

# COUNCIL POLICY



**Policy name**

**Legislative Compliance**

## **Abstract**

This Policy provides a framework for legislative compliance across all aspects of Council's operations in order to achieve the highest standards of good governance.

<b>Dates</b>	Policy or amendment approved	19 Feb 2020
	Policy or amendment takes effect	19 Feb 2020
	Policy is due for review (up to 4 years)	19 Feb 2024
<b>Endorsed by</b>	Council's Executive Management Team	
<b>Approved by</b>	Gunnedah Shire Council at its Ordinary Meeting of Council held 19 Feb 2020. Resolution number: 10.02/20	
<b>Policy Custodian</b>	Manager Governance and Legal	
<b>Relevant to</b>	Councillors, Committees, Internal and External Auditors, contractors, volunteers and all staff.	
<b>Superseded Policies</b>	Nil	
<b>Related Documents</b>	Code of Conduct Risk Management Framework Records Management Policy and procedures Delegated Authority Policy and Council Delegation Instruments Council's Integrated Plans	
<b>Related Legislation</b>	Predominantly the Local Government Act 1993 and associated Regulations.	

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### 1. Purpose

1.1 The primary purpose of this Policy is to ensure that Gunnedah Shire Council complies with all applicable legislative and regulatory requirements.

1.2 It aims to:

- (a) Assist the Council in achieving the highest standards of governance;
- (b) Prevent, and where necessary, identify and respond to breaches of laws, regulations, code or organisational standards occurring in the organisation; and
- (c) Promote a culture of compliance within the organisation.

### 2. Scope

2.1 This Policy applies in full to all Councillors and Council staff, contractors and volunteers with responsibilities for legislative compliance requirements or commitments.

2.2 It pertains to all areas of Council operations and includes compliance with Commonwealth and State legislation, regulations, relevant codes and standards.

2.3 This Policy has been drafted to align with Council's priorities as outlined in Council's Integrated Plans and is based on Australian Standard guiding principles.

### 3. Definitions

Codes	Mandatory industry codes and voluntary industry codes with which Council chooses and/or is required to comply.
Compliance	Ensuring that the requirements of laws, regulations, industry codes and Council standards are met.
Compliance failure	A breach, of applicable laws, regulations, codes and Council standards.
Compliance culture	The promotion of a positive attitude to compliance within the Council.
Legislative obligations	Legal requirements that Council has to comply with.

Council standards	Any codes of ethics, codes of conduct, policies, procedures and charters that Council may deem to be appropriate standards for its day-to-day operations.
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#### 4. Principles

Council recognises its responsibility to its stakeholders, 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, accountability and transparency in all its operations.

A fundamental principle of good public administration is that public officials comply with both the letter and spirit of the law. The consequences of breaching legislation can vary greatly between minimal impact on Council to severe consequences of both a civil and criminal nature. Obviously there could also be a significant impact on Council's reputation.

In its role as a Local Government Authority, Gunnedah Shire Council is committed to conducting its functions and activities lawfully and to achieving compliance in all areas of its operations in a manner consistent with best practice principles and that meets the expectations of its staff and the community.

#### 5. Policy statement

##### 5.1 Commitment to an effective Compliance Program

5.1.1 This Policy establishes a commitment to action by Council and its Executive Management Team with respect to achieving organisation-wide compliance through the development of an overarching Compliance Program.

5.1.2 A Compliance Program will see appropriate processes and structures put in place to ensure that all of Council's compliance obligations are achievable and incorporated into the everyday running of the Council.

5.1.3 Overall, the Program will allow Council to:

- (a) Better understand its legislative compliance risks;
- (b) Build Council's capacity to meet its compliance obligations in a proactive, timely and transparent manner;
- (c) Conduct business and activities in a lawful and responsible way to protect the reputation and credibility of Gunnedah Shire Council;
- (d) Develop, implement and monitor internal controls to manage and provide assurance on legislative compliance risks;
- (e) Identify responsibilities for meeting specific compliance obligations; and
- (f) Assess and improve Council's compliance performance.

5.1.4 Council will provide sufficient resources to ensure that the Compliance Program can be implemented, maintained and improved and will also actively promote the importance of compliance to staff, contractors and other relevant third parties.

## **5.2 Identification and assignment of compliance obligations**

- 5.2.1 Councils operate within a complex regulatory environment. There are multiple pieces of legislation that govern the exercise of a Council's functions or which impose obligations on or require certain actions by a Council.
- 5.2.2 Council will develop and maintain a system for:
- (a) identifying compliance obligations that apply to Council's activities and functions; and
  - (b) resourcing staff to identify and remain up to date with any new or amended legislation affecting compliance obligations.
- 5.2.3 Responsibility for managing compliance will be clearly articulated and assigned based on positions, competencies and delegated authority.
- 5.2.4 All personnel will receive appropriate communication and training to be able to understand and meet their compliance responsibilities, within the scope of their roles.

