

# Legislative Compliance Policy

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| <b>Policy Type</b>                      | <b>COUNCIL</b>                                |
| <b>Policy Reference Number</b>          | CPOL 19/40494                                 |
| <b>Link to Community Strategic Plan</b> | 5.3 Ensure good governance and administration |
| <b>Adopted by Council</b>               | 25/06/2024                                    |
| <b>Council Resolution No</b>            | 166/2024FC                                    |
| <b>Version Number</b>                   | 1.1   |
| <b>Responsible Directorate</b>          | Corporate and Community Services              |
| <b>Review schedule</b>                  | Every four years or sooner as required        |
| <b>Next Review Date</b>                 | 30 June 2028                                  |

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## 1. Purpose

This document sets out Federation Council's position for complying with obligations under state and federal law.

## 2. Background

NSW Councils work within the laws established by the NSW Parliament and the Commonwealth Parliament. The Local Government Act 1993 establishes Federation Council as an entity, provides a legislative framework around community expectations, and gives councils broad powers to plan for and provide local community services and facilities. The Act is administered by the Minister for Local Government through the Office of Local Government.

The operations of Federation Council are subject to a wide range of legal requirements, embodied in excess of 100 instruments of legislation, regulations, licences, codes, guidelines and similar binding instruments.

Councils must take care to exercise their powers properly. An agreed legislative compliance approach allows Council to promptly identify issues, manage risk and assure accountability. Effective legislative compliance supports good decision-making, and is driven by a compliance culture with controls across key compliance focus areas.

## 3. Scope

This policy applies to all *Council Officers* and all persons engaged by Council and carrying out official functions of Council or Council business. This includes Councillors, contractors, S355 Committee members and other volunteers.

## 4. Policy Statement

Federation Council is committed to the highest standards of integrity, fairness and ethical conduct, including full compliance with all relevant legal requirements. Council's Legislative compliance policy forms part of its Legislative compliance framework and is aligned to the Governance Lighthouse strategic early warning system developed by the Audit Office of NSW. This framework is a key component in establishing and maintaining strong ethics in local government.

It requires that all those with responsibilities under the policy meet those same standards of integrity, fairness and ethical behaviour, including compliance with any legal requirement.

There is no circumstance under which it is acceptable for Federation Council or any of its employees or contractors to knowingly and deliberately not comply with the law or to act unethically in the course of performing or advancing Federation Council's operations.

## 5. Legislative compliance framework

Council has adopted a risk-based approach to managing compliance with its legislative obligations which place a high priority on workplace health and safety, community safety, information security, fraud and corruption, environmental protection and child safety.

Legislative obligations within these compliance focus areas are of significant strategic or operational importance to Council. Consequently, these obligations are prioritised to ensure the processes and controls that support them are robust and effective, and non-compliance reporting pathways are understood, documented and accessible.

## 6. Responsibilities

1. Councillors will:
  - Ensure that they are aware of any legal requirements that apply to their role and that they comply with them.
  - Review and monitor the leadership and commitment given to legislative compliance through active promotion of the organisation's Legislative Compliance Policy.
  - Monitor compliance performance by way of periodic reports and assurances.
  
2. The General Manager will:
  - Demonstrate accountability and promote a culture of effective legislative compliance across the organisation.
  - Ensure that they are aware of any legal requirements that apply to their role and that they have allocated resources to ensure Council is able to comply with them.
  - Where appropriate, delegate responsibility for compliance to officers with responsibility for particular sections.
  - Oversee the performance of subordinate officers in these matters, including:
    - conforming to and applying relevant requirements of the law within the workplace;
    - ensuring that systems and procedures are established to make the policy effective and operational;
    - ensuring that staff are trained and have the necessary knowledge and understanding to perform their duties in compliance with the policy and all relevant requirements of the law;
    - ensuring that significant compliance responsibilities and accountabilities are included in position descriptions and performance reviews;
    - reporting and investigating any incident or occurrence thought or known to constitute a breach of any legal requirement; and
    - ensuring system enhancements to correct weaknesses are implemented where there is a risk that could result in a breach of such a requirement.
  - Analyse material breaches and identified compliance system weaknesses for systematic trends and ensure that any adverse trends are addressed.
  - Monitor significant reports of non-compliance.
  
3. Directors will:
  - Understand the legislative obligations relevant to their role and directorate.
  - Demonstrate accountability and promote a culture of compliance.
  - Ensure managers are aware of compliance obligations and expectations.
  - Ensure documented processes are in place within their departments to enable Council to meet its legal obligations.
  - Actively encourage and request any reports of non-compliance reports among their teams.
  - Report matters of legislative non-compliance to the General Manager, Deputy General Manager and Governance Officer
  - Participate in review of policy and frameworks to support compliance.
  - Review reports of non-compliance and ensure appropriate actions are assigned and taken to minimise risk of ongoing non-compliance.
  - Investigate and monitor significant reports of non-compliance.

