



Version	Approved by	Approval date	Effective date	Next review
1.2	Deputy Vice-Chancellor, Enterprise	20 June 2019	20 June 2019	6 December 2020
Procedure Statement				
Purpose	<p>This Procedure supports the Legislative Compliance Policy by providing a framework for:</p> <ul style="list-style-type: none"> (a) the identification, assessment and classification of legislative compliance obligations based upon the implications of non-compliance; (b) designating compliance management responsibility; (c) establishing management requirements for legislative compliance obligations; (d) monitoring compliance performance and identifying and reporting compliance issues; (e) annual compliance assurance certification; and (f) the reporting of compliance matters to the Management Board and the Council. 			
Scope	This Procedure applies to all staff, affiliates and students of the University. Controlled entities of the University should have legislative compliance systems consistent with this policy.			
Are Local Documents on this subject permitted?	<input type="checkbox"/> Yes, however Local Documents must be consistent with this University-wide Document		<input checked="" type="checkbox"/> No	
Procedure Processes and Actions				

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1. Legislative Compliance Procedure

1.1 Classification of Legislation by Tiers

The breadth of the University's operations results in a large volume of legislation that imposes compliance obligations. The imposition that this legislation has on the day-to-day activities of the University varies greatly, with some having broad application across the University whilst other legislation applies to only a small number of University areas.

The implications of breaching legislative compliance obligations also vary considerably; in some cases, a breach could severely impact the University's overall operations, and in others, a breach would have little or no impact on the University's overall operations (although it may have very significant local impact on a particular School or other unit of business).

Recognising the varying scope and severity of the impact, this Procedure applies the following tiered-classification system to each identified Act, based on the financial, regulatory, reputational and safety impacts (refer to the [UNSW Risk Management Framework](#) for further guidance) associated with breaching compliance obligations under each Act.

Legislation classified by tier:

Tier 1	University-wide compliance obligations where a breach could have a Severe or Major impact on the operation of the entire University (requires compliance to be centrally managed). <i>eg. Tertiary Education Quality and Standards Agency Act 2011 (Cth)</i>
Tier 2	Compliance obligations specifically relevant to a single School/Department, or a limited number of Schools/Departments, where a breach could have a Severe or Major impact on the operation of the School/s or Department/s (requires compliance to be centrally managed). <i>eg. Radiation Control Act 1990 (NSW)</i>
Tier 3	University-wide compliance obligations where a breach could have a High, Medium or Low impact on the operation of the entire University (requires compliance to be centrally managed). <i>eg. Fringe Benefits Tax Assessment Act 1986 (Cth)</i>
Tier 4	Compliance obligations specifically relevant to a single School/Department, or a limited number of Schools/Departments, where a breach could have a High, Medium or Low impact on the operation of the School/s or Department/s (compliance can be locally managed). <i>eg. Civil Aviation Act 1988 (Cth)</i>

University Legislation Register

All identified Acts imposing compliance obligations on the University are included in the UNSW Legislation Register ("**Legislation Register**"). The Legislation Register is accessible by all University staff via the Legal Office website and includes details of:

- the legislation and obligations imposed (including an overview and potential liabilities); and
- the management framework to support compliance with the Act or the specific obligations (including the relevant University Compliance Owner ('**UCO**') and active internal compliance controls)

The Compliance Unit works with UCOs to ensure that the data in the Legislation Register is maintained, accurate and up-to-date.

1.2 Assignment of compliance management responsibility

Each Act in the Legislation Register will have one or more University Compliance Owners ('**UCO**'). UCOs may be designated assigned to manage the Act (all legislative obligations) or may be designated to specific obligations under the Act.

Tier 1-3

The University Compliance Owner (UCO) is the senior manager whose portfolio responsibilities include developing and implementing and monitoring internal compliance controls for the applicable obligation under the legislation.

Tier 4

The University Compliance Owner (UCO) for Tier 4 legislation is the head of the School/Department/Division in which that obligation arises and are responsible for developing, implementing and monitoring internal compliance controls.

Internal compliance controls include systems, codes, policies, standards, procedures, guidelines and training designed to support compliance with legislation. See '**Guidelines for University Compliance Owners, Legislative Compliance Framework**' for further guidance.

