

Legislative and Administrative Compliance Program (LACP) Policy and Procedure

Table of contents

1	Purpose	2
2	Definitions.....	2
3	Scope.....	3
4	Policy statement	4
4.1	Core principles of the LACP	4
4.2	Annual program.....	5
4.3	Failure to comply.....	5
5	Procedure	5
5.1	Identify compliance instruments and evaluate compliance risks	5
5.2	Addressing compliance risks.....	6
5.3	Operational controls for compliance risks.....	7
5.4	Monitor, report, measure, analyse and evaluate compliance levels...	7
6	Responsibilities	8
6.1	The Secretary	8
6.2	Divisional heads.....	8
6.3	Compliance leads and policy owners	9
6.4	Employees	9
6.5	Business Ethics and Compliance Unit (BECU).....	9
6.6	Internal Audit.....	9
7	Related legislation and documents.....	9
8	Document information.....	10
9	Support and advice	10

1 Purpose

The Legislative and Administrative Compliance Program (LACP) assists DCJ to operate in accordance with all applicable legislative and administrative instruments to meet its compliance obligations.

The LACP supports the Secretary's compliance with Section 3.6 of the Government Sector Finance Act 2018 (GSF Act) and the attestation under Treasury Policy Paper 20-08 Internal Audit and Risk Management Policy for the General Government Sector.

2 Definitions

Term	Definition
business area	The unit/branch/directorate of the DCJ Division.
compliance	Adhering to relevant laws, regulations, rules, policies, procedures, organisational objectives, standards, industry codes and best practice, governance, ethics, community expectations and service delivery obligations applicable to DCJ.
compliance controls	Aided materials, controlled mechanism or systems designed to reduce or eliminate non-compliance and ensure obligations are met.
compliance lead	The principle representative that creates and develops policies or procedures in enforcing DCJ's compliance.
compliance reporting register	The register that contains all the obligations with which DCJ must comply. The register is used for business areas to report compliance levels for the prescribed financial year period.
divisional head	The lead representative who is responsible for oversight of a division, usually a Deputy Secretary; or someone of Band 3 grade; or equivalent.
employees	DCJ staff and others who perform work in any capacity for DCJ including: <ul style="list-style-type: none"> • senior executives • employees (ongoing, temporary or casual) • members of councils or committees managed by DCJ • interns and graduates • contractors/contingent labour (agency staff) • persons on work experience • students over 18 years of age • volunteers.
division	The collection of business areas that report to the relevant Deputy Secretary

Term	Definition
government direction	Any directions issued by government with which DCJ must comply. These include, but not limited to: <ul style="list-style-type: none"> • Better Regulation Documents (BRD...) • Department of Premier and Cabinet (C...) • Memoranda (M..) • Procurement Board Directions (PBD...) • Public Service Commission Circulars (PSCC...) • Treasury Circulars (TC...) • Treasury Policy Papers (TPP...)
instrument	Legislative (e.g. Acts and Regulations) or administrative (Circulars, Directions, Treasury Policy Papers – TPPs, etc).
non-compliance / breach	A violation of, or failure to comply with, the relevant laws, regulations, rules, policies, procedures, organisational objectives, standards, industry codes and best practice, governance, ethics, community expectations and service delivery obligations applicable to DCJ
obligation	A requirement under legislation, government directions or regulatory directives with which DCJ must comply.
policy owner	The author or principle business unit that creates the policy or procedure document. A policy owner responsible for oversight and reporting against one or more accountabilities under an instrument.
regulatory directives	Any directive that DCJ may be given to report or provide information to regulatory bodies such as: <ul style="list-style-type: none"> • NSW Audit Office • NSW Ombudsman • Office of the Children’s Guardian • Independent Commission Against Corruption (ICAC)
senior executive	All DCJ Public Service Senior Executives (PSSE) includes any non-senior executive acting in a senior executive position.
supervisor	Line manager or manager to whom staff report.
synopsis	Consolidated document outlining all legislative and administrative instruments.

3 Scope

This policy and procedure applies to all DCJ divisions that have obligations assigned to them.

4 Policy statement

The LACP is not designed to name and shame divisional heads, policy owners or business areas. It is a tool to assist the department to ensure that appropriate obligations are being met, to mitigate the risk of non-compliance and to strengthen DCJ's reputation and community confidence. It further provides senior management insights as to where to invest in more education, resources, systems or processes to improve internal controls.