## **5.3 Evaluation, monitoring and reporting**

- 5.3.1 Council will integrate compliance requirements into day-to-day operating procedures as appropriate.
- 5.3.2 Council will use its established risk management practices to accurately identify, rate, and treat compliance risks.
- 5.3.3 The risk of non-compliance will be monitored and effective internal controls put in place to reduce compliance risk to an acceptable level.
- 5.3.4 Timely escalation of any unresolved issues to the appropriate management level is required.
- 5.3.5 Council will investigate, rectify and report all compliance failures.
- 5.3.6 Council will maintain a Compliance Register which will record key compliance obligations, the responsibilities assigned to each, as well as provide detail of any breaches and subsequent action taken.
- 5.3.7 Status reports on compliance obligations will be provided to Council's Executive Management Team for review.
- 5.3.8 Council will monitor its Compliance Program through its Internal Audit Function.

#### **5.4 Record keeping**

Council must be able to demonstrate through documentation as well as practice, its commitment to its Compliance Program and therefore accurate record keeping by all personnel in accordance with Council's Record Management Policy and procedures is required.

#### **5.5 Continuous improvement**

Council is committed to continuous improvement and will review its Compliance Program annually, to ensure its processes, methods, and practices continue to be efficient and effective.

#### **5.6 Policy compliance**

5.6.1 Council encourages behaviours that create and support compliance. Any behaviour that compromises compliance will not be tolerated.

5.6.2 All relevant persons are expected to read this Policy carefully to ensure that they are well aware of their responsibilities and processes to which they are to conform.

5.6.3 Non-compliance with this Policy may result in appropriate remedial action in the form of disciplinary action and/or dismissal, being taken.

### **6. Accountability, roles and responsibilities**

#### **6.1 Policy Custodian**

Council's Manager Governance & Legal is Custodian of this Policy.

#### **6.2 Responsibilities**

##### **6.2.1 Councillors**

- Adhere to and comply with all relevant legislation and policies endorsed by Council;
- Support a positive compliance culture; and
- Participate in training as required.

##### **6.2.2 General Manager**

- Overall responsibility for Council's Compliance Management Program;
- Report to Councillors on any fines, penalties or costs orders regarding legal proceedings against Council as required under Local Government Regulations; and
- Report significant non-compliance matters to the Council and external agencies as required.

### 6.2.3 Executive Management Team

- Adhere to and comply with all relevant legislation, including all Council policies;
- Encourage behaviours that create a positive compliance culture;
- Participate in training as required.
- Report to Council on any new or amended legislation where any changes will impact significantly on Council's operations;
- Provide training and instruction to all reporting staff to enable the legal obligations for their responsibilities to be identified and met; and
- Promptly address reports of significant non-compliance and ensure necessary corrective action taken.

### 6.2.4 Leadership Team

- Promote a culture to meet compliance obligations by providing support, communication and training where necessary;
- Participate in training as required;
- Identify, understand and respond to new compliance obligations;
- Review and monitor compliance with current compliance obligations;
- Develop and implement controls to minimise the risk of non-compliance;
- Investigate and respond to incidents of non-compliance; and
- Immediate report to Council's Executive Management of any significant breach or increased likelihood of non-compliance.

### 6.2.5 Governance unit

- Coordinate compliance risk assessments and updates the Compliance Register for changed or new obligations;
- Provide compliance status reports to EMT and Internal Audit Committee;
- Provide advice on the Compliance Program and associated procedures; and
- Annual review of Compliance Program to ensure effectiveness.

### 6.2.6 All staff

- Comply with relevant obligations within the scope of their roles;
- Participate in training as required;
- Actively identify and seek additional support in understanding their compliance obligations; and
- Report to their manager/supervisor instances where they consider obligations are not being complied with.

### 6.2.7 Internal Audit Committee

- Review compliance status reports, noting the effectiveness of the Compliance Program and any identified areas for improvement; and
- Provide recommendations for any reporting on compliance, including any identified areas of non-compliance or breaches.

## 7. Acknowledgements

- 7.1 Office of Local Government's "*Promoting Better Practice Checklist*";
- 7.2 Griffith City Council – Legislative Compliance Policy and Procedure;
- 7.3 Frankston City Council – Legislative Compliance Policy;
- 7.4 Northern Beaches Council – Legislative Compliance Policy;
- 7.5 Parkes Shire Council – Legislative Compliance Policy;
- 7.6 AS 3806-2006: Compliance Programs; and
- 7.7 AS ISO 19600:2015 Compliance Management Systems- Guidelines.

## 8. Version control and change history

Date	Version	Approved by and Resolution No	Amendment
February 2020	1.0 Draft	Ordinary Council Meeting 19/02/2020 Council 10.02/20	