Where a compliance management responsibility for an Act or specific obligations under that Act cannot be determined based on portfolio responsibilities, the Vice-Chancellor (in consultation with the Management Board) determines who will be the University Compliance Owner for that Act/obligation.

1.3 Managing compliance obligations

Compliance with legislative obligations is mandatory, regardless of the classification of the legislation.

The level of internal compliance controls should be appropriate for the operational requirements of the University and must be guided by the tiered-classification rating for each Act, meaning that the internal compliance controls for Tier 1 or Tier 2 legislation should be the most rigorous, to reflect the potential impact of non-compliance on the University.

University Compliance Owners should consult the '**Guidelines for University Compliance Owners, Legislative Compliance Owners**' and use the [UNSW Risk Management Framework](#) for further guidance on:

- assessing and classifying legislative obligations with an 'Impact Rating' (the severity of impact), 'Likelihood Rating' (likelihood of a breach) and overall 'Risk Rating';
- how to determine the appropriate controls for specific legislative obligations through a risk-management lens; and
- minimum expectations on internal compliance controls, monitoring compliance, and managing breaches.

(a) **Tier 1 Legislation**

Documented internal compliance controls are **compulsory** for all obligations imposed by Tier 1 legislation

Each **UCO** is responsible for developing and documenting internal compliance controls for all applicable obligations under the Tier 1 legislation within his/her portfolio and for implementing and monitoring the controls across the University consistent with the '**Guidelines for University Compliance Owners, Legislative Compliance Framework**'.

Heads of Schools/Departments are responsible for supporting the **UCO** in the implementation, and reporting on the operation, of internal compliance controls within their School/Department.

A listing of all internal compliance controls for Tier 1 legislation is recorded in the Legislation Register.

(b) **Tier 2/Tier 3 Legislation**

Each **UCO** is responsible for developing and documenting internal compliance controls for all applicable obligations under the Tier 2 and Tier 3 legislation within their portfolio and for implementing and monitoring the controls in all applicable Schools/Departments consistent with the 'Legislative Compliance Guidelines for University Compliance Owners'.

Heads of Schools/Departments/Divisions are responsible for supporting the **UCO** in the implementation, and reporting on the operation, of internal compliance controls within their School/Department.

A listing of all internal compliance controls for Tier 2 and Tier 3 legislation is recorded in the Legislation Register.

(c) **Tier 4 Legislation**

Documented internal compliance controls are encouraged for Tier 4 legislation. In addition, internal compliance controls **must** be documented if an '**Unlikely**' **Likelihood Rating** would not otherwise be achieved.

1.4 Monitoring compliance management

The monitoring of internal compliance controls is essential to effective compliance management. This monitoring role is the primary responsibility of the relevant UCO, but all managers are also responsible for:

- understanding the compliance obligations applicable to the operations of their School/Department/Division and what internal compliance controls have been implemented by UCOs to manage compliance;
- ensuring that all relevant internal compliance controls are being applied within their School/Department/Division;
- monitoring the application of relevant internal compliance controls during the ordinary course of business; and
- identifying and reporting non-compliance (actual, suspected or potential) to their supervisor and the applicable UCO.

Managers can refer to the Legislation Register to determine legislative compliance obligations that apply to their business unit. The Compliance Unit can also provide assistance upon request.

1.5 Reporting a compliance breach (actual, suspected or potential)

Every staff member should inform their supervisor or Head of School/Department/Division if they become aware of any instance of a compliance breach (actual, suspected or potential) with a legislative obligation, whether such actions involve themselves or the actions of someone else. If there is no-one appropriate within the business unit to report the breach or the staff member wishes to make a confidential report, reports can be made to the UCO for that legislation or the UNSW Compliance Manager.

Reports should be made promptly, ensuring that actions can be put in place immediately to either prevent the breach or lessen the consequences of the breach.

University Compliance Register

The Compliance Register is designed to provide a central record of all significant breaches or matters of non-compliance across the University.