4. Managers will:
  - Understand the legislative obligations relevant to their role and department/business unit.
  - Demonstrate accountability and promote a culture of compliance.
  - Ensure teams/subordinates are aware of compliance obligations and expectations.
  - Ensure documented processes are in place within their departments to enable Council to meet its legal obligations.
  - Actively encourage and request any reports of non-compliance reports among their teams.
  - Escalate matters of legislative non-compliance to their Director
  - Participate in review of policy and frameworks to support compliance.
  - Review reports of non-compliance and ensure appropriate actions are assigned and taken to minimise risk of ongoing non-compliance.
  
5. All staff, volunteers, Section 355 committee members and contractors, at all levels, will:
  - Ensure that they are aware of any legal requirements that apply to their work activities and that they comply with them.
  - Report any non-compliance and action any improvement requests or actions pertaining to legislative compliance appropriately.
  - Where appropriate, and/or as requested provide feedback on existing practices, systems and procedures for improvements and to reduce the likelihood of a breach occurring.
  
6. Council's Audit Risk and Improvement Committee will:
  - Receive and monitor significant reports of non-compliance
  - Provide a level of assurance to Council that appropriate risk management practices are in place, including for managing legislative compliance risk and monitoring implementation of corrective actions where required.

## 7. Consequences of non-compliance

Consequences of non-compliance can be any of the following:

- complaints direct to council
- complaints to the Ombudsman, the ICAC, Audit Office, Information and Privacy Commission or another relevant watchdog body
- review by the NSW Civil and Administrative Tribunal (for example, about alleged breaches of privacy or unjustified refusals of access to information)
- disciplinary proceedings
- legal proceedings for orders to remedy or restrain breaches of certain Acts
- other legal challenges relating to such things as acting beyond the scope of authority or power ('ultra vires') or failing to provide natural justice/procedural fairness
- criminal proceedings

More specific consequences in relation to councils and their staff and governing body may involve:

- a hearing by the Pecuniary Interest and Disciplinary Tribunal into complaints of alleged failures by councillors, staff, delegates and advisers to disclose pecuniary interests
- dismissal of the mayor and councillors and the appointment of an administrator
- removal of a council's planning powers and appointment of a planning administrator
- the appointment of an environmental administrator
- disruption to management, staff morale problems and bad publicity that will result from any of the above

## 8. Definitions

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| <b>Council Officer</b>                  | Also known as a Public Official, includes Councillors; all employees at all levels whether they are permanent, temporary or casual, volunteers, contractors, and external members of Council Committees.   |
| <b>Legislative Compliance</b>           | Adhering to the requirements of law, industry and organisation standards and codes, the principles of good governance, as well as accepted community and ethical standards.  |
| <b>Legislative compliance framework</b> | The framework sets the overarching system used by Council to understand, manage and assure its compliance with legislative obligations. It is supported by this policy, as well as other elements, such as the Legislative compliance procedure, non-compliance reporting, Audit Risk and Improvement Committee and internal audit processes, education and improvement to existing controls, and cultural reform. |

## 9. Internal References & Associated Documents

- Federation Council Legislative Compliance procedure
- Federation Council Compliance register
- Federation Council Compliance Gmail calendar
- [Delegations of Authority from Council to Mayor and General Manager](#)
- Delegations from General Manager to staff
- [Risk Management policy](#)
- Risk Management framework
- [Federation Council Code of Conduct and Procedures for the Administration of the Model Code of Conduct](#)
- [Public Interest Disclosure policy](#)

## 10. External Legislation and References

- Legislation NSW
- Federal register of legislation
- Office of Local Government Compliance Calendar
- NSW Ombudsman (March 2017), Good conduct and administrative practice: Guidelines for state and local government
- Governance Lighthouse Assessment Framework and Checklist for public sector governance

## 11. Contact

For more information about the Legislative compliance framework, this policy or the procedure please email [governance@federationcouncil.nsw.gov.au](mailto:governance@federationcouncil.nsw.gov.au).

## 12. Review date

The policy will be reviewed as needed or every four years.

## 13. Policy History

| Version | Date       | Changes / Amendments  |
|---------|------------|---|
| 1       | 17/12/2019 | New policy adopted by Federation Council (454/19FC)   |
| 1.1     | 10/4/2024  | Policy draft for exhibition. Changes include <ul style="list-style-type: none"><li>• references to Governance Lighthouse Assessment Framework and Checklist</li><li>• clarification on responsibilities</li><li>• reference to Council's Legislative Compliance Framework</li></ul> |
| 1.1     | 25/06/2024 | Revised Policy adopted by Federation Council after exhibition. (166/2024FC)   |

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