

ORGANISATIONAL COMPLIANCE

# PRESENTATION OPEN PUBLISH CONFERENCE 2005

## ORGANISATIONAL COMPLIANCE PRESENTATION



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David is one of the architects behind successful web content management system, Komodo CMS, as well as Director of the corporate communications and design consultancy Smart Works Pty Ltd., and Apple Authorised Reseller Crunch IT Pty Ltd.

David is also a member of the ADMA eMarketing Council, a member of the Fundraising and Development Sub-committee of the not-for-profit Western Chances and a business case writer for the Melbourne Business School. Recently David and Komodo CMS have been working with compliance and legal services experts in the development of a Corporate Governance Solution called Novation CGS.

An arts graduate from Monash in the disciplines of English and Sociology, David is also an MBA graduate from Melbourne Business School and a member of numerous professional organisations including the Open Compliance and Ethics Group (OCEG), the Content Management Community of Practice (CMPros), the International Association of Business Communicators (IABC), the Australian Institute of Management (AIM), the Melbourne Press Club, the Australian Computer Society (ACS), the Australian Direct Marketing Association (ADMA), the Australian Graphic Design Association (AGDA), the Australia Interactive Media Industry Association (AIMIA), and the Australian Internet Industry Association (IIA).

## SCOPE

# SCOPE & DEFINITIONS

### **Session Extract**

*Today's compliance systems need to deliver quality information, ensure competency, measure knowledge penetration and automate exchange. The best solutions integrate with other systems and share resources. Compliance has always been a key area and is now impacting on emerging technologies such as content management and mobile communications. Hear where compliance is headed, including issues and emerging technical models.*

### **Definition of Compliance**

A structure of relationships and processes to direct and control the enterprise in order to achieve the enterprise's goals by adding value while balancing risk versus return over IT and its processes (I.T.G.I., 2000).

### **Compliance Subsets**

Organisational Compliance [Governance, Risk Management, Procedural Systems]

Software Compliance

Technical Standards Compliance

# INNOVATION CONTROL

### **11 Days > 10 Years > 9 > 8 > 1995**

In eleven days time, it will be the 10<sup>th</sup> Anniversary of the day Netscape was launched on the US stock market. A day that has been called by many commentators the commercial birth date of the Internet. How quickly we forget what the world was like before 9 August 1995.

On that day, the dot.com boom began with Netscape doubling its launch price of US\$28 on the same day. The seed was sown for the corporate collapses that would trigger a rush to improve investor confidence in commercial markets through improved compliance with much more stringent financial regulation.

### **9 Days > 3 Years > 19 > 7 > 2002**

Nine days ago, it was the 3rd Anniversary of the passage of the Sarbanes-Oxley (SOX) Act in the United States. The political equivalent to a knee-jerk to the massive Enron collapse and the similar but less dramatic collapses that had preceded it.

If ten years ago, the Netscape float marked the beginning of the dot.com era and the departure of corporate sense, then Sarbanes-Oxley, three years ago brought the curtain down. Now three years on, organisations are grappling with Compliance and how to make it sustainable.

“The first and often only reaction from governments to abhorrent corporate behaviour – however isolated the incident – is to enact new legislation and give the regulators more power” (Arbouw, 2005). But this rush to legislative judgement may be a threat to the economy.

## TIMING

# GLOBAL FORCES

### **The rush to comply**

The financial year just closed has been a busy year for standards and legislation, “*with the AASB issuing the Australian equivalents to the International Financial Reporting Standards (AIFRS), the Auditing and Assurance Standards Board (AuASB) issuing seven new auditing standards and CLERP 9 being passed by Parliament*” (Locke, 2005).

### **Compliance and Content Management Systems**

AIIM International conducted a survey in late 2004 of 1,200 users and potential users of Content Management Systems to determine their main purchase drivers; 24 percent included risk-driven issues, 19 percent included compliance and 5 percent included business continuity (Henschen, 2005).

Also reflecting compliance concerns, the top-ten project priorities reported in the survey include at Number 1: Records Management and Archiving; at Number 2: Document Control; at Number 3: Email Management; at Number 4: Information Capture; at Number 8: Statutory and Regulatory Management; at Number 9: Technical Document Management; and at Number 10: Process Automation (Henschen, 2005).

No less than 7 out of the top 10 project drivers for Content Management installations related to Compliance related issues.

## IMMATURITY

# SQUARE PEG ROUND HOLE

### **Benefits**

Workflow – Ability to align compliance process with internal resources and an approval path.

Accessibility – Real-time storage and retrieval.

Archival – Ability to store and meet record management requirements.

Due Diligence – Demonstration of senior managerial commitment to compliance.

Streamlined Verification – Internal and auditor access to required material.

Security and Access – Privacy, Security and Risk Controls are assisted.

Sustainability – The first steps to ‘established and structural’ compliance (Kugal, 2003).

### **Weaknesses**

Quality and effectiveness of process

Accountability and specific role in process (qualification and determination)

Risk assessment (compliance related tool-kits)

Risk controls (integration into other management and reporting environments)

Communication (pull communication rather than push)

Deficiency testing

The key weakness is that the user organization must develop and maintain the compliance process, legislation requirements, communication methods and reporting pieces. This is generally specialised knowledge not resident within the organisation.

# COMPLIANCE IS SO HOT RIGHT NOW!

### **Movement at the station**

Record Information Management (RIM) has caught the attention of Content Management (CMS) vendors who have snapped up proven products and integrated them into their own product offerings (Mitchell, 2005). One of the problems, however, is that no organisation is ever going to have a single repository of all its records.

Microsoft CEO, Steve Ballmer believes that *“compliance in general is a very strong focal point for CEOs and CIOs. IT products that facilitate compliance will be quite popular. In Microsoft’s case, to some degree we’ll have some new products that help with compliance. But in large measure, we’re going to continue to build into our existing products features that support compliance, and try to get people to upgrade because they want those features. In some senses, part of the way we’ve been selling our rights management product so far has been to facilitate certain compliance scenarios. So we’re already kind of hard at work on at least aspects of compliance, as are a number of our partners”*. (Ricadela, 2005).

### **Specific examples**

- > e-OneHundred (financial compliance software)  
acquired by Stellant Inc. (ECM) in June 2005 for US\$7 million to produce Stellant Sarbanes-Oxley Solution.
- > Certus (aligned with Hummingbird ECM)
- > Paisley Consulting (aligned with Documentum ECM – owned by EMC Storage)

# RATIONALE FOR COMPLIANCE AND SYSTEMS

## Current statistics on compliance

BT Governance Advisory Service research on the ASX Top 200 companies in 2005 found that “83 percent had no formal oversight of bad business practices ... 46 percent did not disclose policies protecting whistleblowers ... and over 50 percent did not disclose policies to protect against violations of customer privacy” (Gettler, 2005). This is borne out by recent compliance controversies involving blue-chips such as Coles Myer, Telstra, Woolworths, Boral, Visy Industries and Rural Press.

## Doing the right thing while no one is looking

No organisation can assume that is ethical without some form of deliberate activity to promote ethical behaviour, train on ethics and assess the decision making methods of the organisation (Weiss, 2005 - 2).