The UCO is responsible for ensuring such breaches or matters are reported to the Compliance Manager for inclusion in the Compliance Register. UCOs have a general discretion to determine whether a breach or matter of non-compliance should be recorded, however a report must be made for:

- a breach of the legislation that would have one or more **Major consequences** or higher (across all categories – Education & Research, Human, Service Delivery, Brand & Reputation, Finance or Compliance) as defined in the '**Description of Consequences**' in the UNSW Risk Management Framework

- a matter of non-compliance which has triggered investigation or involvement of the external regulator and if substantiated could result in one or more **Major consequences** or higher (across all categories – Education & Research, Human, Service Delivery, Brand & Reputation, Finance or Compliance) as defined in the '**Description of Consequences**' in the UNSW Risk Management Framework

The principal objective of reporting a breach is to implement appropriate corrective actions and prevent reoccurrence. Primary responsibility for taking corrective action rests with the business unit where the breach occurred, unless the UCO determines it necessary to intervene. Corrective actions should be determined in consultation with the UCO.

A reported breach will be closed on the Compliance Register once the relevant UCO is satisfied that all necessary corrective actions and any necessary additional controls have been implemented. If this includes the identification of a broader risk to the University then the breach is reported to the Director, Risk Management for inclusion in the University Risk Register.

The Compliance Register provides the basis for the Compliance Manager to provide reporting to UCOs, Heads of School/Departments, Management Board and the committees of the University Council. The Register also provides the data for the annual compliance certification process (see 1.6 below).

Note - The Compliance Register is confidential and may consist of, or include, legal advice to which legal professional privilege attaches. Staff should not disclose the contents of the Compliance Register to any person outside of UNSW without prior discussion with the UNSW Legal Office.

1.6 Annual compliance certification – Tier 1 and Tier 2 legislation

On an annual basis UCOs provide a certification to the Vice-Chancellor of compliance for all Tier 1 and Tier 2 legislation. Certification of compliance allows the University to demonstrate its commitment to effective legislative compliance management to both the University Council and external regulatory and government bodies. Certification is administered by the Compliance Unit. UCOs certify that, to the best of their knowledge after undertaking all proper enquiries and checks:

- internal compliance controls for all obligations arising from Tier 1 and Tier 2 legislation within their portfolio are up- to-date (or being updated), taking into account any new or amended legislation;
- they have conducted a 'risk self-assessment' for each of their obligations arising under Tier 1 and Tier 2 within their portfolio. The 'risk self-assessment' involves classifying the 'Likelihood Rating' and overall 'Risk Rating' in accordance with the UCO Guidelines and UNSW Risk Management Framework;
- internal compliance controls for all obligations arising from Tier 1 and Tier 2 legislation within their portfolio are sufficient for the University to effectively manage its compliance obligations (that is, the obligation and internal controls when assessed achieve an overall Risk Rating of no higher than 'Minor' – refer to the UNSW Risk Management Framework for guidance);
- all such internal controls have been communicated to and are being applied in all relevant Schools and Departments; and
- all breaches reported and recorded on the Compliance Register have been, or are being, addressed to resolve the matter and prevent reoccurrence.

A certificate of compliance provided by a UCO for a specific legislative obligation, must include assurances that internal controls are being correctly applied in all Schools and Departments in which the legislative obligation applies. Such assurances must be documented.

Where necessary, the UCO (in conjunction with the Compliance Manager) should conduct compliance certification within the relevant Schools and Departments to ensure that internal controls are being applied. Where required, Heads of School/Department will certify that:

- all relevant internal compliance controls, as notified by the relevant UCO, have been applied within their unit;
- all compliance obligations on their School/Department arising under Tier 4 legislation are being effectively managed; and
- all breaches reported and recorded on the Compliance Register have been, or are being, addressed to resolve the breach and prevent reoccurrence.

1.7 Reporting to the Vice-Chancellor, Internal Audit and University Council

An annual report on the operation of the *Legislative Compliance Policy* and *Legislative Compliance Procedure* is provided by the Compliance Manager to the Vice-Chancellor, Director of Internal Audit and the Audit Committee of Council.

Additional reports on compliance issues may also be prepared as required.

2. Roles and Responsibilities

2.1 Management Board

The Management Board is responsible for:

- assisting the Vice-Chancellor to determine compliance responsibilities as required (for example, where no UCO has been determined for a particular piece of legislation or a particular set of legislative obligations);
- providing appropriate resourcing for the management of compliance obligations; and
- reviewing and making recommendations in regard to the annual compliance certification report and providing the report to the Audit Committee of the University Council.

