

[insert organisation name/logo]

Legal and Regulatory Policy

Document Status: Draft or Final

Date Issued: [date]

Lead Author: [name and position]

Approved by: [insert organisation name] Board of Directors on [date]

Scheduled Review Date: [date]

Record of Policy Review

Review Date	Person Initiating/Leading Review	Other People Consulted

Triggers for Policy Review (tick all that apply)

- Standard review is timetabled.
- A gap has been identified
- Additional knowledge or information has become available to supplement the policy.
- External factors
 - Policy is no longer relevant/current due to changes in external operating environment.
 - There are changes to laws, regulations, terminology and/or government policy.
 - Changes to funding environment, including requirements of funding bod(y)ies
- Other (please specify).
- Internal / organisational factors
 - A stakeholder has identified a need, eg by email, telephone etc
 - A serious or critical incident has occurred, requiring an urgent review.
 - Need for consistency in service delivery across programs and organisations.
 - Separate, stand-alone policy is now warranted
 - A near miss has occurred, requiring a review to prevent a serious/critical incident in the future

Additional Comments

[for example, policy now covers details related to new legislation].

Legal and Regulatory Policy

1. Purpose and Scope

[insert organisation name] Board of Directors and management are responsible for ensuring compliance with provisions contained in a range of legislated requirements under Awards and Acts and in funding agreements.

This policy describes State and Federal compliance obligations applicable to the organisation and applies to all areas of operation and activity. It covers every Board member, employee, volunteer, student, contractor, and any other agent of the organisation.

2. Definitions

Any reference to the law includes:

- acts, regulations, codes and other subordinate legislation
- operating licences and other authorisations
- government policy
- government and industry guidelines and practice statements
- court cases (common law)
- conditions imposed on approvals and other licences.

Compliance obligations may include:

- reporting requirements (provision of data or information)
- requirements for accreditation, registration or licensing
- complying with timeframes associated with legislation for performing activities
- requirements to provide a specified service or range of services (and restrictions or limitations on how these services may be offered)
- financial obligations.

3. Principles

Legislative and regulatory compliance means ensuring the organisation meets its legal obligations ethically and proactively.

The Board, staff, students, volunteers and consumers act in accordance with all laws and regulations relevant to the organisations operations.

Information regarding current legislation is provided to all Board, staff, students, volunteers and consumers where relevant, including notification to those affected by new legislation.

Compliance breaches pose an unacceptable risk to the organisation.

4. Outcomes

Regulatory risk is minimised through a proactive culture of compliance.

Compliance strengths and weaknesses are identified in order to benefit from the strengths and effectively address any weakness.

[name of organisation] has systems to ensure it is aware of current legislation and regulations pertinent to its corporate governance, business functions and service delivery.

5. Functions and Delegations

Position	Delegation/Task
Board of Directors	Endorse Legal and Regulatory Policy Compliance with Legal and Regulatory Policy. Establish and monitor systems of internal control and risk management. Ensure policy development and review reflects new or amended legislation. Ensure non-compliance issues are investigated and reported to appropriate parties in a timely manner.
Management	Compliance with Legal and Regulatory Policy. <u>CEO/Manager:</u> Accountable for the identification, analysis, treatment and reporting of legal compliance risks and legal compliance breaches.
Staff	Compliance with Legal and Regulatory Policy. Contribute to the identification, analysis, treatment and reporting of legal compliance risks and legal compliance breaches.

6. Risk Management

The organisation maintains a Compliance Register to support the identification and monitoring of compliance with the relevant local and national legislation and regulation.

Development, monitoring and review of the compliance areas will be undertaken by the Board, senior staff and/or contractors possessing skills and expertise in specific compliance areas.

7. Policy Implementation

Legislative and regulatory compliance is an ongoing responsibility of the Board and staff, and are involved in policy development, induction and ongoing training to ensure a clear understanding of their roles and responsibilities related to legislation and regulations.

It is the responsibility of each individual to ensure that they comply and participate in regular, ongoing review of policies and procedures.

A Legal Compliance Checklist is used to support the implementation of this policy.

