

- on the internet.

The notice of inquiry must specify:

- the purpose of the inquiry;
- the time period over which the inquiry will be held;
- the time period within which, and the form in which, members of the public may make submissions, including details of public hearings; and
- the matters that ESV would like public submissions to deal with.

If a Minister has referred a matter for inquiry to ESV the notice must include the terms of reference and matters, specified directions, time periods and draft report requirements. ESV must publish a further notice if the Minister amends the terms of reference or extends the period within which the report is to be submitted to the Minister.

ESV must send a copy of any published notice to any person or body that it considers should be notified.

Conduct of inquiry

The ESV Act states that ESV may conduct an inquiry in such a manner as it considers appropriate and is not bound by rules or practice. ESV may receive written submissions or statements.

ESV must hold at least one public hearing and has discretion as to whether any person may appear before ESV in person, or be represented by another person.

ESV may determine that a hearing or part of hearing be held in private if satisfied that it would be in the public interest, or the evidence is confidential or commercially-sensitive in nature.

In conducting an inquiry ESV may consult with any person it considers appropriate, hold public seminars and conduct workshops, and establish working groups and task forces.

Powers relating to inquiries

ESV may serve a summons on any person to:

- provide specified information;
- produce specified documents; or
- appear before ESV to give evidence.

Report of inquiry

ESV must submit a copy of its final report on an inquiry to the Minister.

If ESV considers that a final report will contain confidential or commercially-sensitive information then ESV must divide the report into a document containing the confidential or commercially-sensitive information, and another document containing the rest of the report.

The Minister must ensure a copy of the final report is laid before each House of Parliament within a specified period of time. The Minister must also ensure that a copy of the final report is available for public inspection at a later stage. In situations where there had been confidential or commercially-sensitive information the final report will be the document that does not contain this information.

ESV must ensure copies of the final report are publicly available once it has been released to the public by the Minister.

ESV may identify other relevant information that should be reported during the inquiry. This may be included in the final report, or in a special report.

Accountability

ESV publishes an Annual Report to Parliament that documents the operational and financial performance over the previous year against the goals in the Corporate Plan. Key achievements and significant initiatives are included in the report.

Matters relevant to this Charter will be contained in the Annual Report, as appropriate.

The Annual Report is made available to the public on ESV's website at www.esv.vic.gov.au.

Review of the Charter

ESV is committed to ensuring that this Charter is effective.

The Charter will be reviewed every five years or earlier as material changes to regulatory practice and consultation are identified.

Version control

Version	Comment	Approved	Date
2.0	Policy review and update	P Fearon	April 2019