



PARKES SHIRE COUNCIL

LEGISLATIVE COMPLIANCE POLICY

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CONTROLLED DOCUMENT INFORMATION

ECM Number	ECM1253478		
Department	Organisational Capability		
Position	Governance Officer		
Review Timeframe	2 years	Next Scheduled Review Date	6 September 2023
Adoption by Council	22 10.2019	Resolution/Minute Number	19-289

Version History

Version Number	Date Changed	Modified by	Details & Comments
0	06.09.2019	Katrina Dwyer	Policy created and endorsed by Audit, Risk and Improvement Committee at its meeting of 03.10.2019
	August 2021	Shona Henry	Updated Acts and Regulations in Appendix

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1. Introduction

Parkes Shire Council, in its role as a local government authority, is committed to compliance with all statutory and common law requirements relating to operations and governance of Council.

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 compliance culture.

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 in all its operations.

2. Purpose

Council, in its role as a Local Government Authority, has an obligation to ensure that its legislative requirements are complied with. The community and those working at council have a high expectation that Council will comply with applicable legislation and Council should take all appropriate measures to ensure that that expectation is met.

This policy, and the principles set out in this policy, aim to:

1. identify and respond to breaches of laws, regulations, codes or organisational standards occurring in the organisation;
2. promote a culture of compliance within the organisation; and
3. assist Council in achieving the highest standards of governance

3. Scope of Policy

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.

4. Definitions

Codes	Mandatory industry codes and voluntary industry codes with which the 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.
Legislation	Effective control of legal risks in order to ensure that the law is complied 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.

5. Policy Statement

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

These processes and structures will aim to:

- a) Develop and maintain a system for identifying the legislation that applies to Council's activities.
- b) Assign responsibilities for ensuring that legislation and regulatory obligations are fully implemented in Council.
- c) Provide training for relevant staff, Councillors, volunteers and other relevant people in the legislative requirements that affect them.
- d) Provide people with the resources to identify and remain up-to-date with new legislation.
- e) Conduct of audits to ensure there is compliance.
- f) Establish a mechanism for reporting non-compliance.
- g) Review accidents, incidents and other situations where there may have been non-compliance.
- h) Review audit reports, incident reports, complaints and other information to assess how the systems of compliance can be improved.

6. Roles and Responsibility

This policy is issued under the authority of the General Manager and will be reviewed and amended as required in consultation with the Directors and staff of the Parkes Shire Council.

Councillors and Committee Members

Councillors and Committee members have a responsibility to be aware of and abide by legislation applicable to their role.

Senior Management (General Manager and Directors)

Senior management should ensure that directions relating to compliance are clear and unambiguous and that legal requirements which apply to each activity for which they are responsible are identified. Senior management should have systems in place to ensure that all staff are given the opportunity to be kept fully informed, briefed and/or trained about key legal requirements relative to their work within the financial capacity to do so.

Employees

Employees shall report through their supervisors to senior management any areas of non-compliance that they become aware of.

7. General Principles

- a) Council is committed to achieving compliance in all areas of its operations.
- b) Council will maintain a Legislative Compliance Policy that sets out its commitment to compliance with applicable laws, regulations, codes and Council standards.
- c) Council will provide sufficient resources to ensure that its Compliance Program can be implemented, maintained and improved.
- d) Council will ensure that all managers, supervisors and staff generally understand, promote and be responsible for compliance with relevant laws, regulations, codes and Council standards that apply to activities within their day-to-day responsibilities.
- e) Council will use its established Enterprise Risk Management Framework to accurately identify, rate and treat compliance risks.
- f) Council will ensure that compliance requirements are integrated into day-to-day operating procedures as appropriate.
- g) Council will maintain an effective complaints management system, including the coverage of compliance failures.
- h) Council will maintain a Compliance Register in association with its Risk Register.
- i) Council will investigate, rectify and report all compliance failures.
- j) Council will allocate appropriate responsibility for managing compliance at various levels.
- k) Council will provide appropriate practical education and training of staff in order for them to meet their compliance obligations.
- l) Council will actively promote the importance of compliance to staff, contractors and other relevant third parties.
- m) Council will monitor its Legislative Compliance Program through a three year Audit Plan, and
- n) Council will review its Legislative Compliance Program regularly to ensure its effectiveness.

8. Related Documentation

- Parkes Shire Council Code of Conduct
- Parkes Shire Council Enterprise Risk Management
- Records Management Policy

9. Procedure

Council will have a system in place (legislative compliance procedures) to ensure that when legislation changes, steps are taken to ensure that actions comply with the amended legislation. A Legislative Compliance Procedure has been prepared and is an attachment to this policy.

