

Legislative Compliance

Introduction

The Shire has an obligation to ensure that legislative requirements are complied with. The community and those working at the Shire have an expectation that the Shire will comply with applicable legislation and that the Shire will take all appropriate measures to ensure that expectation is met.

Objective

To ensure that Members and Shire Workers fulfilling their obligations to the Shire through their roles comply with all legislation applicable to local government.

Scope

This policy applies to all Members and Workers.

Definitions

Term	Definition
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
DPLH	Department of Planning, Lands and Heritage
Executive Managers	means the Managers defined as Senior Employees that Council resolved (Res. No. OCM026/03/22) to designate in accordance with section 5.37 of the <i>Local Government Act 1995</i> : <ul style="list-style-type: none"> • Manager Corporate and Community Services; • Manager Infrastructure and Assets; and • Manager Development and Regulation.
Member	means, in relation to a council or committee, a Council Member in the Act; Elected Member; or Councillor; or a member of the committee.
OAG	Office of the Auditor General
PSC	Public Sector Commission
Prescribed Act	means an Act that is prescribed by the regulations made under the <i>Criminal Procedure Act 2004</i> .

Term	Definition
	<p>Schedule 1A of the <i>Criminal Procedure Regulations 2005</i> (Infringement Notices) provides a list of Prescribed Acts as follows:</p> <ul style="list-style-type: none"> • <i>Associations Incorporation Act 2015;</i> • <i>Biodiversity Conservation Act 2016;</i> • <i>Building Act 2011;</i> • <i>Building and Construction Industry (Security of Payment) Act 2021;</i> • <i>Building Services (Complaint Resolution and Administration) Act 2011;</i> • <i>Building Services (Registration) Act 2011;</i> • <i>Business Names Act 1962;</i> • <i>Charitable Collections Act 1946;</i> • <i>Chattel Securities Act 1987;</i> • <i>Child Care Services Act 2007;</i> • <i>Companies (Co-operative) Act 1943 3;</i> • <i>Co-operative and Provident Societies Act 1903 3;</i> • <i>Credit Act 1984;</i> • <i>Credit (Administration) Act 1984;</i> • <i>Debt Collectors Licensing Act 1964;</i> • <i>Electricity Act 1945;</i> • <i>Emergency Management Act 2005;</i> • <i>Employment Agents Act 1976;</i> • <i>Energy Coordination Act 1994;</i> • <i>Energy Safety Act 2006;</i> • <i>Fair Trading Act 2010;</i> • <i>Gas Standards Act 1972;</i> • <i>Health (Miscellaneous Provisions) Act 1911;</i> • <i>Health Services Act 2016;</i> • <i>Hire-Purchase Act 1959;</i> • <i>Juries Act 1957;</i> • <i>Land Administration Act 1997;</i>

Term	Definition
	<ul style="list-style-type: none"> • <i>Land Valuers Licensing Act 1978;</i> • <i>Limited Partnerships Act 2016;</i> • <i>Mining Rehabilitation Fund Act 2012;</i> • <i>Public Health Act 2016;</i> • <i>Real Estate and Business Agents Act 1978;</i> • <i>Residential Parks (Long-stay Tenants) Act 2006;</i> • <i>Residential Tenancies Act 1987;</i> • <i>Retail Trading Hours Act 1987;</i> • <i>Settlement Agents Act 1981;</i> • <i>Shipping and Pilotage Act 1967;</i> • <i>Street Collections (Regulation) Act 1940;</i> • <i>Ticket Scalping Act 2021;</i> • <i>Tobacco Products Control Act 2006;</i> • <i>Transport (Road Passenger Services) Act 2018;</i> • <i>Water Services Act 2012;</i> • <i>Western Australian Meat Industry Authority Act 1976.</i>
Shire	the Shire of Toodyay.
Shire Officer	employee of the Local Government. May also be referred to as Worker in accordance with WHS legislation.
Shire President	means a mayor or president elected by the Council from amongst the councillors.
WALGA	Western Australian Local Government Association
WHS legislation	<i>Work Health and Safety Act 2020.</i> <i>Work (Health and Safety) General Regulations 2022.</i>
Workers	means employees, contractors and volunteers as per the WHS legislation.

Policy Statement

The Shire will have appropriate processes and structures in place to ensure that legislative requirements are achievable and are integrated into the operations of the Shire. These processes and structures will aim to:

1. Develop and maintain a system for identifying the legislation that applies to the Shire's activities;
2. Assign responsibilities for ensuring that legislation and regulatory obligations are fully implemented;
3. Provide training and resources for Members and Workers whose roles are affected by the impact of relevant legislative provisions to identify and remain up to date with new legislation;
4. Review accidents, incidents and other situations where there may have been non-compliance; and
5. Review audit reports, incident reports, complaints and other information to assess how the systems of compliance can be improved.

1. Responsibilities

- a) Members and workers have a responsibility to be aware of and abide by legislation applicable to their role.
- b) The Shire shall have systems in place to ensure that Members and Workers are given the opportunity to be kept fully informed, briefed and/or trained about key legal requirements relative to their role, within its financial capacity to do so.

2. Legislative Compliance Procedures

- a) The Shire accesses electronic up to date versions of legislation through the Western Australian State Law Publisher website at www.slp.wa.gov.au.
- b) The Shire receives regular circulars from the DLGC on any new or amended legislation. Such advice is received and processed through the Shire's Records Department and is distributed to the CEO and other relevant Officers for implementation.
- c) The Shire receives regular circulars from WALGA and these Circulars highlight changes in legislation applicable to local government. Such advice is received and processed through the Shire's Records Department and is distributed to the CEO and other relevant Officers for implementation.
- d) The Shire will obtain advice on matters of legislation and compliance where necessary. Contact can be made with the DLGSC; the DPLH; the OAG; the PSC; or any other relevant government department for advice. Governance advice can also be sought from WALGA.
- e) If appropriate, the CEO will, on receipt of advice of legislative amendments, advise the Council of new or amended legislation.
- f) The Shire's format for all its reports to Council meetings provides that all reports have a section headed 'Statutory Implications' which shall detail Shire of Toodyay Policy Manual Administration Policy No A.20 – Legislative Compliance Policy

relevant Sections of any Act, Regulation or other relevant and/or applicable legislation.

3. Non-compliance

- a) All instances of non-compliance shall be reported immediately to the relevant Manager. The Manager shall then determine the appropriate response and report the matter to the CEO.
- b) If a Member becomes aware of non-compliance, they shall report the matter to the Shire President, who will determine the appropriate response and liaise with the CEO regarding the matter.
- c) The CEO will investigate any reports of significant non-compliance and if necessary, report the non-compliance to the Council and/or the relevant government authority if required.
- d) Corrective action will be taken through the implementation and improvement of operational procedures and processes, including training.

Reference Information

- Local Government Compliance Framework (DLGSC) - <https://www.dlgsc.wa.gov.au/local-government/local-governments/compliance-and-governance/local-government-compliance-frameworkc>

Legislation

Local Government Act 1995

- Division 2 – Legislative Functions;
- Division 3 – Executive Functions of local governments;
- Division 4 – Local Government Employees.

Local Government (Audit) Regulations 1996

- 9A. CEO to provide documents to Auditor General carrying out financial audit;
- 13. Prescribed statutory requirements for which compliance audit needed (Act s. 7.13(1)(i));
- 14. Compliance audits by local governments;
- 17. CEO to review certain systems and procedures;
- 15. Certified copy of compliance audit return and other documents to be given to Departmental CEO.

Associated documents

[Register of Delegations.](#)

Risk Management policy

Version control information

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