



TABLE OF CONTENTS

PURPOSE ..... 1
SCOPE ..... 1
DEFINITIONS ..... 1
REFERENCES ..... 2
ACTIVITY ..... 2
Upholding the Law ..... 2
Roles and Responsibilities ..... 2
Dealing with Moral or Ethical Objections ..... 4
Identifying Current, New or Amended Legislation ..... 4
Obtaining Advice on Legislative Provisions ..... 6
Informing Council of Legislative Change ..... 6
Dealing with Doubts About Legality or Propriety ..... 6
Review of Incidents and Complaints Regarding Non-Compliance ..... 6
Reporting of Non-Compliance ..... 7
Audit on Legislative Compliance ..... 7
AUTHORISATION ..... 7

PURPOSE

To provide guidance to Council Officers on their obligations to legislative compliance and provide a system to ensure that when legislation is introduced or changed, steps are taken to ensure that actions comply with the relevant legislation.

SCOPE

This procedure applies to all Council Officers (see definition below).

DEFINITIONS

Council Officer (also known as Public Official) includes Councillors; employees whether they are permanent, temporary or casual; volunteers; contractors; and external members of Council Committees.

Legislative Compliance means adhering to the requirements of law, industry and organisation standards and codes, the principles of good governance, as well as accepted community and ethical standards.

This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.

## REFERENCES

Centium (December, 2017), *Governance review: Albury City Council Audit Report*  
NSW Ombudsman (March, 2017), *Good conduct and administrative practice: Guidelines for state and local government*

## ACTIVITY

### UPHOLDING THE LAW

AlburyCity is committed to conducting its functions and activities lawfully and in a manner that is consistent with its legislative obligations.

A fundamental principle of good public administration is that public officials comply with both the letter and spirit of the applicable law (be it statutory or common law). No public official has an unfettered power or discretion.

Taking a rigid approach to applying the law may have negative and harmful effects. AlburyCity and Council Officers must balance the obligation to comply with the law with the moral and/or ethical obligation to ensure that these negative and harmful effects are managed, and where possible, lessened. Adherence to the law is considered rigid when the application of the law results in, or would result in, unintended and distinctly inequitable or unreasonable treatment of an individual or organisation.

In order to balance adherence to the applicable law and consider the legal and ethical impacts, the following should be considered:

- where the law gives AlburyCity a decision-making discretion, it should be exercised in a reasonable way, and consistently with a procedure that can reasonably be perceived to be fair;
- where the law does not give AlburyCity a discretion, reasonableness may mean adopting a broad interpretation in certain circumstances, rather than a rigid adherence to legality;
- other options may be available to AlburyCity to mitigate any unreasonable or inequitable effects of legislative compliance such as deferring regulatory action to allow for authorisation to be obtained or fast-tracking assessment and determination of an application. These options should consider the relevant delegated authority.

### ROLES AND RESPONSIBILITIES

The NSW Ombudsman states:

*“All public officials are under an obligation to know and understand the law relevant to the performance of their official duties. Failure to comply with the law could be a criminal act. Breaches of the law which do not reach this threshold could still constitute disciplinary matters or have other serious consequences.”*

---

**This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.**

Effective Date: 11 February 2019	V3	Legislative Compliance Procedure	DOC11/22798[v3]	Page 2 of 7
-------------------------------------	----	----------------------------------	-----------------	-------------

On this basis, the following roles and responsibilities exist:

a) *All Council Officers*

Have a duty to seek information on legislative requirements applicable to their area of work and to comply with the legislation and AlburyCity policies and procedures. Council Officers shall report through their line management any areas of non-compliance that they become aware of.

All Council Officers have a duty to comply with the lawful and reasonable directions and instructions of their employer which relate to matters of employment. This is a fundamental requirement of the employment relationship.

Council Officers should not wilfully disobey or disregard any lawful and reasonable direction or instruction given to them by any person or body having authority to give such directions or instructions. By the same token, Council Officers must decline to follow any unlawful order or instruction.

Council Officers should have regard to circulars, practice notes, codes, guidelines and the like issued by government or relevant central agencies. Such guidelines should be complied with unless there are justifiable grounds for taking another course of action within the scope of the discretion available to the Council Officer.

b) *Councillors and Committee Members*

In addition to the roles and responsibilities of all Council Officers, Councillors and Committee members have a responsibility to be aware of, and abide by, the legislation applicable to their role.

c) *Strategic Leaders*

In addition to the roles and responsibilities of all Council Officers, Strategic leaders are responsible for ensuring that directions relating to legislative compliance are clear and unambiguous and that legal requirements which apply to each activity for which they are responsible are identified. Strategic leaders should have systems in place to ensure that all Council Officers are given the opportunity to be kept fully informed, briefed and/or trained about key legal requirements relative to their work.

d) *Senior and Frontline Leaders*

In addition to the roles and responsibilities of all Council Officers, Senior and Frontline Leaders have a duty to ensure that all operations applicable to their area of responsibility comply with the current legislation. This involves staying up-to-date with legislative changes, reviewing and updating AlburyCity's operations, policies and procedures and actioning improvements when non-compliance is identified or reported.