10. Review

A review of Council's Legislative Compliance Policy and Procedures will be undertaken every two years. References

- Local Government (General) Regulations 2005,
- Good Conduct and Administrative Practice - Guidelines for State and Local Government (NSW Ombudsman published May 2006)
- Governance Health Check - Self audit guide to good governance in Local Government (Local Government Managers Australia (LGMA) and Independent Commission Against Corruption (ICAC) published 2004), and
- Australian Standard AS3806-2006: Compliance Programs.



APPENDIX

Parkes Shire Council Legislative Compliance Procedure

1. Identifying Current Legislation

(a) *Electronic Versions of Legislation*

Council accesses electronic up-to-date versions of legislation through the New South Wales legislation website at www.legislation.nsw.gov.au. The NSW legislation website is the official NSW Government site for the online publication of legislation and is provided and maintained by the Parliamentary Counsel's Office.

Council Staff should utilise this website as it is updated on a daily basis.

Federal laws and instruments should be accessed through the Federal Register of Legislation at www.legislation.gov.au

(b) *Australian Standards*

Council is a subscribing member to Standards Australia and maintains a library of Australian Standards related to Council's activities. As a member, Council receives alert updates to amendments of the Standards it has purchased. The Standards purchased by Council are made available to staff through the Legislation icon on Council's intranet.

2. Identifying New or Amended Legislation

a) *NSW Government Gazette*

Council provides website access for its staff to the NSW Government Gazette which publishes all new or amended legislation applicable to New South Wales.

b) *Office of Local Government*

Council receives regular circulars from the Office of Local Government on any new or amended legislation relevant to Local government. Such advices are received through Council's Records Section and must be distributed by the Records staff to the relevant Council Officers for implementation and Councillors for information where applicable.

c) *Department of Planning*

Council receives regular circulars from the Department of Planning on any new or amended legislation. Such advices are received through Council's Records Section and must be distributed by the Records staff to the relevant Council officers for implementation.

d) *Local Government NSW*

Council receives a weekly circular from the Local Government NSW. These circulars have sections on Legal and Finance and Planning and Environmental law that highlight changes in legislation applicable to Councils and must be distributed to relevant Council officers and Councillors for information.

e) *Parkes Shire Council delegation register*

Delegations of Authority facilitate the effective and efficient operation of Parkes Shire Council by providing the General Manager with sufficient power and authority to generally manage, control and administer the affairs of Council on a day to day basis.

Council subscribes to the RelianSys Governance Suite for delegations. This software streamlines the complex task of creating and maintaining Council's Delegations Register in accordance with the various legislations and regulations that Council operates under. The register is continually maintained of the functions, powers and conditions delegated to officers across the following Acts and Regulations.

- Ageing and Disability Commissioner Act 2019
- Annual Holidays Act 1944
- Biodiversity Conservation Act 2016
- Biodiversity Conservation Regulation 2017
- Biosecurity Act 2015
- NSW Boarding Houses Act 2012
- NSW Building and Development Certifiers Act 2018
- NSW Building and Development Certifiers Regulation 2020
- Building Products (Safety) Act 2017
- NSW Cemeteries and Crematoria Act 2013
- Cemeteries and Crematoria Regulation 2014
- Civil and Administrative Tribunal Act 2013
- Community Land Development Act 2021
- Companion Animals Act 1998
- Companion Animals Regulation 2018
- Contaminated Land Management Act 1997
- Conveyancing Act 1919
- Crown Land Management Act 2016
- Crown Land Management Regulation 2018
- Dams Safety Act 2015
- Design and Building Practitioners Act 2020
- NSW Disability Inclusion Act 2014
- NSW Disability Inclusion Regulation 2014
- District Court Act 1973
- Electricity Supply Act 1995
- Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017
- Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- Fines Act 1996
- Fire and Emergency Services Levy Act 2017

- Fire Brigades Act 1989
- NSW Firearms Regulation 2017
- Fisheries Management Act 1994
- Fluoridation of Public Water Supplies Act 1957
- Food Act 2003
- Food Regulation 2015
- Gas and Electricity (Consumer Safety) Act 2017
- Government Information (Public Access) Act 2009
- Graffiti Control Act 2008
- Greater Sydney Commission Act 2015
- Greyhound Racing Act 2017
- NSW Growth Centres (Development Corporations) Act 1974
- Health Records and Information Privacy Act 2002
- Heavy Vehicle (Mass, Dimension and Loading) National Regulation (NSW)
- Heavy Vehicle National Law (NSW) 2013
- Heritage Act 1977
- Heritage Regulation 2012
- Impounding Act 1993
- Independent Commission Against Corruption Act 1988
- Industrial Relations Act 1996
- Land Acquisition (Just Terms Compensation) Act 1991
- Land and Environment Court Act 1979
- Land and Environment Court Rules 2007
- Library Act 1939
- Library Regulation 2018
- Liquor Act 2007
- Liquor Regulation 2018
- Local Court Act 2007
- Local Government (General) Regulation 2021
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021
- Local Government Act 1993
- NSW Local Land Services Act 2013
- Motor Vehicle Sports (Public Safety) Regulation 2010
- National Parks and Wildlife Act 1974
- National Parks and Wildlife Regulation 2019
- NSW Natural Resources Access Regulator Act 2017
- Long Service Leave Act 1955
- Road Transport Act 2013
- Sydney Water Act 1994
- Ombudsman Act 1974
- Pesticides Act 1999

