

# Compliance Obligations Policy

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## 1 OUTCOMES

- 1.1 Council, in its role as a Local Government authority, has an obligation to ensure it complies with its legislative requirements and adopted voluntary practices such as policies and codes that it adopts as part of its good governance framework. The community and Council officials have a high expectation that Council meets its compliance obligations and should take all appropriate measures to ensure that compliance expectations are met. This Policy, and the principles set out in this Policy, aim to:
1. Identify and respond to breaches of its compliance obligations.
  2. Promote a culture of compliance within the organisation.
  3. Assist Council in achieving the highest standards of governance.

## 2 POLICY

- 2.1 Queanbeyan-Palerang Regional Council is committed to compliance with all statutory and common law requirements relating to the operations and governance of Council.
- 2.2 Council maintains the highest standards of diligence in all areas of public accountability, through its policies, in meeting its legal obligations and in the promotion of a culture of compliance.
- 2.3 In particular, Council recognises its obligations to its stakeholders, its staff and the wider community to provide an environment that is safe, a culture that promotes equity and an administration that adopts the highest standards of probity, transparency and accountability.

## 3 SCOPE OF THE POLICY

- 3.1 This policy applies to all areas of Council's operations, and covers compliance with Commonwealth and State legislation, Council codes and policies, contracts, funding agreements, and relevant standards that Council chooses to adopt.

## 4 DEFINITIONS

The following definitions include those adopted from the Australian Standard AS/ISO 19600:2015 Compliance Management Systems – Guidelines

- 4.1 *Compliance requirement* – mandatory compliance is a requirement which Council must comply with. Generally arising from external legislation or regulation.
- 4.2 *Compliance commitment* – a requirement that is voluntary and which Council chooses to comply with. Generally refers to internally developed policies, adopted codes, standards, or industry best practice.
- 4.3 *Compliance obligation* – refers to either a compliance requirement or a compliance commitment.
- 4.4 *Compliance* – Ensuring that Council meets all of its compliance obligations.
- 4.5 *Compliance failure* - A breach of, or non-compliance with, a compliance obligation.
- 4.6 *Compliance culture* – The promotion of a positive attitude to compliance within the organisation. This encompasses Council's values, ethics and beliefs which are conducive to achieving its compliance outcomes.
- 4.7 *Compliance risk* – The effect of uncertainty on compliance objectives.
- 4.8 *Codes* – a mandatory or voluntary statement of practice developed either internally or by an external body

- 4.9 *Council standards* – Any codes of ethics, codes of conduct, policies, procedures, charters and industry standards that Council may deem to be appropriate standards for its day-to-day operations.
- 4.10 *Council officials* – Staff employed by Council
- 4.11 Senior management – The General Manager and Directors

## 5 GENERAL PRINCIPLES

- 5.1 The aims and intent of the Policy reflect Council's commitment to the principles of the Australian Standards AS/ISO 19600:2015 Compliance Management Systems – Guidelines.

Council will:

- a) Commit to achieving compliance in all areas of its operations.
- b) Maintain a Legislative Compliance Policy that sets out its compliance obligations.
- c) Provide sufficient resources, within the constraints of the total budget, to ensure that its compliance framework can be developed, implemented, maintained and improved.
- d) Ensure that all Directors, Managers, Team Leaders, supervisors and staff generally understand, promote and take responsibility for compliance obligations that apply to activities within their day-to-day operations.
- e) Maintain commitment to continuous improvement in compliance.
- f) Use established risk management practices to identify, rate and treat compliance risks.
- g) Ensure that compliance obligations are integrated into day-to-day operating procedures as appropriate.
- h) Maintain an effective complaints management system, including the coverage of compliance failures.
- i) Maintain a legislative compliance register which identifies compliance obligations of Council.
- j) Investigate, rectify and report legislative compliance failures.
- k) Allocate appropriate responsibility for managing compliance at various levels.
- l) Provide appropriate practical education and training of staff in order for them to meet their compliance obligations.
- m) Actively promote the importance of compliance to staff, contractors and other relevant third parties
- n) Monitor compliance through internal audit; and
- o) Review the compliance framework to ensure its effectiveness

## 6 COMPLIANCE MANAGEMENT FRAMEWORK

- 6.1 This is based on the Australian Standards AS/ISO 19600:2015, which provides the following for designing, implementing, maintaining and improving an effective system for compliance management.