A Stanford Business School survey of 800 MBA students across the USA and Europe in 2004 found that 97 percent of respondents “would forego significant financial benefits to work for an organization with a better reputation for ethics and corporate social responsibility” (Weiss, 2005 – 2).

“Organizations recognize the importance of implementing good corporate governance, risk management, compliance and ethics into business operations operations, but often struggle, with how to put these principles into practice.” (Mitchell, S., 2005).

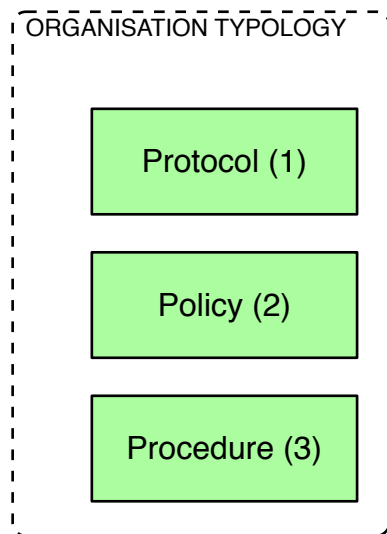
A FRAMEWORK

# COMPLIANCE ANALYSIS OF KEY AREAS

Marketing and the 4 P's / 7 P's

Compliance and the ...

## 1-3 PROCEDURES ET. AL.



### THE COMPANY MANUAL - 2005

Stillborn, but still kicking!

The Zombie of the Information World.

Lets take a closer look ...

Procedures

Policies

Protocols

(you can add some more if you want)

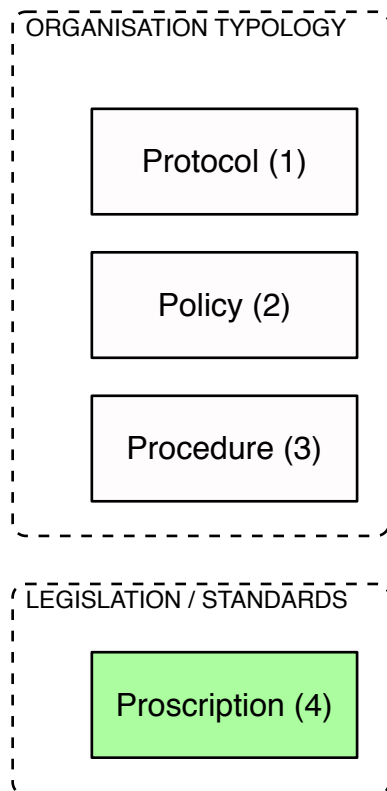
Provisions

Platitudes

Procrastination(s)

Padding (very important)

## 4 PROSCRIPTION



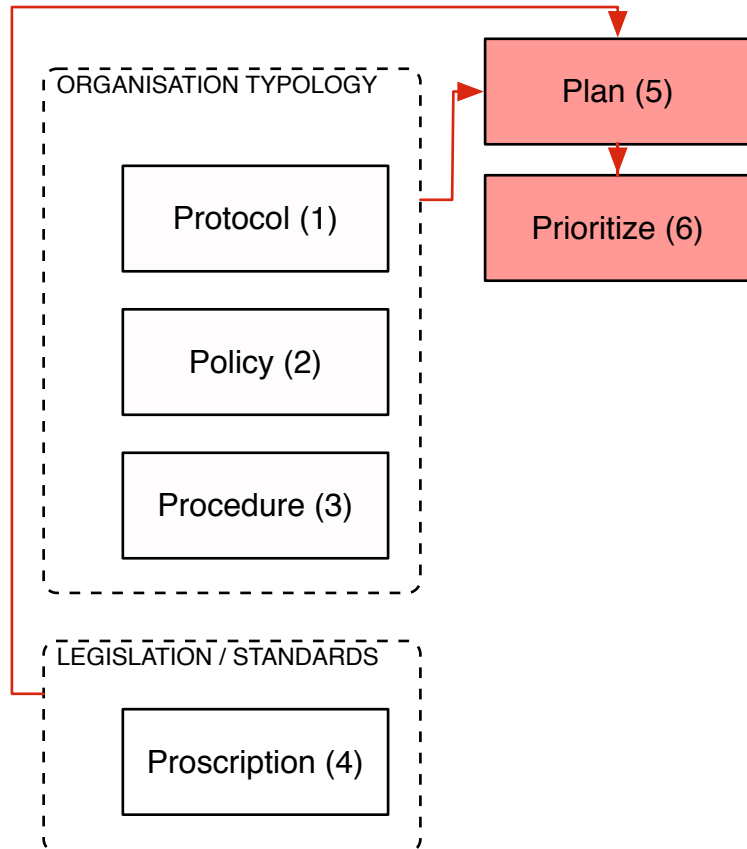
### Compliance Content ...

10-K (SEC)  
21 CFR 11  
AGLS  
AS/NZS 2124/ 2125 / 2127 / 4121 / 4269 / 4360 / 4801 / 4804 / 5037 / 8000  
ASX Rules  
AS/NZS ISO 9000 / 9001 / 9004 / 14000 / 15489 / 17799  
Basel II  
CLERP 9  
CMMI  
Common Law (per jurisdiction)  
Corporations Law  
COBIT  
COSO  
FERPA  
FTA  
FISM  
FSG 2004  
GLBA  
HIPAA  
IAS  
IRS 1099  
NYSE Rule 431  
OPC5  
SAS 70  
SOX  
SP1386  
W3C (HTML, CSS, WAI)

## FIFTEEN P - COMPLIANCE MODEL™

### 5-6 PLAN / PRIORITIZE

MAN  
H



What needs to be in a compliance system?

Legal requirements?

Organisational objectives?

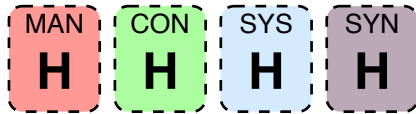
Risk reduction and management?

Business drivers?

Sustainability!!!

# FIFTEEN P - COMPLIANCE MODEL™

## 7 PRODUCE



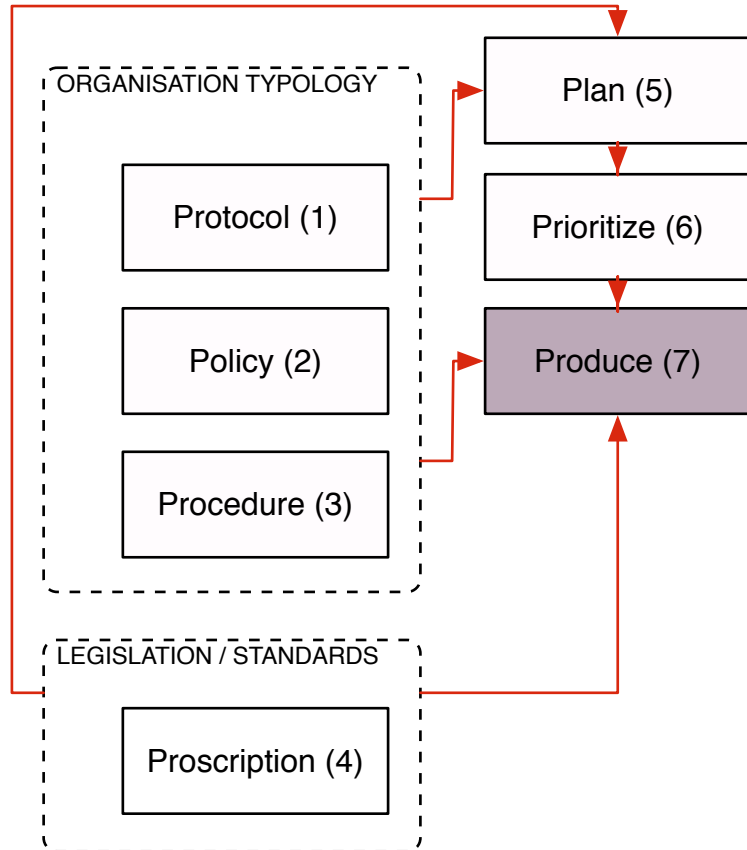
Would the person who wants to write the procedures please step forward!