4.1 Core principles of the LACP

The department has identified four interrelated principles which guide our practice in the context of compliance management:

- Commitment
- Communication
- Assurance
- Continuous Improvement



4.2 Annual program

The LACP is rolled out annually for reporting on the previous financial year. It assists business areas to identify any instances of non-compliance and ensures improved compliance through a structured program that includes:

- Developing and promoting a culture that is consistent with the NSW Public Sector values of Service, Trust, Integrity, Service and Accountability, and stakeholder expectation of DCJ.
- Assessing and improving compliance performance by identifying, monitoring and reporting DCJ's compliance obligations with relevant legislative and administrative instruments.
- Developing, implementing and monitoring internal controls to mitigate risks.
- Establishing processes for identifying, tracking and recording compliance with DCJ's compliance obligations.
- Identifying management roles and responsibilities for compliance monitoring.
- Providing remediation if non-compliance or weaknesses in existing systems and controls are identified.
- Annual reporting to the Secretary, DCJ senior executives, and the Audit and Risk Committee/s (ARC) on compliance levels.

4.3 Failure to comply

Reporting compliance breaches is critical to managing risk within DCJ. It allows senior management to have oversight of where there are gaps in controls, or where resources or training is required. Intentional failure to disclose a breach of an obligation or being complicit in supporting others to avoid disclosing a breach may constitute misconduct and may result in disciplinary action.

In some cases, failure to comply with this policy and procedure may constitute corrupt conduct. Some examples may include, but are not limited to the following:

- Intentionally concealing or failing to disclose a breach of an obligation
- Making a false or understated declaration
- Knowingly supporting others to avoid disclosure

5 Procedure

5.1 Identify compliance instruments and evaluate compliance risks

The BECU uses a number of sources to identify instruments relevant to DCJ. Obligations identified as relevant to DCJ are recorded in the LACP Synopsis.

The Compliance Reporting Register is a list of instruments that DCJ must comply with. Business areas are encouraged to advise the BECU:

- whether the instrument is applicable to their business area
- of any new, amended or rescinded instruments.

Business areas are required to complete and/or confirm the compliance risk assessment in the Compliance Reporting Register. Compliance risk assessments should be done using the likelihood/consequence risk matrix which is found as a tab in the Compliance Reporting Register. Risk is assessed on the likelihood (i.e. probability of non-compliance) and consequences (i.e. effect of non-compliance on DCJ) with that particular obligation.

5.2 Addressing compliance risks

The Compliance Reporting and Breach Registers are provided to each division to complete their annual self-assessment for the previous financial period against each assigned instrument. Divisional heads are responsible for reviewing, approving and returning their business areas' completed Compliance Reporting and Breach Registers (where required).

Each division is required to self-assess and report on compliance levels against each relevant instrument using the Compliance Reporting Register. This includes any breaches identified even if these have already been remediated.

Each division that has identified non-compliance/breach must complete the Breach Register and provide the following information:

- date of the breach
- name of entity
- division where breach occurred
- directorate business area where breach occurred
- name of the instrument
- details of the obligations under the instrument
- description of the breach
- risk rating of the breach
- corrective action/s (strategies) taken or to be taken
- corrective action target date
- status of the corrective action

Divisional heads are provided with a certification form to complete once all their divisional Compliance Reporting Registers have been reported against. This certification provides oversight of potential compliance risks for senior management. It also provides assurance that:

- compliance reported in their divisional Compliance Reporting Register/s is true and accurate
- appropriate controls are in place to ensure compliance (including monitoring) with their divisional obligations
- any identified breach has been addressed to mitigate future non-compliance.

5.3 Operational controls for compliance risks

The primary purpose of the Compliance Reporting Register is to enable identification and risk management of all compliance obligations. It constitutes the basis for compliance planning and clarifies each obligation.

Working to achieve compliance with obligations should be a priority for every business area in DCJ, and where necessary, written into divisional business plans, policies, procedures or senior executive performance agreements.

The compliance lead or policy owner is the division head with lead responsibility within DCJ for managing overall compliance risk, developing effective compliance controls, responding to compliance breaches, and escalating compliance issues to the ARC and/or the senior executive.

The compliance lead or policy owner must ensure there are compliance controls in place to reduce compliance risks. This may include systems, codes, policies, standards, procedures, guidelines, fact sheets and/or training designed to support the business area to perform its functions and ensure compliance.

The divisional head and/or relevant senior executive is accountable for compliance within their respective business areas. This includes being accountable for adequate controls to be in place to ensure compliance.

5.4 Monitor, report, measure, analyse and evaluate compliance levels

Compliance reporting

DCJ strongly promotes business areas to be transparent when reporting non-compliance or breaches as this provides DCJ with the avenue to strengthen and improve any identified weaknesses.