8. Policy Detail

[insert organisation name]:

- complies with all relevant legislation, laws, standards, codes and internal policies
- maintains and raises the level of awareness of its compliance obligations within the organisation through the provision of education, training and legal advice
- develops and applies practices and processes to ensure compliance with legal and regulatory obligations
- monitors compliance with legal and regulatory obligations
- takes action to prevent recurrence of compliance failures.

8.1 Compliance Obligations

[insert organisation name] manages compliance obligations through the following:

- identification, development and documentation of relevant procedures and processes necessary to ensure compliance and to manage non-compliance
- systematically improving procedures and processes
- documentation of compliance and non-compliance issues

- monitoring and reporting of non-compliance issues.

8.2 Responsibilities

The Board of Directors is ultimately responsible for ensuring **[name of organisation]** meets all legal and regulatory requirements, including the laws related to the purpose for which the organisation was established.

The Board decides which decisions and authorities can be delegated to any of its members or to the CEO/Manager and/or other staff.

The Constitution, employee position descriptions, policies and procedures assist in clearly defining these delegated authorities.

The Board and the CEO/Manager are responsible for ensuring reporting of incorporation status and performance and financial statements are provided to statutory bodies and to other parties as required.

8.3 Notification of New and Amended Legislation

The Board and CEO/Manager are responsible for keeping informed of changes in legislative and regulatory requirements and for communicating such changes to the full Board and staff.

Changes may be monitored through maintaining membership of relevant networks and website update services through relationships with government or statutory authorities.

Once information regarding legislative and regulatory changes is received, the Board and CEO/Manager review implications for the organisation and develop appropriate responses.

8.4 Reviewing Work Practices

Where changes to legislation and regulation require a change in practice, relevant policies and procedures are reviewed, amended and communicated as per the Policy Development & Review Policy.

The organisation provides appropriate information, training and resources where necessary to ensure that Board and staff have the capacity to change their current work practice to meet new legislation and regulation requirements.

It is the responsibility of all Board members and staff to become familiar with legislation and regulation changes and to incorporate them into their work practice.

8.5 Compliance Checklists

Compliance checklists and registers are utilised to monitor legal, accounting and operational compliance.

Development, monitoring and review of compliance checklists and registers is undertaken by Board members, staff and/or contractors possessing skills and expertise in specific areas of compliance.

The process for monitoring compliance includes:

- identifying relevant legislation, laws, standards, codes and policies which impose a compliance obligation
- developing compliance checklists and registers for each area identified
- using the checklists and registers to review organisational compliance
- taking action to address non-compliance
- reviewing relevant legislation, laws, standards, codes and policies to update the checklist and register.

8.6 Wilful Breaches

[insert organisation name] views wilful breaches of legislative and regulatory compliance as serious misconduct and will deal with such matter through the Human Resources Policy and the Community, Professional & Personal Development Policy.

9. References + Resources

9.1 Internal

Professional and Personal Development Policy
Governance & Management Policy
Human Resources Policy
Policy Development Policy
Legal Compliance Checklist
Compliance Register

9.2 External

Legislation

Age Discrimination Act 2004 (Commonwealth)
Anti-Discrimination Act (1977)
Associations Incorporations Act 2009 (NSW)
Births, Deaths and Marriages Registration Act 1995
Building Code of Australia
Children and Young Persons (Care and Protection) Act 1998 (NSW)
Commission for Children and Young People Act 1998 (NSW)
Community Services (Complaints, Reviews and Monitoring) Act 1993
Competition and Consumer Act 2010 (Commonwealth)
Co-operatives Act 1982 (NSW)
Coroners Act 2009
Coroners Regulation 2005
Corporations Act 2001 (Commonwealth)
Crimes Act 1914 (Commonwealth)
Criminal Records Act 1991 (NSW)
Do Not Call Register Act 2006 and Do Not Call Register Regulations 2006 (Cth)
Disability Discrimination Act 1992 (Commonwealth)
Food Act 2003 (NSW)
Guardianship Act 1987 (NSW)
Health Records and Information Privacy Act 2002 (NSW)
Human Rights and Equal Opportunity Commission Act 1996(Commonwealth)
Local Government Regulations
Lotteries and Art Unions Act 1901 (NSW)
Mental Health Act (NSW) 2007
Motor Accidents Act 1988 (NSW)
Privacy Act 1988 (Cth)
Privacy and Personal Information Protection Act 1998 (NSW)
Public Health Act 1991 (NSW)
Public Health (General) Regulation 2002 (NSW)
Racial Discrimination Act 1975(Commonwealth)
Sex Discrimination Act 1984 (Commonwealth)
Spam Act 2003 and Spam Regulations 2004 (Commonwealth)
State and/or Commonwealth industrial relations and/or employee related legislation applicable to your organisation, eg

