

Factsheet: Compliance Program

What is compliance?

Compliance – Fulfillment of an obligation, while non-compliance is non-fulfilment of a compliance obligation. Obligations may be externally imposed or may be a voluntary undertaking.

Compliance program – A formal structured approach to assuring compliance obligations are met to uphold integrity and reputation.

Organisations that aim to be successful in the long-term need to maintain a culture of integrity and compliance and to consider the needs and expectations of stakeholders. Integrity and compliance are therefore not only the basis, but also an opportunity, for a successful and sustainable organisation.

In response to increasing regulatory pressures, well-publicised compliance breaches and a trend toward greater transparency, compliance and ethics programs have grown exponentially.

Compliance is an outcome of an organisation meeting its obligations and is made sustainable by embedding it in the culture of the organisation. This extends to the behaviour and attitude of people working for the organisation.

Effective, organisation-wide compliance management enables an organisation to demonstrate its commitment to complying with laws and regulations, together with standards of good governance, ethics and community expectations.

An organisation's approach to compliance is usually shaped by the leadership building on a foundation of integrity and applying core values and good governance, ethical and community standards.

Embedding compliance depends on leadership and clear values, as well as measures to promote compliant behaviour. Otherwise, there is risk of non-compliance which may impair business activities, attract penalties and damage an organisation's reputation.

Integrity is part of culture and a compliance management system builds upon that cultural value. Organisations are increasingly convinced that by embedding compliance activities they can safeguard integrity and minimise non-compliance with obligations.

Integrity and effective compliance are therefore key elements of good, diligent management. Compliance also contributes to socially responsible behaviour of organisations.

How is compliance used?

Compliance is a key component of an organisation's overall governance framework.

Use of compliance can vary according to the type of industry or business activity.

Every organisation should be seeking:

- › Legal compliance (compliance requirements) – with laws, regulations, statutory obligations and contracts.
- › Policy compliance (compliance commitments) – with jurisdiction policies and organisation policies.

Compliance is actively used in high-value, high-transaction environments such as financial services where a compliance unit reporting to top management is mandated in many jurisdictions. This philosophy extends to other high-value, high-transaction environments in government where there may be fiduciary risk, but also reputational risk from political and community expectations where government programs may run ineffectively or be subject to risk of fraud.

Legal compliance

Definition – Complying with laws, regulations, statutory obligations and contracts.

- › Meet legal compliance obligations.
- › Comply with requirements of laws, regulations, statutory obligations and contracts.
- › Identify and address any instances of non-fulfilment of legal obligations (non-compliance).

Policy compliance

Definition – Complying with mandated operating systems and methods.

- › Assure systems, policies and procedures are being followed.
- › Undertake regular checks and reviews to assess compliance with systems, policies and procedures.
- › Continuously strengthen systems, policies and procedures.
- › Early detection of weaknesses and timely corrective action taken.
- › Ensure policies and procedures are reviewed and updated periodically in line with pre-determined review periods.

What happens with compliance now?

While some organisations have a strong compliance approach, especially in jurisdictions where there are mandatory compliance requirements, many organisations seem to take a fairly laid-back approach to compliance and do not have a formal compliance program.

When a chief executive officer is asked:

- › *'How do you know your organisation is complying with all relevant laws, regulations, statutory obligations and contracts?'*
- › *'How do you know your organisation is complying with its policies?'*

the answer is likely to be that management look after this. But when pressed on such things as:

- › Evidence to support compliance assumptions.
- › Independent validation of management compliance assertions.

the result will often be there is nothing substantive or evidence-based the chief executive officer can hold up as evidence or validation there is in fact compliance.

What are compliance benefits?

A targeted compliance program has the following features and benefits:

- › Provides greater insight into compliance issues.
- › Focuses on the most critical and complex processes.
- › Ensures consistency in approach and adherence to legal obligations, policies and procedures.
- › Identifies short-term and long-term needs to improve compliance capability.
- › Manages risks more cost-effectively and efficiently.
- › Operates consistently across international, national and regional levels.
- › Establishes regular checks and reviews to validate compliance.
- › Takes the lead on compliance management.
- › Establishes a process for continuous strengthening of systems and processes.
- › Provides early detection of weaknesses and timely corrective action to be taken.
- › Provides integrated compliance analysis and reporting to senior management and the audit committee.
- › Gives confidence to stakeholders the organisation is serious about complying with its obligations.

Is there a compliance standard?

AS ISO 19600:2015 'Compliance management systems – Guidelines' is the compliance standard.

Getting started

Legal compliance

- › Develop legal compliance policy and methodology.

- › Assign resources for legal compliance.
- › Research legal compliance obligations and compliance risks.
- › Develop legal compliance register.
- › Apply risk-based approach to legal compliance obligations.
- › Prepare legal compliance work plan.
- › Build legal compliance program awareness.
- › Commence regular reviews to assess legal compliance.
- › Roll-out legal compliance activities.
- › Implement annual senior management assertions for legal compliance.
- › Implement legal compliance monitoring and reporting.

Policy compliance

- › Develop policy compliance model, policy and methodology.
- › Assign resources for system and policy compliance.
- › Develop targeted risk-based system and policy compliance strategies.
- › Prepare policy compliance work plan, including check and review schedule.
- › Develop policy compliance activities and reporting.
- › Build policy compliance program awareness.
- › Roll-out policy compliance activities and reporting.
- › Commence regular checks and reviews to assess policy compliance.
- › Implement annual senior management assertions for policy compliance.
- › Implement policy compliance monitoring and reporting.

Conclusion

If you cannot answer the following questions by producing evidence-based data:

- › *'How do we know our organisation is complying with all relevant laws, regulations, statutory obligations and contracts?'*
- › *'How do we know our organisation is complying with its policies?'*

then you really do not know whether you are complying with your obligations.

Useful references

AS ISO 19600:2015 'Compliance management systems – Guidelines'

'The 20 Critical Questions Series – What Directors should ask about Compliance', IIA-Australia

White Paper 'Auditing your Entity's Compliance Framework', IIA-Australia

Acknowledgement

This factsheet has drawn upon information contained in AS ISO 19600:2015 'Compliance management systems – Guidelines'.