Lets just call this hard and be done with it!

Management buy-in or pass down the line?

External consultants - that will fix it!

Lets do it all ourselves - even better!



## 8 PUBLISH



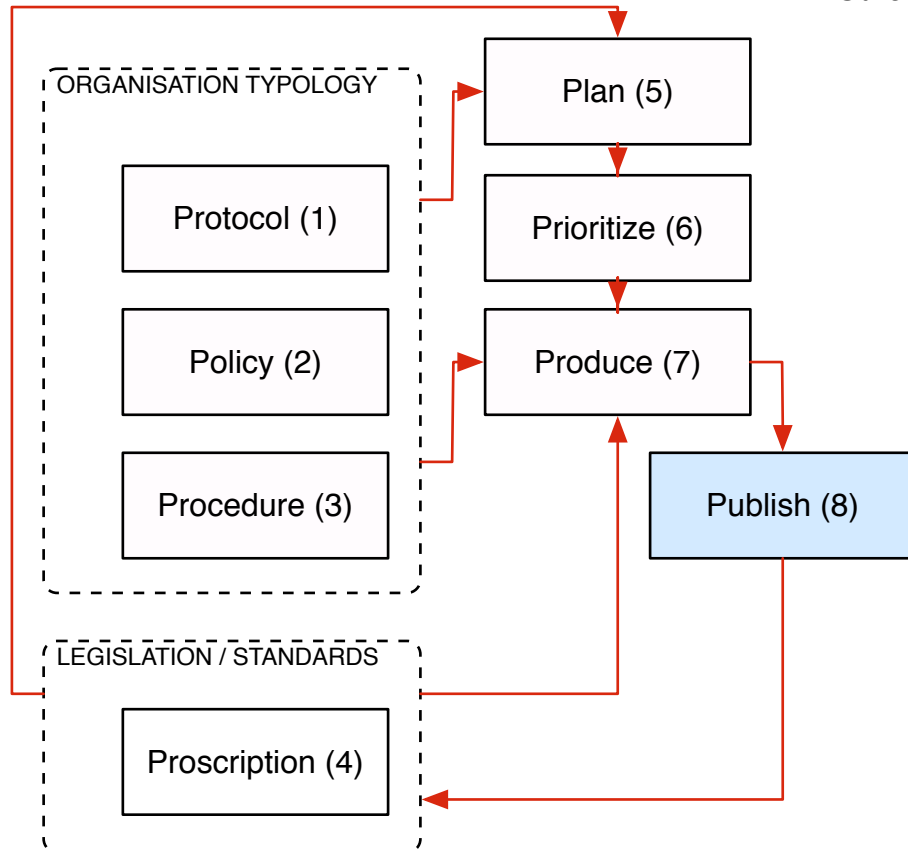
**We have control !!! - Phew**

We have the processes and everyone knows what to do!

The hard realities of organisational knowledge.

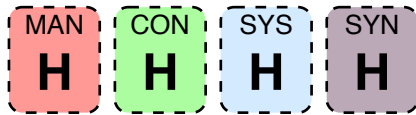
Tacit - Explicit and the road home.

Otherwise called (by me at least) the Rainbow Effect



## FIFTEEN P - COMPLIANCE MODEL™

# 9 PERSUADE



### Delivery matters

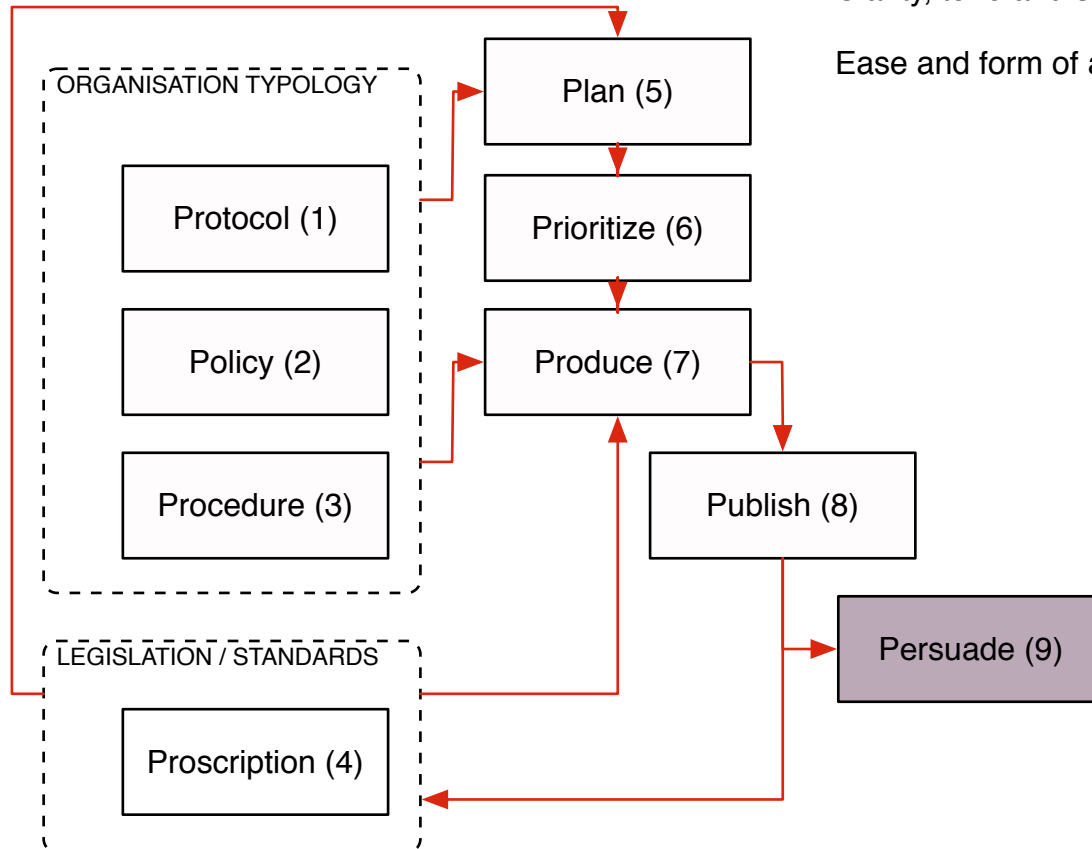
Banned from the ranch (lawyers, engineers, management consultants)