### 6.1.1 Commitment

- a) Commitment by Council and management to effective legislative compliance that permeates the whole organisation

- b) Appropriate resources to support the development, maintenance and improvement of the legislative compliance framework
- c) Compliance obligations are identified and assessed.

#### **6.1.2 Implementation**

- a) Responsibility for legislative compliance outcomes is clearly articulated and assigned
- b) Competence and training needs are identified and addressed to enable Council officers to fulfill their legislative compliance obligations
- c) Behaviours that create and support legislative compliance are encouraged and behaviours that compromise compliance are not tolerated.
- d) Controls are in place to manage the identified legislative compliance obligations and achieve the desired behaviours.

#### **6.1.3 Monitoring**

- a) Performance of legislative compliance is monitored, measured and reported.
- b) Legislative compliance can be demonstrated through both documentation and practice.

#### **6.1.4 Continuous Improvement**

- a) This Policy, along with the legislative compliance framework, will be regularly reviewed and continually improved.
- b) Incidents and complaints will be reviewed in accordance with incident reporting processes and Council's Complaints Handling Policy and procedures, to assess compliance with applicable legislation, regulations, standards, orders, policies or procedures, in order for preventative measures and improvements to be made to relevant policies, procedures, manuals, checklists, training or communication to support Council officers with compliance.

#### **6.1.5 Communication**

Communication is fundamental to building a compliance culture. Communication channels include:

- a) Council's website and intranet which contain policies, procedures and other relevant material
- b) On-the-job training for relevant compliance
- c) Access to electronic versions of legislation, regulations, statutory instruments, orders and Government Gazettes through the NSW Legislation website.
- d) Email alerts with Circulars and updates from the NSW Office of Local Government, NSW Department of Planning, Industry and Environment, and Local Government NSW (LGNSW) on new or amended legislation relevant to local government. Such Circulars and updates are distributed through Council's electronic document management system to the relevant Council officer for implementation where applicable.
- e) Councillors have access to advice from senior staff in accordance with the Councillors and Staff Interaction Policy.
- f) If deemed necessary, the General Manager or nominated officer will submit a report to a Council meeting on any new or amended legislation where changes will impact significantly on Council or its operations.

### 6.1.6 External Legislative Compliance Support

Council will maintain compliance excellence by seeking appropriate professional advice where appropriate, including:

- a) Internal or external auditors
- b) NSW Office of Local Government (its legal officer/team)
- c) Local Government NSW (its legal policy officer)
- d) Legal advisors

## 7 RESPONSIBILITY/ACCOUNTABILITY

### 7.1 All staff to:

- a) Comply with relevant legislative obligations within the scope of their roles and their delegated authority
- b) Follow relevant procedures, guidelines and checklists as far as practicable and implement this Policy
- c) Report to their Director, Manager, Team Leader or supervisor, instances where they consider obligations are not being complied with
- d) Actively identify and seek additional support in understanding their legislative compliance obligations; and
- e) Develop the legislative compliance performance culture within teams by promoting opportunities for staff to increase their understanding, apply and continuously improve on compliance obligations relating to their roles.

### 7.2 Governance and Committee Services Department to:

- a) Report on updates (or disseminate such information) from the NSW Office of Local Government, Local Government NSW and other pronouncements likely to impact Council
- b) Support the responsible directorates of Council with the coordination of compliance status reports for auditing purposes
- c) Coordinate reporting to the CEO, Governance and the Audit Risk and Improvement Committee (ARIC) on instances of significant legislative non-compliance or significant increases in legislative compliance risks, and corrective or remedial actions, as prepared and recommended by the responsible Council Officer or Portfolio.
- d) Review this Policy

### 7.3 Senior Management (General Manager and Directors)

Senior management is responsible for the supervision and operational implementation of this Policy and should ensure that conduct and activities of Council comply with all applicable laws and regulations.

Senior management's responsibility is to:

- a) Ensure a culture of compliance is encouraged and maintained throughout the organisation
- b) Promote and uphold compliance to all relevant legislation as an essential responsibility of every staff
- c) Delegate legislative compliance tasks to appropriate persons, as necessary.
- d) Develop adequate reporting processes to keep Council informed on all legislative compliance matters
- e) Consult with Council's legal team, appropriate legal professionals or other persons on legislative compliance issues and risks, as necessary.

The General Managers, Directors and management team are responsible for the day-to-day operational compliance. They must have full understanding of Council's policies and procedures to be able to properly perform their responsibilities and assess the legislative compliance needs of Council.

