



SHIRE COUNCIL
Blayney

Legislative Compliance Policy

Policy	2K
Officer Responsible	Director Corporate Services
Last Review Date	19/09/2022

Strategic Policy

1. PURPOSE

The purpose of this policy is to provide a framework for legislative compliance across all aspects of the Council's operations in order to achieve the highest standards of good governance.

Council is committed to conducting its functions and activities lawfully and in a manner that is consistent with its compliance obligations.

The Legislative Compliance Policy (Policy) establishes the overarching principles and commitment to action for Council with respect to achieving compliance by:

- identifying a clear legislative compliance framework within which Council operates;
- promoting a consistent, rigorous and comprehensive approach to compliance throughout Council;
- developing and maintaining practices that facilitate and monitor compliance within Council;
- seeking to ensure standards of good corporate governance; and
- engendering a culture of compliance where every person within Council accepts personal responsibility for compliance.

2. SCOPE

This policy applies to Councillors, staff, volunteers and contractors of the Blayney Shire Council.

The Policy is aligned with Council's objectives as articulated in the Council Integrated Plans. Council recognises that there are four elements for an effective compliance program:

- Commitment – to and the establishment of a compliance program;
- Implementation – of a compliance program, including ongoing education and maintenance;
- Monitoring and Measuring – reporting and supervision of the compliance program; and
- Continual Improvement – regular review and continual improvement of the compliance program.

3. DEFINITIONS

Legislation - Laws that are made by Parliament, or under the authority of Parliament are called legislation, or statutes. "Acts" are primary legislation. Acts may authorise the making of Regulations, Orders and Notices and there are referred to as subordinate legislation.

Legislation compels or directs the action of individuals, industry and other groups in specified circumstances and also outlines actions that are not to be taken, in order to achieve certain policy objectives.

Delegations Register – Councils have certain duties which they must perform, and certain powers which they must exercise, pursuant to the Local Government Act 1993, as well as a number of other Acts. Under the Local Government Act 1993, Council is able to delegate those duties to staff and Committees of Council.

The Delegation Register is a listing of those functions which Council has delegated to appropriate staff and Committees of Council.

4. POLICY STATEMENT

Council shall have appropriate processes and structures to ensure that legislative requirements are achievable and are integrated into the day to day operations of Council.

The processes and structures will aim to:

- Develop and maintain a system for identifying the legislation that applies to Council's activities and functions.
- Assign responsibilities for ensuring legislative and regulatory obligations are fully implemented by Council.
- Provide education and awareness for Councillors and Council officers in the legislative requirements that affect them.
- Provide people with the resources to identify and remain up-to-date with legislative changes.
- Establish a mechanism for reviewing situations where non-compliance has occurred.
- Review and assess the system for compliance.

5. POLICY IMPLEMENTATION

5.1 Obligations

Councillors, staff, volunteers and Council contractors are responsible for ensuring the Council complies with all relevant legislation. These responsibilities however differ across the organisation, based on the role / position requirements of the individual and their direct involvement in statutory functions.

5.1.1 General Responsibilities

While the Council does not expect Councillors, staff, volunteers or Council contractors to be fully conversant with every State and Federal law, all are expected to be aware of the common areas of legislation that affect their role.

In addition, staff members are expected to be aware of a range of employment related laws (for example legislation relating to work, health and safety, equal opportunity, bullying and harassment), and are expected to be aware that certain actions may be subject to the criminal code (such as theft, assault, etc.).

Staff members should also be aware of any Council policies, codes, Australian Standards or statements that are relevant to their areas of responsibility.

5.1.2 Delegated Responsibilities

Staff members with delegated authority for carrying out statutory requirements, in accordance with the Delegations Register, are expected to develop a clear understanding of the relevant provisions as they relate to their responsibilities, and make themselves aware of changes to legislation and its impact on Council activities.

5.1.3 Management Responsibilities

Any staff member responsible for the management or supervision of staff must ensure appropriate information is disseminated to all workers under their responsibility. They are responsible for ensuring that risk due to non-compliance is minimised and workers under their responsibility are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work.

They are also required to ensure that information relating to legislative changes is disseminated to appropriate staff members, and that recordkeeping systems and practices that capture evidence of compliance are in place.

5.2 Consequences of Non-Compliance

Councillors, staff, volunteers and Council contractors should be aware that any failure to comply with the law could be a criminal act, or result in a breach of the law or a breach of discipline.

Failure to comply with legal requirements could result in:

1. Disciplinary proceedings;
2. A hearing by the Pecuniary Interest Tribunal into complaints concerning alleged failures by Councillors, staff, delegates and advisors to disclose pecuniary interests;
3. Dismissal of the Mayor and Councillors and the appointment of an Administrator;
4. Removal of a Council's planning powers and the appointment of an Administrator;
5. The appointment of an Environmental Administrator (under relevant environmental legislation);
6. Legal proceedings against the Council for orders to remedy or restrain breaches of certain Acts, or for other legal challenges relating to such things as acting beyond the scope of authority of power, or failing to provide natural justice, possibly resulting in costly litigation and awards of damages;
7. Complaints about the conduct of the Council or staff members being referred to the Ombudsman, ICAC, Audit Office, Office of Local Government, or other relevant bodies;
8. Criminal proceedings;
9. Disruption to management, staff morale problems and bad publicity resulting from any of the above.

5.3 Application of Legal Requirements

The obligation to comply with legal requirements does not relieve the Council or individual staff members of the moral or ethical obligation to mitigate the effects of

rigid adherence to the letter of the law where that results in, or would result in, unintended or manifestly inequitable or unreasonable treatment of an individual or organisation. For example:

1. If the law gives the Council discretion, it should be exercised in a fair and reasonable way;
2. If the law does not give the Council discretion, fairness may involve adopting a broad interpretation in certain circumstances rather than a rigid adherence to legality;
3. Other options may be available to the Council to mitigate any unreasonable or inequitable effects of compliance with the law. These could include, for example, waiving debts, refunding fees or charges, offering an expression of regret or an apology, deferring regulatory action to allow for an authorisation to be obtained, fast tracking an assessment and determination of an application, etc.

In a similar manner, policies, codes, standards, etc. should not be applied inflexibly but on the basis of merit, with proper consideration being given to the particular circumstances of each individual case.

Staff members should have regard to circulars, practice notes, codes, guidelines, etc. issued by government or relevant central agencies. They should comply with their terms unless there are justifiable grounds for taking another course of action within the scope of the discretion available to the decision-maker.

5.4 Strategies for Ensuring Compliance

The General Manager will ensure a range of methods are adopted for use by Council staff to ensure compliance with key legislative changes.

6. RELATED LEGISLATION, POLICIES AND STRATEGIES

6.1 Policies and Strategies

- Blayney Shire Council Community Strategic Plan
- Blayney Shire Council Local Environmental Plan
- Delegation Register
- All Council policies and plans developed in accordance with legislation

End of Policy

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