Management by proxy and physical systems

Quality and engagement of content

Clarity, tone and simplicity

Ease and form of access



# 10 PENETRATE



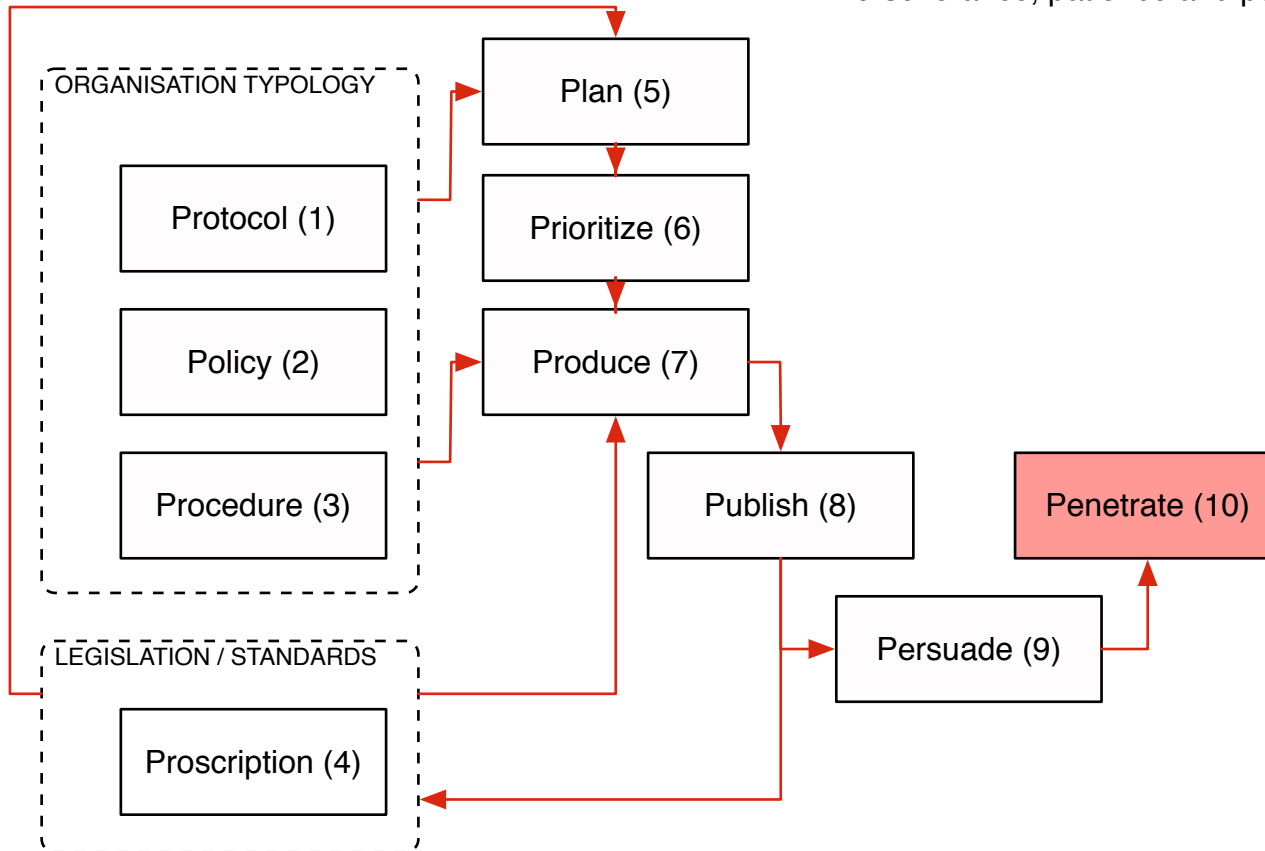
Culture, management and relevance

Staff turnover and retention

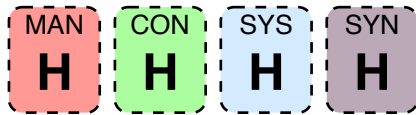
Criticality and relevance of material

Level of mandate and organisation wide focus

Perseverance, patience and persistence (3 more Pees)



# 11 PROBE



## Competency Assessment, BPM, Surveys, KPI analysis

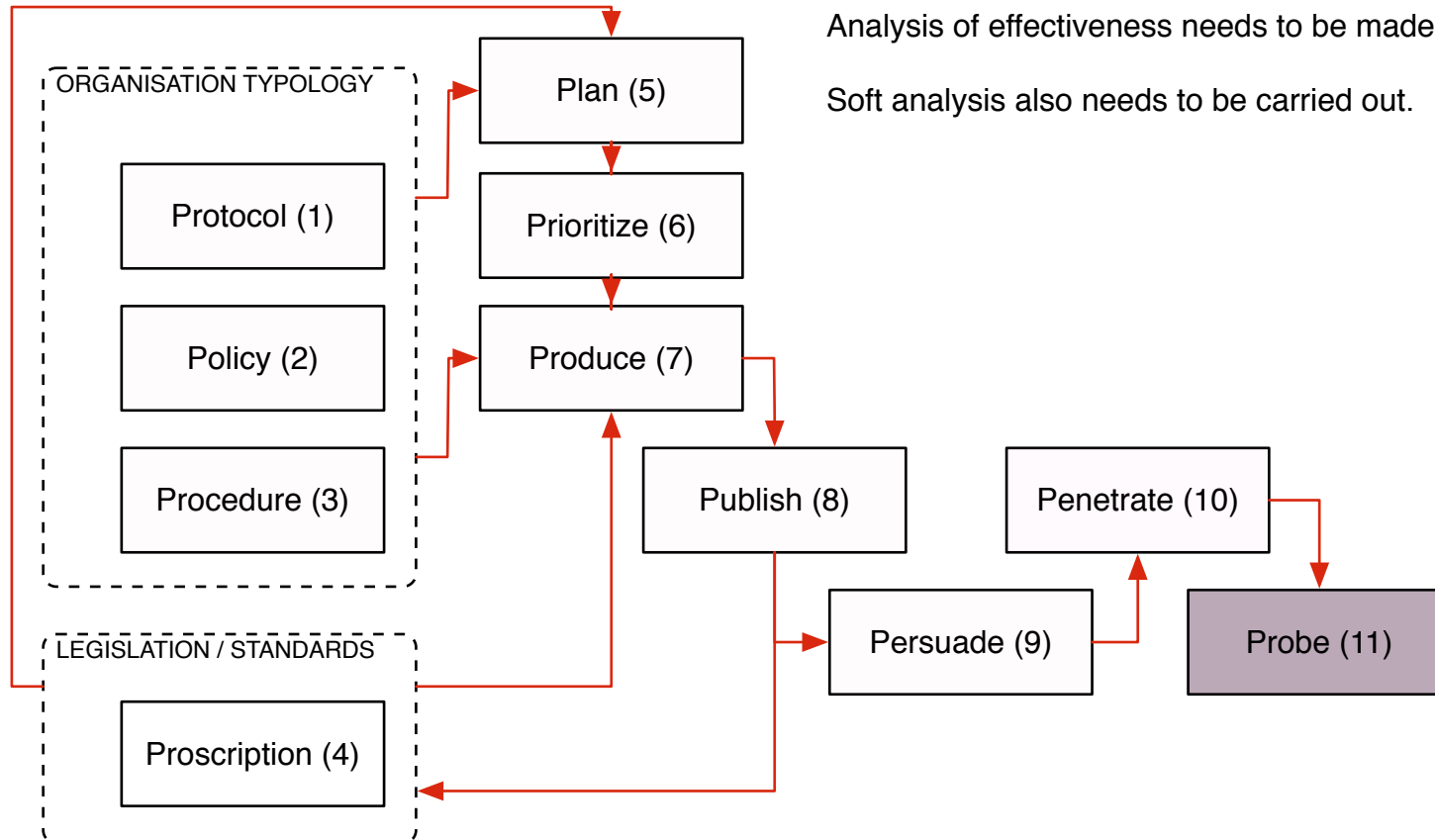
We know our business and we have processes in place!