---

**This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.**

## DEALING WITH MORAL OR ETHICAL OBJECTIONS

There may be rare occasions where Council Officers believe they cannot give effect to a lawful policy. Where such objection is based on a bona fide moral belief that is honestly and strongly held (as opposed to a mere personal or political preference), the Council Officer concerned should be relieved of responsibility for the implementation or enforcement of that policy (as long as the beliefs do not conflict with fundamental human rights). As well as recognising moral objections, such an approach helps to ensure the actual and perceived impartiality and fairness of AlburyCity.

## IDENTIFYING CURRENT, NEW OR AMENDED LEGISLATION

AlburyCity will implement and maintain a system that efficiently utilises time and resources, including the use of technology, to notify Council Officers of new and changing legislation and ensure appropriate actions are taken to address legislative compliance.

### a) Electronic Versions of Legislation

AlburyCity can access up-to-date electronic versions of legislation through the official New South Wales Government legislation website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) and the official Commonwealth Government legislation website at [www.legislation.gov.au](http://www.legislation.gov.au). Up-to-date electronic versions of State and Commonwealth Government legislation may also be accessed at [www.austlii.edu.au](http://www.austlii.edu.au).

### b) Australian and International Standards

Standards are utilised by various Council Officers in undertaking the effective function of their role. A library of regularly used Australian and International Standards is managed and maintained by the Records Team. Where new or updated standards are required by Council Officers to undertake their role, contact should be made with the Records Team to arrange the purchase and storage of the standard. This will ensure the availability of standards to all Council Officers.

Extracts of an Australian or International Standard into AlburyCity documents and reports should only be used with copyright consent from Standards Australia. Further information on copyright obligations of Council Officers can be found in the Copyright and Intellectual Property Policy and Procedure.

### c) NSW Government Gazette

The NSW Government Gazette publishes all new or amended legislation applicable to New South Wales. The Gazette, published each Friday, includes new or amended legislation applicable to AlburyCity and can be accessed at [www.legislation.nsw.gov.au/#/gazettes](http://www.legislation.nsw.gov.au/#/gazettes)

---

**This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.**

Effective Date: 11 February 2019	V3	Legislative Compliance Procedure	DOC11/22798[v3]	Page 4 of 7
-------------------------------------	----	----------------------------------	-----------------	-------------

d) Office of Local Government

AlburyCity receives regular circulars from the Office of Local Government on any new or amended legislation. Circulars are received through AlburyCity's Records Team and distributed to the relevant Council Officers for noting and where relevant, implemented.

For copies of the circulars go to TRIM - CORPORATE MANAGEMENT CIRCULARS – Office of Local Government - Circular to Council [year] - . Alternatively, these can be accessed via the Office of Local Government website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

e) Department of Planning and Environment

AlburyCity receives regular circulars from the Department of Planning and Environment on any new or amended legislation. Circulars are received through AlburyCity's Records Team and distributed to the relevant Council Officers for noting, and where relevant, implemented.

For copies of the circulars go to TRIM – CORPORATE MANAGEMENT CIRCULARS - NSW Department of Planning and Environment [year]

f) Local Government NSW

AlburyCity receives a weekly circular from Local Government NSW – *LGNSW Weekly*. These circulars have sections on legal and finance, industrial relations and planning and environment that highlight changes in legislation applicable to councils. The circular is distributed via email by AlburyCity's Records Team to Councillors, Senior, Strategic and Frontline Leaders, and designated officers when relevant.

Circulars can be accessed via the Local Government NSW website at [www.lgnsw.org.au](http://www.lgnsw.org.au)

g) Special Interest Groups and Networking

AlburyCity is involved in a number of local government networking and alliance groups including planning, engineering, finance, rates, human resources, governance, health and safety, risk management, corporate planning, waste management, and records. These special interest groups meet periodically to discuss matters including legislative changes. Council Officers are encouraged to participate in relevant forums to keep abreast of industry developments.

h) Training

AlburyCity has a Corporate Training Plan which includes various specialist and/or legislative training to inform groups on changes related to their work areas.

