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**CHCLEG003**

**Maintain legal and ethical compliance**

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# Unit of Competency

### Application

This unit describes the skills and knowledge required to research information about compliance and ethical practice responsibilities, and then develop and monitor policies and procedures to meet those responsibilities.

This unit applies to people working in roles with managerial responsibility for legal and ethical compliance in small to medium sized organisations. There may or may not be a team of workers involved.

*The skills in this unit must be applied in accordance with Commonwealth and State/Territory legislation, Australian/New Zealand standards and industry codes of practice.*

**Unit Sector**

N/A

### Performance Criteria

| Element  Elements describe the essential outcomes. | Performance Criteria  Performance criteria describe the performance needed to demonstrate achievement of the element. |
| --- | --- |
| 1. **Research information required for legal compliance** | 1. Identify sources of information about compliance requirements 2. Evaluate own area of work and determine scope of compliance requirements 3. Access and interpret information relevant to area of work 4. Identify risks, penalties and consequences of non-compliance 5. Assess and act on need for specialist legal advice |
| 1. **Determine ethical responsibilities** | 1. Identify the ethical framework that applies to the work context 2. Incorporate scope of practice considerations as part of ethical practice 3. Evaluate responsibilities to workers, clients and the broader community 4. Model ethical behaviour in own work |
| 1. **Develop and communicate policies and procedures** | 1. Clearly articulate and document policies and procedures to support legal and ethical practice in readily accessible formats 2. Integrate documentation and record keeping requirements into policies and procedures 3. Ensure systems protect client information 4. Nominate the roles and responsibilities of different people in meeting requirements where multiple people are involved 5. Distribute policies, procedures and legal information to colleagues and peers in a timely fashion |
| 1. **Monitor compliance** | 1. Evaluate work practices for non-compliance on an ongoing basis, and implement modifications 2. Maintain and update required accreditations or certifications 3. Refer issues or breaches of ethical or legal practice to relevant people |
| 1. **Maintain knowledge of compliance requirements** | 1. Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues 2. Share updated knowledge and information with peers and colleagues 3. Pro-actively engage in process of review and improvement |

### Foundation Skills

This section describes language, literacy, numeracy and employment skills incorporated in the performance criteria that are required for competent performance.

Foundation skills essential to performance are explicit in the performance criteria of this unit of competency.

### Assessment Requirements

**Performance Evidence**

The candidate must show evidence of the ability to complete tasks outlined in elements and performance criteria of this unit, manage tasks and manage contingencies in the context of the job role. There must be evidence that the candidate has:

* Determined the scope of legal and ethical compliance requirements and responsibilities, and developed policies and procedures for at least 1 workplace or business
* Developed a strategic response to at least 3 different situations where legal or ethical requirements have been breached.

**Knowledge Evidence**

The candidate must be able to demonstrate essential knowledge required to effectively complete tasks outlined in elements and performance criteria of this unit, manage tasks and manage contingencies in the context of the work role. This includes knowledge of:

* Legal responsibilities and liabilities of managers and others in different types of organisation
* Legal and ethical frameworks (international, national state/territory, local), how these apply in the workplace, and the responsibilities of managers in the development and monitoring of policies and procedures, including those related to:
* children in the workplace
* codes of conduct
* codes of practice
* complaints management
* continuing professional education
* discrimination
* dignity of risk
* duty of care
* human rights:
* *universal declaration of human rights*
* relationship between human needs and human rights
* frameworks, approaches and instruments used in the workplace
* informed consent
* mandatory reporting
* practice standards
* practitioner/client boundaries
* privacy, confidentiality and disclosure
* policy frameworks
* records management
* rights and responsibilities of workers, employers and clients
* industrial relations legislation and requirements relevant to organisation
* specific requirements in the area of work, including:
* key practices that are prohibited by law
* auditing and inspection regimes
* main consequences of non-compliance
* need to apply for licences and associated mandatory training and certification requirements
* statutory reporting requirements
* business insurances required including public liability and workers compensation
* accreditation requirements
* requirements to develop and implement plans, policies, codes of conduct or incorporate certain workplace practice
* work role boundaries – responsibilities and limitations of different people
* work health and safety
* Sources of information and advice on compliance including:
* local, state/territory or commonwealth government departments or regulatory agencies
* industry associations
* plain English documentation that explains legislation
* Functions and operating procedures of regulatory authorities of particular relevance to the health and community service sectors
* Methods of receiving updated information on requirements
* Use of policies and procedures in managing compliance and ethical practice in both internal work practice and external service delivery
* Formats for policies and procedures and what they should include
* Techniques for monitoring compliance.

**Assessment Conditions**

Skills must have been demonstrated in the workplace or in a simulated environment that reflects workplace conditions. The following conditions must be met for this unit:

* Use of suitable facilities, equipment and resources, including:
* current legislation and regulations
* workplace policies and procedures
* Modelling of industry operating conditions, including:
* use of real or simulated organisation for which the candidate develops policies and procedures
* integration of problem solving activities.