Each employee should inform their immediate supervisor if they become aware of any instances of a compliance breach with an obligation (actual, suspected or potential). It is important to report breaches even where a breach involves that employee or the actions of someone else.

Intentional breaches of compliance will be managed under DCJ's Code of Ethical Conduct, and in accordance with the Government Sector Employment Act 2013 (NSW) provisions in relation to managing misconduct.

Reporting on compliance supports DCJ senior executives to have oversight and identify compliance risks and make appropriate decisions to address those risks. The Compliance Reporting Register enables summary reporting to management on the effectiveness and appropriateness of compliance management activities.

The results of the Compliance Reporting Register should inform decisions around monitoring and assurance activities as well as resource allocation depending on the risk appetite of each DCJ division.

Compliance assurance and monitoring

Compliance assurance and monitoring tools assess the effectiveness of the program and to identify any areas of non-compliance.

Any overdue or non-compliant responses are escalated, investigated and reported to appropriate stakeholders (e.g. senior executive and the ARC) depending on severity.

Targeted compliance reviews may be performed based on compliance risk assessments and emerging trends of non-compliance.

Analysis and evaluation

An annual compliance report is prepared by the BECU and provided to the DCJ Executive and the Audit and Risk Committee for the Secretary to support completion of the Secretary's attestation statement.

Feedback and information provided by business areas during the reporting phase are utilised to develop the following year's synopsis and Compliance Reporting Register. The BECU monitors changes to legislation via sources like the NSW Legislation Gazette to ensure all key compliance obligations are identified and are still current.

6 Responsibilities

6.1 The Secretary

- Exercise leadership, promote a culture of probity and model DCJ values in relation to the reporting of and compliance with DCJ's obligations under legislation, government directions and regulatory directives.

6.2 Divisional heads

- Exercise leadership, promote a culture of probity and model DCJ values in relation to the reporting of and compliance with DCJ's obligations under legislation, government directions and regulatory directives.
- Ensure compliance assurance by means of certification that the information reported is true and accurate. It is the responsibility of the divisional head to have oversight of their division's compliance.

- Ensure oversight for implementation of remediation strategies for instances of non-compliance.

6.3 Compliance leads and policy owners

- Encourage staff in business areas to be aware of and diligent in complying with instruments assigned to them.
- Promote accurate and timely reporting of compliance levels including where non-compliance or breaches have occurred.
- Support business areas in remediating compliance breaches.
- Regularly review compliance management systems to determine their adequacy, suitability and effectiveness.
- Advise the BECU of any new, amended or rescinded instruments.

6.4 Employees

- Be aware of legislative and administrative compliance obligations within their respective business areas.
- Report compliance breaches and/or identified weaknesses in compliance controls.

6.5 Business Ethics and Compliance Unit (BECU)

Manage and administer the LACP by:

- Performing reviews and identifying instruments to assist business areas.
- Maintaining and updating the Compliance Reporting Registers.
- Providing support and advice to business areas on remediation strategies for instances of non-compliance.
- Providing the DCJ Executive and the ARC with reports on DCJ compliance levels for the preceding financial year.
- Providing external agencies such as the NSW Audit Office with information on the DCJ compliance management system.

6.6 Internal Audit

- Conduct an audit on the DCJ compliance management system on a three yearly cycle from the date of approval of this policy and procedure to help identify gaps in the program and areas that may require refinement.

7 Related legislation and documents

- Australian Standard (AS) ISO 19600:2015 Compliance management systems Guidelines
- International Standard ISO 37301:2021 Compliance management systems – Requirements with guidance for use

- DCJ Enterprise Risk Management Framework
- Internal Audit and Risk Management Policy for the NSW Public Sector TPP20-08
- The Government Sector Finance Act 2018 (NSW)

8 Document information

Document name	Legislative and Administrative Compliance Program (LACP) Policy and Procedure
Applies to	All divisions
Replaces	Legislative and Administrative Compliance Program (LACP) Policy and Procedure, July 2021
Document reference	SGM21-1553
Approval	Deputy Secretary, Corporate Services (22 July 2021)
Version	2.0
Commenced	22 May 2023
Due for review	21 May 2026
Policy owner	Business Ethics and Compliance Unit (BECU)

9 Support and advice

You can get advice and support about this policy and procedure from the BECU who has carriage of this document.

Business unit	Business Ethics and Compliance Unit (BECU) Audit, Risk & Compliance Corporate Services
Email	LACP@dcj.nsw.gov.au

This policy and procedure is subject to change. The latest published version of the policy and procedure is available on the DCJ intranet or internet.