Management Board members may be listed individually in the UNSW Legislation Register as the 'Executive Responsibility' for an obligation and accordingly are responsible for overseeing compliance management for that obligation.

2.2 University Compliance Owners (UCOs)

UCOs are responsible for:

- identifying and classifying relevant legislation and legislative obligations;
- resourcing, developing, implementing and monitoring internal compliance controls for all obligations under legislation within their portfolio (with particular attention paid to Tier 1 and Tier 2 legislation);
- working with Heads of School/Department to resolve breaches reported and included on the Compliance Register; and
- providing an annual compliance certification for all Tier 1 and Tier 2 legislation; and
- providing required reporting

2.3 Heads of School/Department/Division

Heads of School/Department/Division are responsible for:

- ensuring all relevant internal compliance controls are applied within their School/Department/Division;
- effectively managing compliance obligations for all Tier 4 legislation applicable to their School/Department/Division;
- reporting all breaches that occur in their School/Department/Division;
- taking all necessary actions to resolve breaches, subject to the directions of the relevant UCO; and
- providing compliance certification for selected legislation as required and any other required reporting.

2.4 The UNSW Compliance Manager (Legal Office)

The UNSW Compliance Manager is responsible for:

- coordinating the implementation of the Legislative Compliance Framework;

- maintaining the University Legislation Register, including working with UCOs to identify and classify relevant legislation;
- maintaining the University Compliance Register;
- coordinating the annual compliance certification for UCOs, including liaising with UCOs to conduct compliance certification in Schools and Departments as required;
- preparing reports on compliance to the Vice-Chancellor and Audit Committee of the University Council as required;
- liaising with the Director, Internal Audit as required on compliance matters; and
- providing training and information sessions on compliance matters as required.

2.5 Individual staff, affiliates and students

Individual staff and affiliates are responsible for:

- being aware of the compliance responsibilities relevant to their position and for following relevant internal compliance controls as directed by their Head of School/Department;
- reporting breaches (actual, suspected or potential) to their supervisor or Head of School/Department.

Individual students are responsible for:

- reporting breaches (actual, suspected or potential) to their supervisor or Head of School/Department.
- cooperating with the reasonable directions of staff/Affiliates in relation to the management of compliance issues.

Accountabilities	
Responsible Officer	Deputy Vice-Chancellor, Enterprise
Contact Officer	Compliance Manager, Compliance Unit, Legal Office
Supporting Information	
Legislative Compliance	This Procedure operates to support the Council in fulfilling its functions as prescribed by section 15 of the University of New South Wales Act 1989 (NSW) .
Parent Document (Policy)	Legislative Compliance Policy
Supporting Documents	Guidelines for University Compliance Owners, Legislative Compliance Framework
Related Documents	This Procedure is intended to support and operate within the UNSW Risk Management Framework
Superseded Documents	Legislative Compliance Procedure v1.1
File Number	2017/27149
Definitions and Acronyms	
Acts	References to 'Acts' are references to legislation enacted by the Commonwealth, States and Territories.
Compliance	References to 'compliance' are references to 'Legislative compliance'.
Compliance obligations	References to 'compliance obligations' are references to obligations imposed by an Act and all subordinate legislation to that Act (including Regulations, Determinations, Orders, Rules) and relevant mandatory Standards and Codes.

Legislation	References to 'Legislation' are references to legislation enacted by the Commonwealth, States and Territories.			
Legislative compliance obligations	References to 'legislative compliance obligations' are references to obligations imposed by an Act and all subordinate legislation to that Act (including Regulations, Determinations, Orders, Rules) and relevant mandatory Standards and Codes.			
Revision History				
Version	For approval by	Approval date	Effective date	Sections modified
1.0	President and Vice-Chancellor	6 December 2017	6 December 2017	Original version.
1.1	Director of Governance	9 January 2018	9 January 2018	Administrative update. Title of Responsible Officer changed from Chief Strategy Officer to Vice-President, Strategy and Quality.
1.2	Deputy Vice-Chancellor, Enterprise	20 June 2019	20 June 2019	Minor updates to language and content in all sections.