Regulatory institutions and practices inquiry

The Government asked the Productivity Commission to conduct an inquiry into improving the design and operation of regulatory regimes, given the importance of good regulation to the wellbeing of New Zealanders.

This inquiry focussed on better understanding what good regulatory institutions, practices and system management look like in the New Zealand context and on ways to improve them.
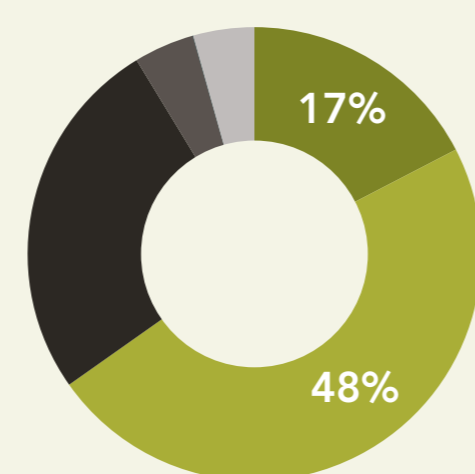
NEW ZEALAND
PRODUCTIVITY COMMISSION
Te Kōmihana Whai Hua o Aotearoa

The problem

Regulation can go wrong

Common themes in 18 disaster reports from New Zealand and around the world.

- Poor role clarity
- Weak governance, culture and leadership
- Complex regulation
- Obsolete regulation
- Inadequate resources
- Insufficient oversight
- Failures of implementation

Regulation is not keeping pace

17%
48%

Almost 2/3 of public sector CEOs agree that agencies "often have to work with legislation that is outdated or not fit-for-purpose"
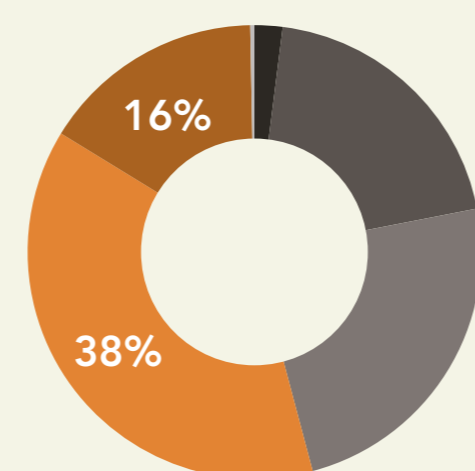
- Strongly agree, 17%
- Agree, 48%
- Neither agree nor disagree, 26%
- Disagree, 4%
- Don't know, 4%
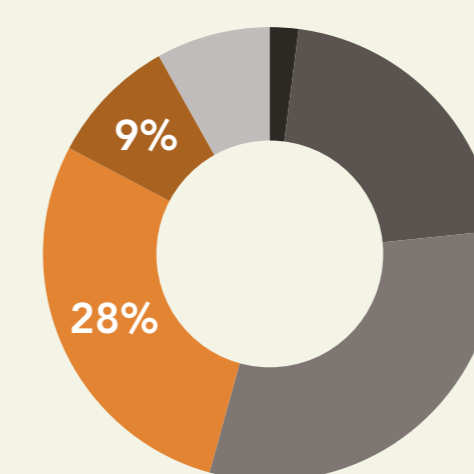
Monitoring of regulators is ineffective

9%
28%

Fewer than ¼ of regulatory chief executives agree that "formal monitoring of regulatory functions by other agencies improves the quality of regulation"

- Strongly agree, 2%
- Agree, 21%
- Neither agree nor disagree, 30%
- Disagree, 28%
- Strongly disagree, 9%
- Don't know, 8%

Regulators have weak leadership and poor culture

16%
38%

Fewer than ¼ of central government regulatory workers agree that "the management systems in this organisation encourage people to challenge poor practice"

- Strongly agree, 2%
- Agree, 20%
- Neutral, 24%
- Tend to disagree, 38%
- Strongly disagree, 16%
- No response, 0.3%