Senior management's duties under this Policy are to:

- f) Ensure that adequate internal systems and controls have been implemented within their Directorate, to monitor legislative compliance, to provide assurance that Council Officers are complying with all relevant laws and policies
- g) Promote a compliance culture
- h) Review legislative compliance on an ongoing basis and provide reports (including breaches) to Council
- i) Inform Council and Council officers about significant changes in relevant legislation
- j) Allocate legislative compliance responsibilities to relevant Managers, Supervisors, Team Leaders and/or officers for actioning, commensurate with their functions and delegated authority.
- k) Ensure all Council officers have undertaken appropriate training or provided with information awareness on relevant legislative compliance, policies and procedures
- l) Seek legal or regulatory advice or assistance on legislative compliance issues when necessary

#### **7.4 Access to Information**

The nominated officer undertaking the legislative compliance will have:

- a) The right to obtain access to information necessary to carry out their responsibilities
- b) The right to conduct investigations of possible legislative breaches and appoint outside experts if required
- c) The ability to express and disclose findings to senior management and, through the Council reporting process, to the elected Council.

#### **7.5 Management of Compliance Risk**

Senior management will be responsible for nominating the appropriate Council officers to coordinate the identification, management and monitoring of compliance risk within their Directorate.

#### **7.6 Organisational Compliance**

Council's organisation structure sets reporting lines for staff, Managers, Directors and the General Manager. Managers are responsible for the implementation of development plans for each staff within their area of responsibility, to ensure the required competencies and knowledge have been achieved for:

- a) Legislation and regulation
- b) Code of Standard
- c) Policy
- d) Procedure

Council will have appropriate procedures, guidelines, manuals or checklists relevant to the operations or activities of the Directorate, to support staff to follow and comply with key legislative requirements.

### **7.7 Training**

Training is the foundation of compliance and will form part of the training and development plan for staff.

The CEO must ensure all staff and managers have access to appropriate and ongoing training on legislative compliance necessary for their role.

### **7.8 Compliance Monitoring and Review**

Council adopts a culture of compliance and encourages all staff to advise the CEO and/or management team of any:

- a) Actual or potential breaches
- b) Compliance risks
- c) Any other concerns

When reviewing incidents and complaints in accordance with Council's Complaints Handling Policy and procedures, such reviews and investigations will identify any compliance issues, or compliance control weaknesses, to be able to rectify any systemic or recurring issues.

Any repeated incidents of non-compliance will be identified for improvement and reviewed to prevent their recurrence.

### **7.9 Reporting and Remedial Action**

Staff are responsible for reporting to management any instances of non-compliance they are aware of. There will be timely escalation of any unresolved issues to the appropriate management level. Managers must implement remedial or corrective action that is appropriate when non-compliance (or risk of non-compliance) is identified.

Compliance reporting includes:

- a) Material breaches, system breakdowns, areas of concern or potential exposure
- b) Results of compliance reviews or audit (internal/external)
- c) Information about external regulatory environment (new or amendments to legislation)

Senior management may instigate an investigation into any non-compliance matter and will report significant breaches to Council through the ARIC or external agencies as required, keeping in mind privacy requirements.

Council also has quarterly reporting against the main statutory reporting compliance obligations outlined by the Office of Local Government's annual calendar of Compliance and Reporting Requirements.

Remedial action must be recommended in compliance reports. Senior management will be responsible for monitoring the implementation of remedial action along with

any required training or procedural change. Implementation of any agreed actions in response to compliance breaches may be monitored through the Audit, Risk and Improvement Committee.

## **8 RELATED POLICIES/DOCUMENTS/LEGISLATION**

8.1 This Policy should be read in conjunction with the following documents/policies/legislation:

- Code of Conduct
- Code of Meeting Practice
- Councillor and Staff Interaction Policy
- Complaints Handling Policy
- Enterprise Risk Management Policy
- Anti-Fraud and Corruption Policy
- *Local Government Act 1993*
- *Local Government (General) Regulations 2005*
- NSW Office of Local Government – Annual Calendar of Compliance and Reporting Requirements
- AS/ISO 19600:2015 Compliance Management Systems - Guidelines

## **9 REVIEW**

9.1 This policy will be reviewed every four years or earlier as necessary if:

- a) legislation requires it, or
- b) Council's functions, structure or activities change