- Pesticides Regulation 2017
- Plumbing and Drainage Act 2011
- Plumbing and Drainage Regulation 2017
- Poisons and Therapeutic Goods Regulation 2008
- Privacy and Personal Information Protection Act 1998
- Protection of the Environment (General) Regulation 2009
- Protection of the Environment Operations (Clean Air) Regulation 2021
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019
- Protection of the Environment Operations Act 1997
- Public Health (Tobacco) Act 2008
- Public Health Act 2010
- Public Health Regulation 2012
- Public Interest Disclosures Act 1994
- Public Works and Procurement Act 1912
- Public Works and Procurement Regulation 2019
- NSW Real Property Act 1900
- Residential Tenancies Regulation 2019
- Road Transport (General) Act 2005
- Road Transport (General) Regulation 2021
- Road Transport (Safety and Traffic Management) Act 1999
- Roads Act 1993
- Rural Fires Act 1997
- Rural Fires Regulation 2013
- Rural Lands Protection Act 1998
- Service NSW (One-Stop Access to Government Services) Act 2013
- NSW Small Business Commissioner Act 2013
- NSW State Debt Recovery Act 2018
- State Emergency and Rescue Management Act 1989
- State Emergency Service Act 1989
- State Records Act 1998
- Strata Schemes (Freehold Development) Act 1973
- Strata Schemes (Leasehold Development) Act 1986
- Strata Schemes Development Act 2015
- Strata Schemes Development Regulation 2016
- Strata Schemes Management Act 2015
- Strata Schemes Management Regulation 2016
- Supreme Court Act 1970
- Swimming Pools Act 1992
- Swimming Pools Regulation 2018
- Taxation Administration Act 1996
- Transport Administration Act 1988



- Trees (Disputes Between Neighbours) Act 2006
- Trustee Act 1925
- Valuation of Land Act 1916
- Valuation of Land Regulation 2012
- Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017
- NSW Water Management Act 2000
- Water Supply (Critical Needs) Act 2019

Included in the Register is Parkes Shire Council specific (internal) Instruments of Delegation covering the following:

Financial Delegations

General Manager's Delegation

Mayor Delegation

Appointment of Native Title Manager

Opening of Tender Documents

Power of Attorney for Parkes Shire Council

Signing of Routine Correspondence

The delegation register is adopted each new term of Council and is constantly updated in respect of changes to legislation or staff.

3. Obtaining Advice on Legislative Provisions

Advice on matters of legislative interpretation may be sought when deemed necessary. Contact may be made with the respective legal officer/solicitor from the following sources:

- a) Local Government NSW (Legal Officer),
- b) Office of Local Government (Legal Services Branch), or
- c) Council's Panel of Solicitors.

Note: Accessing of any legal advice must first be approved by the staff member's relevant Director.

4. Informing Council of Legislative Change

If deemed necessary, the General Manager or a nominated officer, will, on receipt of advice of legislative amendments, submit a report to a Council meeting on the new or amended legislation where any changes will impact significantly on Council or its operations.

5. Review of Incidents and Complaints for Non-compliance

Council shall review all incidents and complaints in accordance with its incident reporting and complaint handling procedures. Such reviews and investigations will assess compliance with legislation, standards, policies and procedures that are applicable.

6. Reporting of Non-compliance

All instances of non-compliance shall be reported as soon as practicable to the respective supervisor/manager. The manager shall determine the appropriate response and ensure the Breach Register Database is updated appropriately. If the matter is deemed a significant breach or significant fines and/or criminal sanctions apply, the matter must be reported immediately to the relevant Director.

Directors should report the matter to the General Manager via Senior Staff Meetings on a monthly basis and report the matter to the General Manager immediately if the breach in question is significant or criminal sanctions may be involved.

The General Manager may instigate an investigation into any non-compliance matter and will report significant non-compliance matters to the Council and external agencies as required.

7. Auditing Legislative Compliance

Council shall incorporate a review of its processes to ensure legislative compliance is included in its internal audit function.

8. Review of Legislative Compliance Procedures

This Procedure will be reviewed every two years.