Regulatory workers are not sufficiently skilled
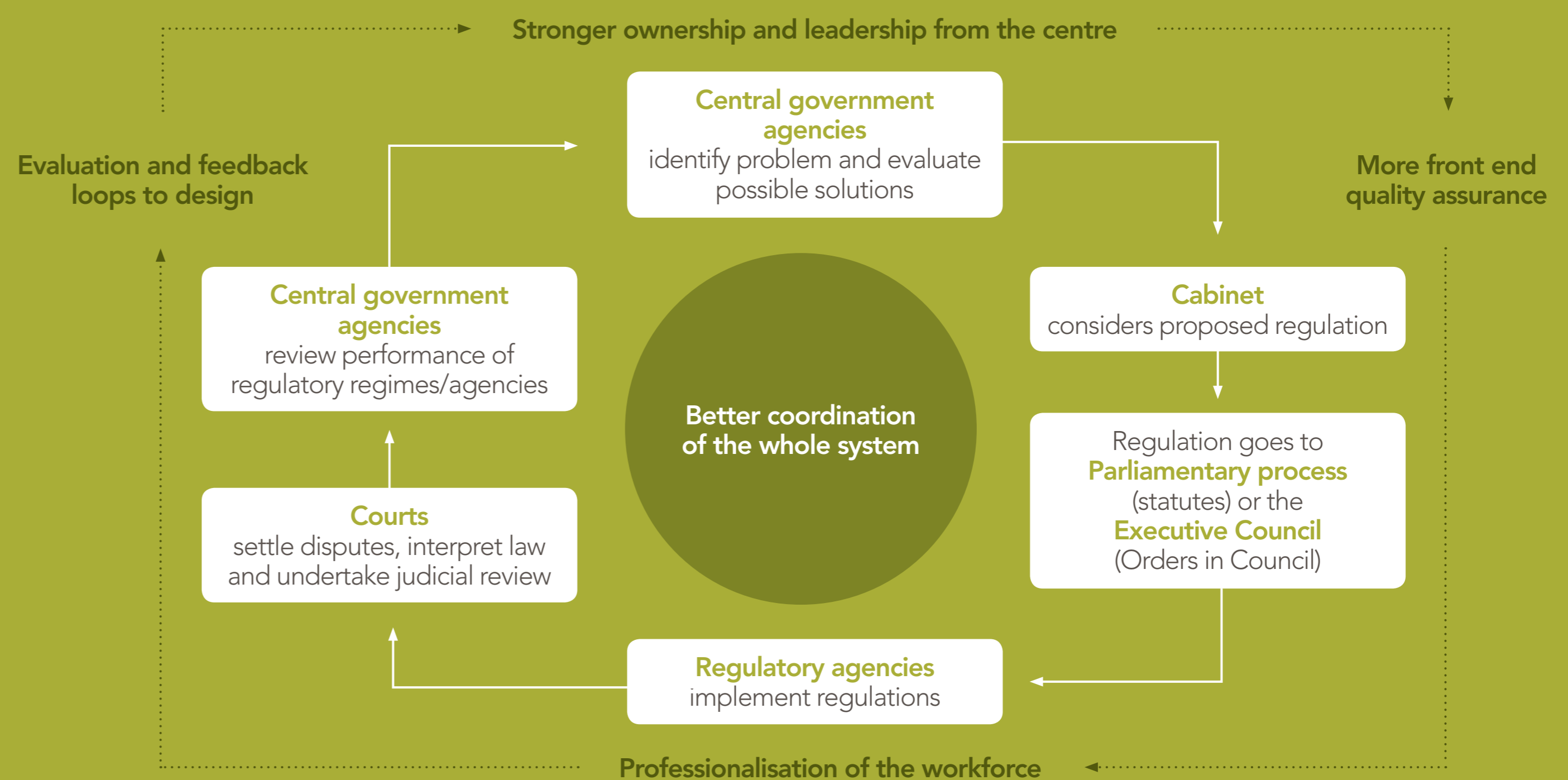
10,000+ workers

65 Public sector compliance qualifications completed Aug 2012 – Jan 2014

The solution

How can we improve regulation in New Zealand? – System thinking

The most important actions:

- Stronger ownership and leadership from the centre
- Better coordination of the whole system
- More front end quality assurance
- Professionalisation of the workforce
- Evaluation and feedback loops to design

Stronger ownership and leadership from the centre

Evaluation and feedback loops to design

More front end quality assurance

Central government agencies
identify problem and evaluate possible solutions

Central government agencies
review performance of regulatory regimes/agencies

Better coordination of the whole system

Cabinet
considers proposed regulation

Courts
settle disputes, interpret law and undertake judicial review

Regulation goes to **Parliamentary process** (statutes) or the **Executive Council** (Orders in Council)

Regulatory agencies
implement regulations

Professionalisation of the workforce

Results

Improving capability / guide for designing new regimes
The Compliance Common Capability Programme is using the report to improve the capability of regulatory staff across all regulatory regimes.

Guide for designing new regulatory regimes
The Ministry of Health is finding the report valuable in the design of a new therapeutics regime.

The Government is considering the recommendations and preparing a response.