Does anyone know about them, are they working, are they complete, are they effective and how many are used, worked around or out-of-date.

Testing needs to be carried out against key items.

Analysis of effectiveness needs to be made.

Soft analysis also needs to be carried out.



# 12 PUNISH



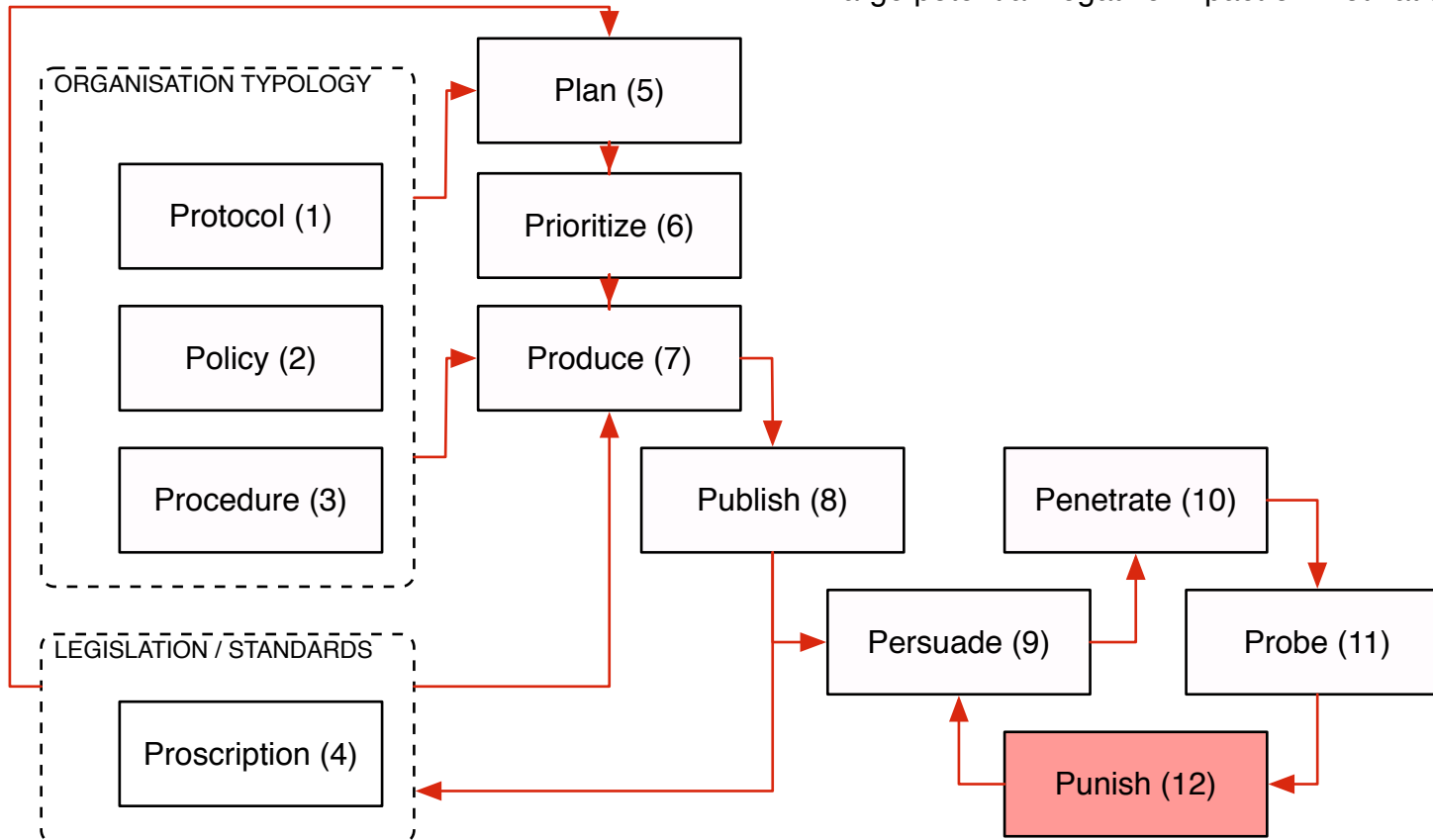
## The 'stick'

Identifying the organisational weaknesses

Evidence for HR hearings and negotiations

Ability to moderate process and managerial style

Large potential negative impact on motivation



# 13 PROVE



## Evidence, discovery, storage and reporting

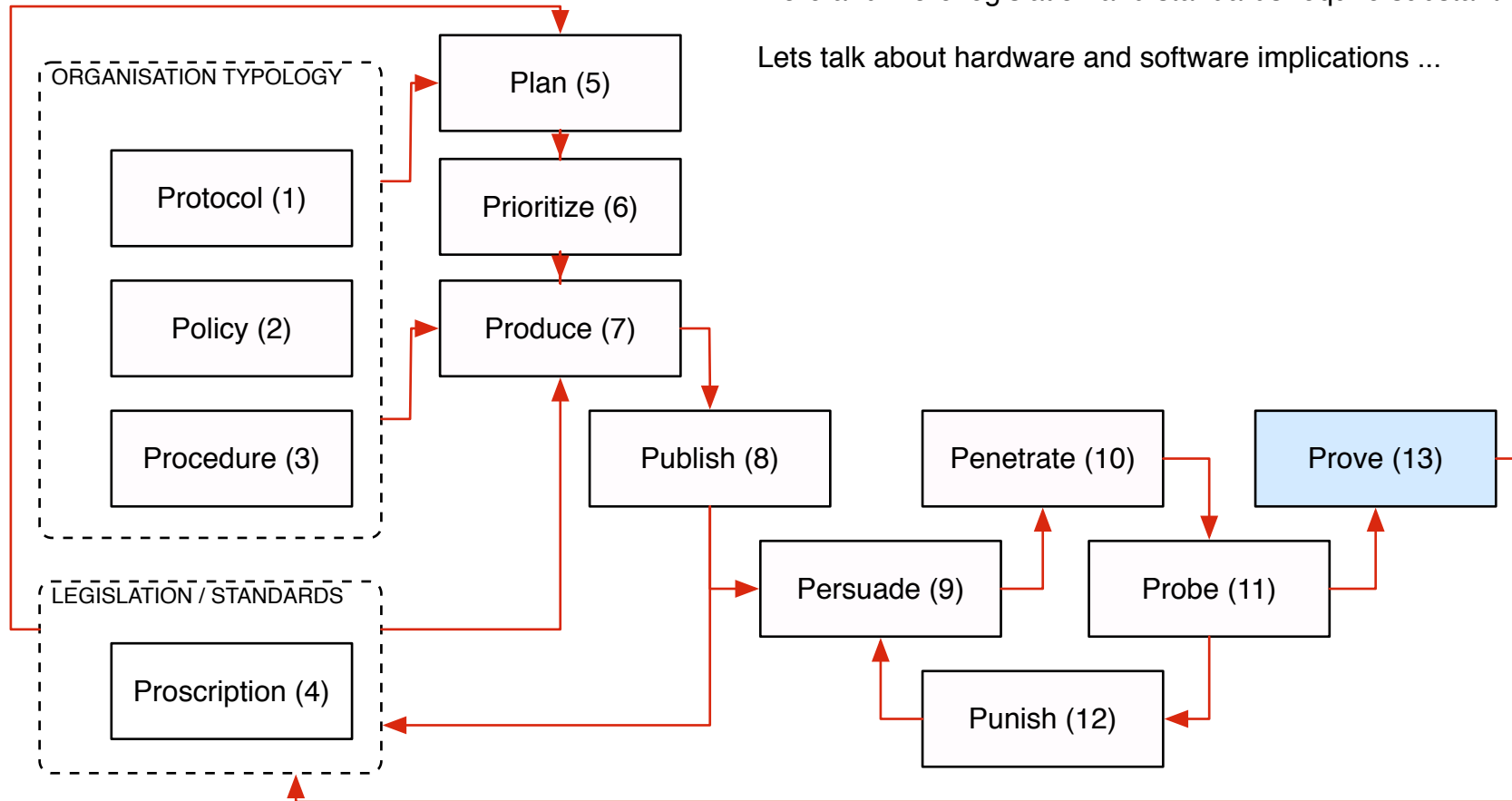
We store everything!