Where required, Council Officers can access position-related legislative training. This may be identified through an individual's annual Skill Development Plan. Refer also to AlburyCity's Training and Development Policy.

---

**This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.**

Effective Date: 11 February 2019	V3	Legislative Compliance Procedure	DOC11/22798[v3]	Page 5 of 7
-------------------------------------	----	----------------------------------	-----------------	-------------

i) AlburyCity's Legal Service Provider

Regular updates on changes in legislation, regulations, guidelines and case law in areas that may impact AlburyCity and its operations are provided by AlburyCity's legal service provider.

### **OBTAINING ADVICE ON LEGISLATIVE PROVISIONS**

AlburyCity shall obtain advice on matters of legislation and compliance where this is necessary. Contact can be made with the following organisations for advice:

- Local Government NSW (Legal Officer)
- Office of Local Government (Executive Support Group)
- AlburyCity's legal service provider (after approval by relevant Director).

For further information refer to AlburyCity's Council Seal and Management of Legal Documents and Advice Procedure.

### **INFORMING COUNCIL OF LEGISLATIVE CHANGE**

If necessary, the General Manager or a delegated officer will, on receipt of advice, submit a report to Council on new or amended legislation and its impact.

### **DEALING WITH DOUBTS ABOUT LEGALITY OR PROPRIETY**

Any doubts as to the legality or propriety of an order or instruction should be taken up initially with the person who gave the order or instruction, or if necessary with their line manager. If resolution cannot be achieved, the matter should be taken up with Council Officer's Strategic Leader, and finally the General Manager. If, in practice, this is not an acceptable option or the order or instruction was given by the General Manager, the matter may be raised through a formal grievance process, code of conduct complaint or public interest disclosure.

### **REVIEW OF INCIDENTS AND COMPLAINTS REGARDING NON-COMPLIANCE**

AlburyCity shall review all incidents and complaints in accordance with the relevant policy or procedure. This may include:

- Code of Conduct,
- Reporting a Serious Wrongdoing - Public Interest Disclosure Procedure,
- Employee Grievance Procedure,
- Privacy Management Plan, and
- Complaints Management Policy.

Such reviews and investigations will assess compliance with legislation, standards, policies and procedures that are applicable.

---

**This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.**

## REPORTING OF NON-COMPLIANCE

Council Officers are encouraged to self-report any instances of non-compliance. All instances of non-compliance shall be reported immediately to the Council Officer's Frontline, Senior or Strategic Leader. The Frontline, Senior or Strategic Leader shall determine the appropriate response and, if necessary, report the matter to the relevant Director. AlburyCity's monthly management reports provide for reporting on relevant statutory obligations.

The General Manager may investigate any reports of significant non-compliance and if necessary report the non-compliance to the Council and/or the Office of Local Government. The General Manager will also take the necessary steps to improve compliance systems.

Non-compliance with legislation may also infringe on AlburyCity's obligations under the Code of Conduct and Reporting a Serious Wrongdoing - Public Interest Disclosure Policy and Procedure. Consideration must be given to these items and compliance with any further requirements must be undertaken. Further reporting to other investigative authorities, such as ICAC, may be required.

Enquiries or reporting relating to the Code of Conduct or Public Interest Disclosures may be made to the Group Leader Human Resources, who is the Code of Conduct Coordinator and the Public Interest Disclosure Coordinator.

## AUDIT ON LEGISLATIVE COMPLIANCE

AlburyCity shall incorporate a review of its processes regarding legislative compliance by subjecting them to regular internal audit. AlburyCity's Internal Audit function is undertaken by an outsourced external provider under a contract arrangement with AlburyCity. The provider is ultimately accountable to the General Manager and the Council, however it is recognised that they will receive some direction from and provide advice, support and associated reporting to, the Audit, Risk and Improvement Committee.

## AUTHORISATION

<b>Owner</b>	<b>Directorate</b>	Executive – Human Resources
	<b>Responsible Officer</b>	Public Information Officer
<b>Authorisation</b>	Adopted Council 11 February 2019	
<b>Review Date</b>	December 2022	
<b>Register</b>	Public Policy and Procedure Register	
<b>Record of Amendments</b>	July 2008	New Procedure
	October 2011	Review of Procedure
	November 2014	Review of Procedure
	December 2018	Review of Procedure. Updated template.

---

This document is uncontrolled once printed. Refer to the AlburyCity website / intranet for current version.

Effective Date:  
11 February 2019

V3

Legislative Compliance Procedure

DOC11/22798[v3]

Page 7 of 7