

# BoatSafe Compliance Policy

## Introduction

This policy supports the BoatSafe Audit and Compliance Framework (the framework). The policy outlines BoatSafe's approach to compliance and aims to assist authority holders to understand how BoatSafe responds to noncompliance.

Under the framework, BoatSafe evaluates risks and responds accordingly, BoatSafe is clear about expectations and works together with authority holders to drive continual improvement.

## Approach to Compliance

BoatSafe works with authority holders to improve compliance using a range of compliance tools with the aim of supporting regulatory outcomes. Compliance activities are risk-based and informed by intelligence and auditing programs intended to encourage compliance.

## Compliance Principles

As not all noncompliance is of equal significance, there is no 'one size fits all' response to addressing noncompliance. BoatSafe's response will depend upon the seriousness of the noncompliance and BoatSafe has discretion in selecting the most appropriate action to use. The response will be proportionate to risk and is determined on a case-by-case basis. Decisions regarding actions will be consistent and transparent.

## Deciding the appropriate compliance action

The following will be considered when deciding the appropriate compliance action to take (in no particular order):

- the seriousness of the incident
- the potential or actual risk to a student or the public
- history of compliance with BoatSafe and the frequency of noncompliance
- voluntary action to mitigate any harm to a student or the public and any mechanisms put in place to prevent a recurrence
- failure to notify or delay notification of the incident
- failure to comply with BoatSafe's requests
- cooperation with BoatSafe through willingness to commit to appropriate remedial actions
- public interest and community expectation about the action taken
- any precedent which may be set by BoatSafe not acting

## Non-compliance levels

### Critical Non-compliance

A critical non-compliance significantly compromises the effectiveness of the authority and deviates significantly from the authority requirements. Examples of critical non-compliance include, but are not limited to:

- operating outside the conditions of the authority, for example, issuing Statement/s of Competency when the BoatSafe training and assessment program has not been completed in its entirety or issuing Statement/s of Competency when an authority is lapsed, suspended or cancelled
- failing to uphold Suitable Persons requirements
- delivering the BoatSafe training and assessment program to a level that significantly compromises student learning outcomes
- failing to provide a training ship and/or personal watercraft to the student that is in a safe and compliant condition
- failing to permit MSQ representative/s entry onto a premises for the purposes of a BoatSafe audit, or failing to allow MSQ representative/s access to records, documents, resources or equipment
- intimidation, abuse or similar of a MSQ representative/s, current or previous student/s, or another BTO and/or BTP representative/s

## Major Non-compliance

A major non-compliance compromises the effectiveness of the authority and deviates from the authority requirements. Examples of major non-compliance include, but are not limited to:

- failing to advise the BoatSafe team of any changes to the operation or management of the authority within 14 days from the date of the change
- failing to deliver the approved BoatSafe training and assessment program where the training and assessment outcome received by students is impacted
- failing to ensure suitable training and assessment facilities and resources are available and utilised

## Minor Non-compliance

A minor non-compliance neither threatens the effectiveness or assurance provided by the authority, however, is non-compliant with requirements. Examples of minor non-compliance include, but are not limited to:

- failure to retain records.
- failure to complete certain records

## References

This policy was developed to be read in conjunction with:

- BoatSafe Audit and Compliance Framework
- BoatSafe Information Bulletins
- BoatSafe RMDL and PWCL Competency Standards
- RMDL and PWCL Common Assessment Tools
- RMDL and PWCL Practical Assessment Statements

## Case Studies

### Example One

An audit was conducted on a BTP authority holder which resulted in the following non compliances being identified:

- theory training provided did not address all elements within the relevant Competency Standard, nor the prescribed timeframes
- students had access to training resources and notes during the theory assessment.

It was determined that student learning outcomes were compromised as students had not been trained in all elements of the relevant competency standard.

### Deciding the appropriate compliance action to take

The following was considered:

1. The potential or actual risk to a student or the public there was a high risk to the student and public as student learning outcomes were compromised.
2. Public interest and community expectation about the action taken the public place a high degree of trust and confidence in authority holders to perform their functions in a lawful and safe manner

### Compliance Action

The BTP authority holder was requested to Show Cause as to why their authority should not be suspended for a three (3) month period.

### Example Two

An investigation was undertaken on a BTP authority holder which resulted in the following non compliances being identified:

- not all practical activities on the Recreational Marine Driver Licence Practical Assessment Statement were demonstrated, practiced, or assessed
- Students were issued with Personal Watercraft Statements of Competency when no practical training or assessment had been undertaken.

It was determined that student safety was compromised as students had not been trained in the elements of the relevant competency standard.

### Deciding the appropriate compliance action to take

The following was considered:

1. The seriousness of the incident student safety was severely compromised as students had not been trained in the elements of the relevant competency standard
2. The potential or actual risk to a student or the public high risk as the students were not trained
3. Public interest and community expectation about the action taken the public place a high degree of trust and confidence in authority holders to perform their functions in a lawful and safe manner
4. Any precedent which may be set by BoatSafe not acting

### Compliance Action

The BTP authority holder was requested to Show Cause as to why their authority should not be cancelled.

### Example Three

An audit was undertaken on a BTO authority holder which resulted in the following non compliance being identified:

- the lesson plans and training resources were significantly deficient and did not address all elements of the relevant competency standard or prescribed timeframes

It was determined that student learning outcomes and safety were compromised as the lesson plans and training resources were significantly deficient and students were not trained in all elements of the relevant competency standard.

#### Deciding the appropriate compliance action to take

The following was considered:

1. The potential or actual risk to a student or the public there was a high risk to the students and public as student learning outcomes and safety were compromised.

#### Compliance Action

The BTO authority holder was requested to Show Cause as to why their authority should not be suspended for a three (3) month period.

### Example Four

An audit was undertaken on a BTP authority holder which resulted in the following non compliances being identified:

- the BTP did not demonstrate, practice, or assess one practical activity on the Practical Assessment Statement
- the BTP coached the student during certain assessment activities.

It was determined that student safety and learning outcomes were not significantly impacted.

#### Deciding the appropriate compliance action to take

The following was considered:

1. The potential or actual risk to a student or the public there was no risk to the student and learning outcomes were not significantly impacted
2. Voluntary action to mitigate any harm to a student or the public and any mechanisms put in place to prevent a recurrence the student was trained and assessed after the BTP was alerted that the practical activity had not been demonstrated.
3. History of compliance with BoatSafe and the frequency of noncompliance previous audits had not identified similar nonconformities

#### Compliance Action

The BTP authority holder was requested to implement corrective actions to ensure all activities are undertaken and that coaching would not occur during assessment in future courses.

The BTP authority holder was advised that should the non compliance be identified in future audits or investigations, the frequency of audits would be increased, and administrative action may be undertaken.