eMail, Instant Messaging, Laptops, Wireless Communication, Analogue?

Discovery of the appropriate material in real-time is the implied requirement.

More and more legislation and standards require substantive reporting.

Lets talk about hardware and software implications ...



# 14 PRONOUNCE

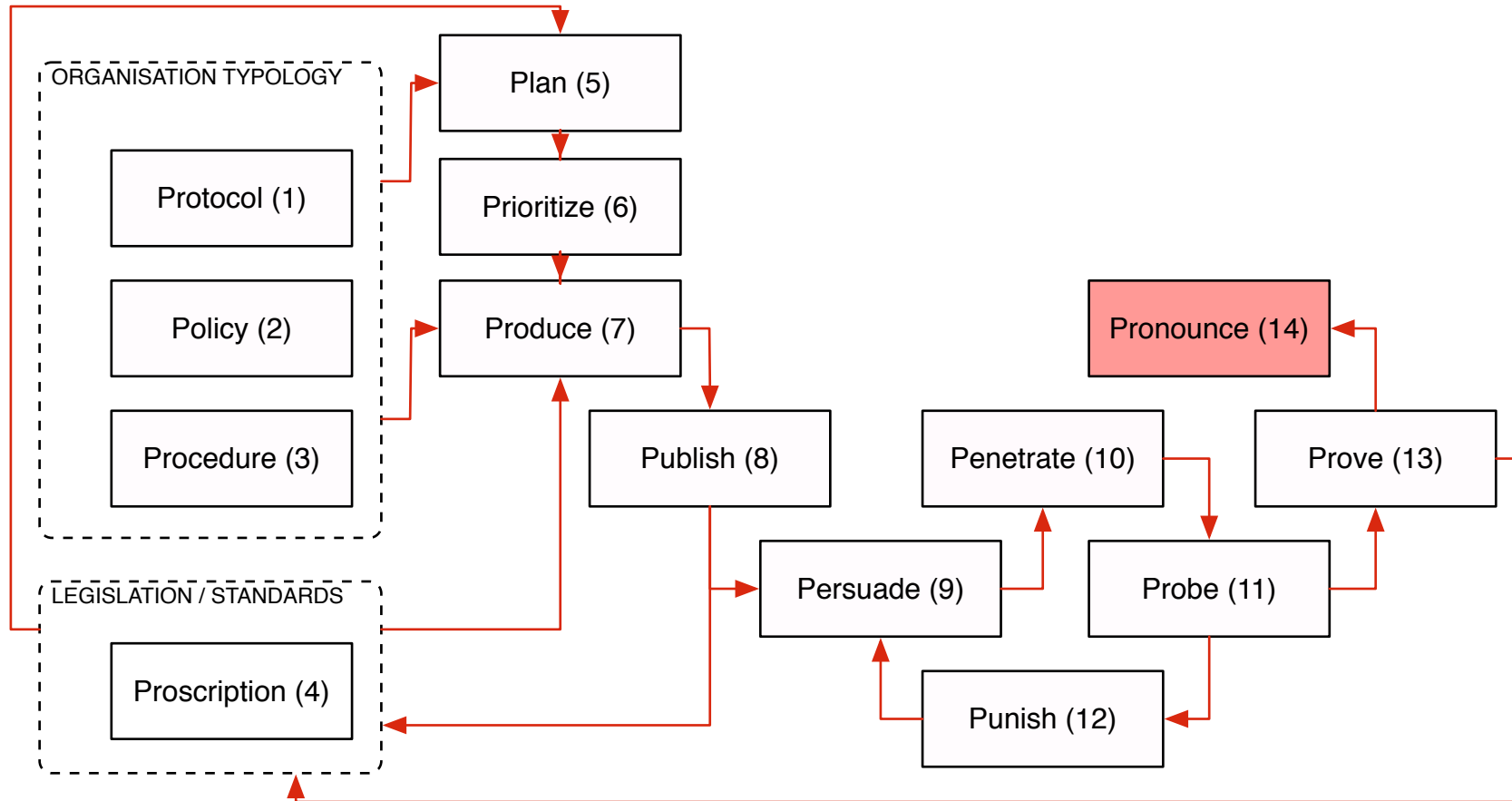


## Core Promises

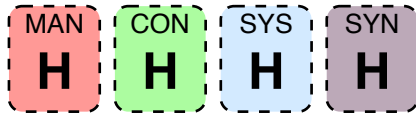
Management never claim compliance unless they can prove it!

Core promises and the effect of Sarbanes Oxley (SOX) Section 404 'Substantiation of Integrity'

Now organisation have to prove compliance (quickly)!



# 15 PERFORM



## The 'Holy Grail'

Why does an organisation exist?