- Annual Holidays Act 1944 (NSW)
- Equal Opportunity for Women in the Workplace Act 1999 (Commonwealth)
- Fair Work Act 2009 and associated National Employment Standards
- Income Tax Assessment Act 1997 (Commonwealth)
- Industrial Relations Act 1996 NSW
- Long Service Leave Act 1955 (NSW)
- Public Holidays Act 2010 (NSW)
- Superannuation Guarantee (Administration) Act 1992 (Commonwealth)
- Workers Compensation Act 1987 (NSW)

- Workplace Injury Management and Workers Compensation Act 1998 (NSW)
- The Community Relations Commission and Principles of Multiculturalism Act 2000 (NSW)
 Work Health and Safety Act 2011 (Commonwealth)
 Model Work Health and Safety Regulations 2011 (Cth)

Resources

Australian Security Exchange (ASX) Corporate Governance Council 2007, *Corporate Governance Principles and Recommendations*, 2nd edition, Australian Security Exchange, Sydney.

Department of Ageing, Disability and Home Care 2009, *It's Your Business*, Department of Ageing, Disability and Home Care, Sydney.

This policy is adapted from the NADA Legal and Regulatory Policy.

http://www.nada.org.au/index.php?option=com_content&task=view&id=236&Itemid=44

9.3 Quality and Accreditation Standards

EQuIP4

N/A

EQuIP 5

N/A

Health and Community Service Standards (6th edition)

Provided by Quality Improvement Council (QIC)

Standard 1.8: The organisation ensures compliance with all relevant laws and regulations.

Evidence questions: What is the evidence that the organisation:

- a) is aware of the legislative framework that applies to its operations?
- b) maintains internal processes to monitor compliance regularly?
- c) has and uses protocols to remedy the situation whenever non-compliance occurs?
- d) fulfils all reporting requirements regarding legal compliance?

9.4 National Mental Health Standards

Criterion 1.2 All care is delivered in accordance with relevant Commonwealth, state / territory mental health legislation and related Acts.

Criterion 2.5 The MHS complies with relevant Commonwealth and state / territory transport policies and guidelines, including the current National Safe Transport Principles.

Criterion 8.4 The organisation has processes in place to ensure compliance with relevant Commonwealth, state / territory mental health legislation and related Acts.

9.5 Recovery Oriented Service Self-Assessment Tool (ROSSAT)

Evidence item is:

Item 1.1: Management and other workers of the organisation identify the following:

- Emerging best practice regarding recovery orientation
- Potential tools and training
- Potential new technologies to assist in provision of recovery oriented services
- Evaluation tools and frameworks

Item 1.10: The organisation maintains an information system that facilitates the appropriate collection, use, storage, transmission and analysis of data to enable review of services and outcomes at an individual and service level. This is done in accordance with information management and related Commonwealth, State / Territory legislation and Acts.

Item 4.3e: The organisation provides the opportunity for ongoing training on the obtaining and sharing of knowledge and information including:

- Protocols relating to privacy and confidentiality
- Relevant legislation changes
- Innovative recovery based practice
- New and existing relevant services
- Sharing accessible information and resources relevant to consumers, their families and carers.

9.6 NSW Disability Services Standards (DSS)

8.1: The service provider ensures the legal and human rights of people with a disability are upheld within the service