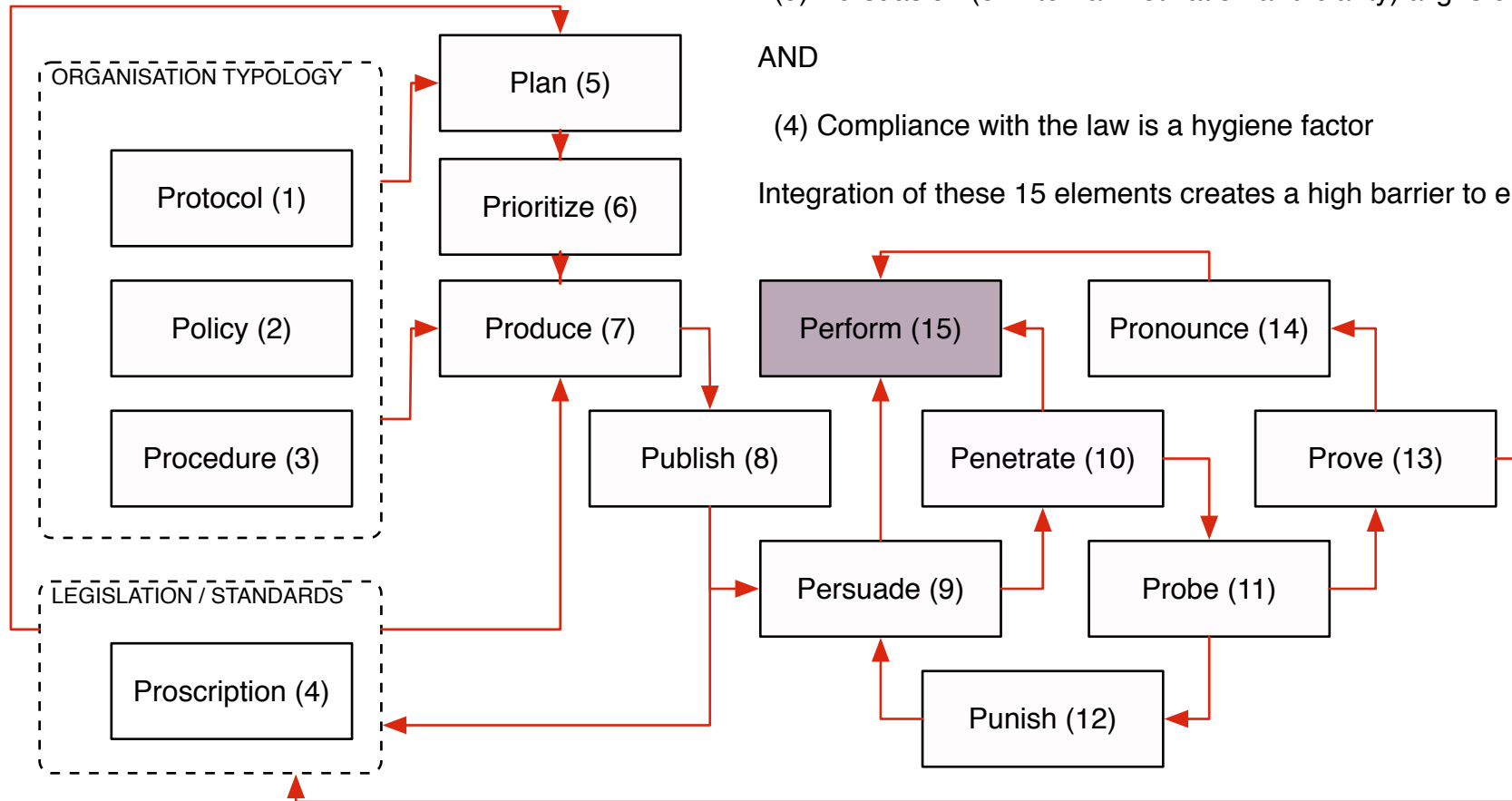
"To perform when measured against relevant outcomes"

- (14) Pronouncing compliance sends a signal of competitive advantage
- (10) Penetration of knowledge increases skill levels & effectiveness
- (9) Persuasion (or internal motivation and clarity) aligns effort

AND

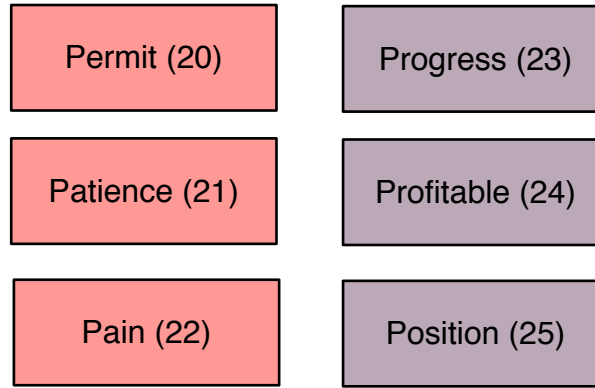
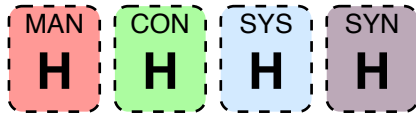
- (4) Compliance with the law is a hygiene factor

Integration of these 15 elements creates a high barrier to entry!

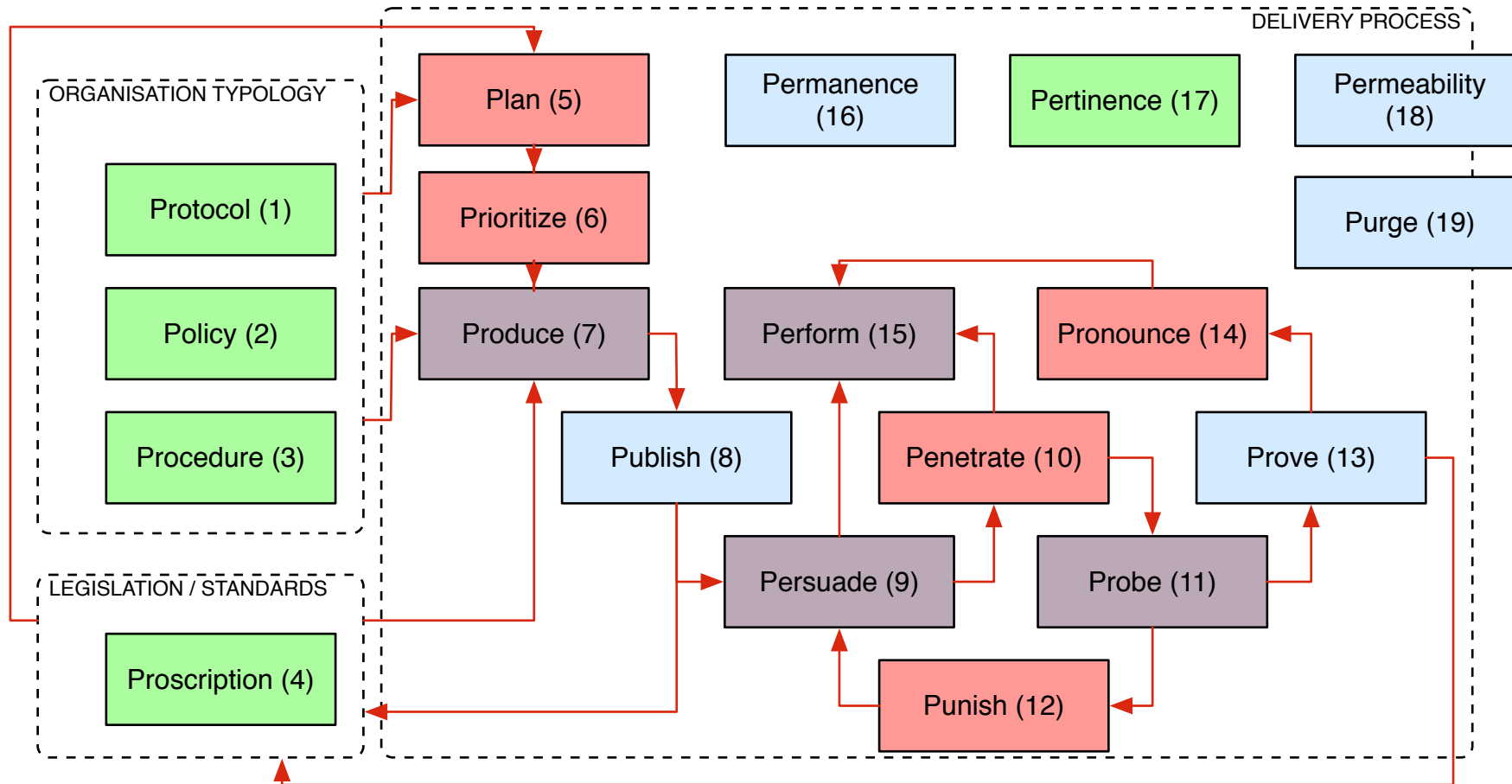


# FIFTEEN P - COMPLIANCE MODEL™

## +10 MORE PEES



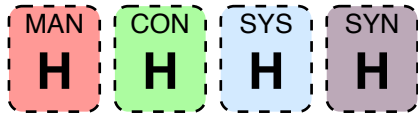
- In other words ...**
- 16 - Sustainability
  - 17 - Relevance
  - 18 - Flexibility
  - 19 - Data Integrity
  - 20 - Mandate
  - 21 - Reality
  - 22 - Change
  - 23 - Innovation
  - 24 - Business Focus
  - 25 - Competitive Adv.





# FIFTEEN P - COMPLIANCE MODEL™

## +10 MORE PEES



Permit (20)

Patience (21)

Pain (22)

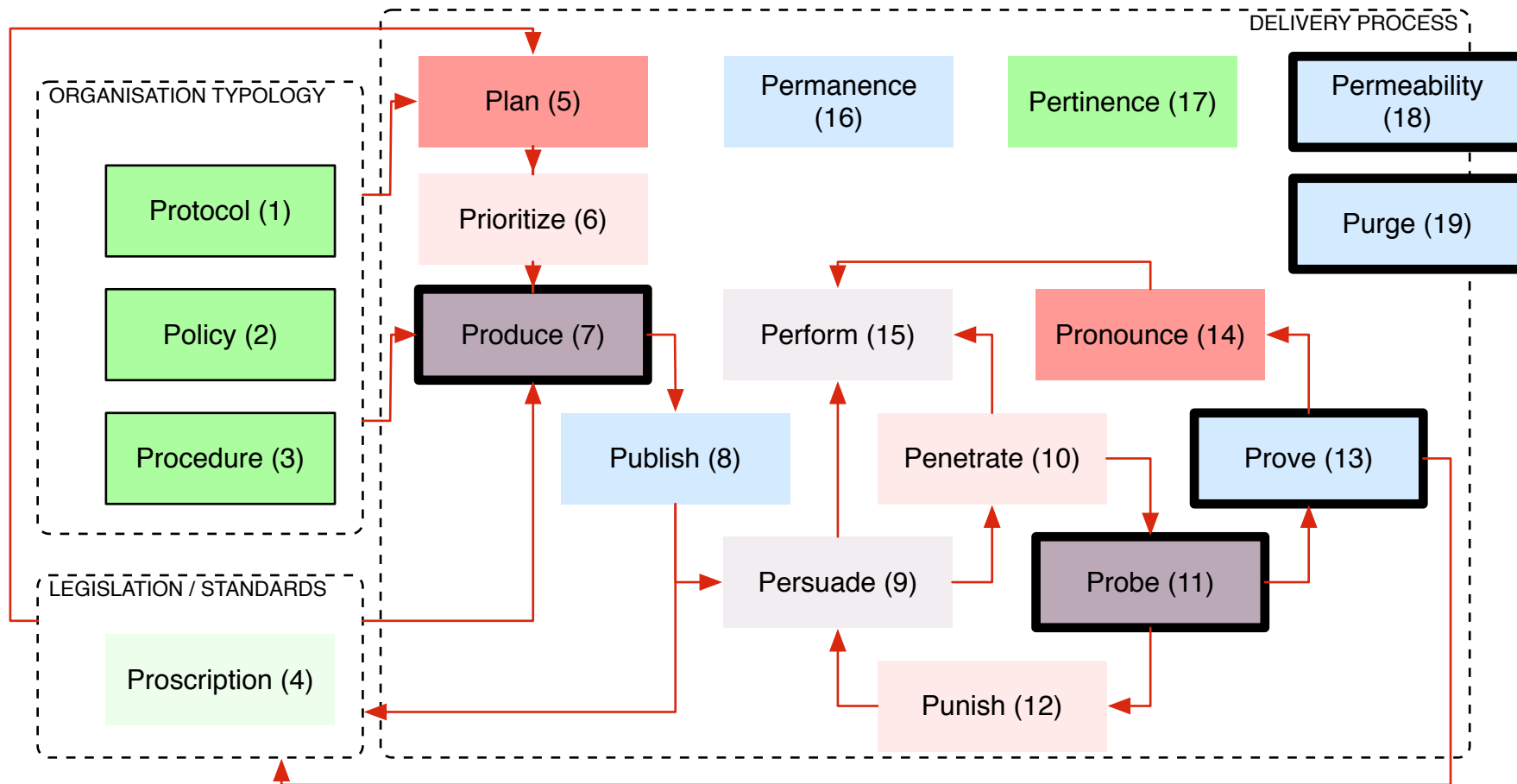
Progress (23)

Profitable (24)

Position (25)

### In other words ...

- 16 - Sustainability
- 17 - Relevance
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- 20 - Mandate
- 21 - Reality
- 22 - Change
- 23 - Innovation
- 24 - Business Focus
- 25 - Competitive Adv.



# SCORING COMPARISON

## Weighted Scoring

Low (1) Medium (2) High (3) Very High (4)

### EXAMINATION CRITERIA

	Manuals 82	CMS / DM 89	CGS 148	Integrated 198
10 - Effectiveness	Low	Low	Medium	Very High
2 - Efficiency	Low	Low	High	Medium
1 - Confidentiality	Low	Medium	Medium	Medium
8 - Availability	Medium	High	High	Very High
9 - Compliance	Medium	Medium	High	Very High
4 - Reliability	Low	Low	High	Very High
3 - Currency	Low	Medium	High	High
5 - Quality	High	Medium	High	Very High
6 - Penetration	Low	Low	Medium	High
7 - Measurability	Low	Low	High	High

## RECAP IN OTHER LANGUAGE (NO P'S)

### Lessons

**Champion** – Mandate and imperative must come from the CEO and Board

**Communication** – Compliance must be a central tenet and actively communicated

**Clarity** – Roles and responsibilities must be clearly defined for all

**Education** – Education and training must be provided under a sustainable model

**Ownership** – IT, Finance and Operations must own their aspects of a holistic model

**Alignment** – Compliance should be aligned with organisational objectives

**Hijacking** – Compliance should not hijack the business from other development projects

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