Assessors must satisfy the Standards for Registered Training Organisations (RTOs) 2015/AQTF mandatory competency requirements for assessors.

**Links**

Companion Volume implementation guides are found in VETNet - <https://vetnet.education.gov.au/Pages/TrainingDocs.aspx?q=5e0c25cc-3d9d-4b43-80d3-bd22cc4f1e53>

# 1. Research information required for legal compliance

* + Identify sources of information about compliance requirements
  + Evaluate own area of work and determine scope of compliance requirements
  + Access and interpret information relevant to area of work
  + Identify risks, penalties and consequences of non compliance
  + Assess and act on need for specialist legal advice

## Identify sources of information about compliance requirements

## Evaluate own area of work and determine scope of compliance requirements

By the end of this chapter, the learner should be able to:

* Identify at least five sources of information on compliance requirements
* Evaluate their own area of work and determine the scope of compliance requirements.

### Compliance requirements

It is essential to be aware of the various compliance requirements that apply to your business. The identification of requirements will enable you to develop compliance plans and ensure that you don’t breach any rules or regulations. There are numerous sources of information which relate to specific businesses operating within Australia and abroad. You may consider hiring a compliance specialist and using software to manage information about your responsibilities.

Information on relevant compliance requirements may include:

* Correspondence, emails and other written information provided by internal and external personnel contacted during search activities
* Information downloadable from relevant websites
* Newsletters, bulletins and information sheets
* Periodic documentation distributed by relevant regulatory authorities and standards bodies
* Published information on legislation, regulations, codes of practice, standards, licensing requirements, standard operating procedures, etc.
* Records of conversations and meetings with relevant internal and external personnel.

### Evaluating your area of work

The scope of compliance requirements will vary, depending on the nature of your organisation and the specific role that you fulfil. You might have responsibility for overseeing the employment of new staff members, transfer of goods and services, maintenance of policies, and limitation of environmental risk factors. It will be necessary to research and act in accordance with rules, regulations, and ethical requirements specific to your own area of work.

Your organisation may have policies and procedures relating to:

* Children in the workplace
* Codes of conduct
* Codes of practice
* Complaints management
* Continuing professional education
* Discrimination
* Dignity of risk
* Duty of care
* Human rights:
* universal declaration of human rights
* relationship between human needs and human rights
* frameworks, approaches and instruments used in the workplace
* Informed consent
* Mandatory reporting
* Practice standards
* Practitioner/client boundaries
* Privacy, confidentiality and disclosure
* Policy frameworks
* Records management
* Rights and responsibilities of workers, employers and clients
* Industrial relations legislation and requirements relevant to organisation
* Specific requirements in the area of work, including:
* key practices that are prohibited by law
* auditing and inspection regimes
* main consequences of non-compliance
* need to apply for licences and associated mandatory training and certification requirements
* statutory reporting requirements
* business insurances required including public liability and workers compensation
* accreditation requirements
* requirements to develop and implement plans, policies, codes of conduct or incorporate certain workplace practices
* Work role boundaries – responsibilities and limitations of different people
* Work health and safety.

### Regulatory authorities

Arguably one of the most important sources of information on compliance requirements is regulatory authorities. These are public bodies that take responsibility for governing particular industries. They are created by statute with the primary task of protecting the public.

An example of a regulatory authority in Australia would be the Department of Health, which seeks to improve and maintain the high standards of Australian health care by ‘strengthening evidence-based policy advice’ and ‘improving program management, research, regulation and partnerships with other government agencies, consumers and stakeholders.’

Regulatory authorities:

* Lay out compliance requirements
* Set conditions for and restrictions on work
* Set standards
* Exercise authority
* Make important decisions
* Enforce decisions
* Discipline businesses that fail to comply with requirements.

There are many regulatory authorities in Australia, so it is important to fully research those which apply to your industry.

## Access and interpret information relevant to area of work

## Identify risks, penalties and consequences of non compliance

By the end of this chapter, the learner should be able to:

* Access information on legal and ethical compliance
* Interpret compliance information
* Identify at least three potential consequences of breaching compliance regulations.

### Accessing information on legal and ethical compliance

It is quite likely that you will be aware of the various legal and ethical compliance issues that relate to your area of work. However, it is important to keep up to date and ensure that you are adhering to the required standards.

You may obtain information on internal and external compliance requirements from the following sources:

* Internal policies, standard operating procedures, standards, and codes of practice
* Published material relevant to compliance held in either internal or external libraries
* Relevant legislation, regulations, and licensing requirements pertinent to the organisation's operations and sphere of business.

**You may also access these sources of information on compliance:**

* Stored compliance data
* Continuous improvement and quality assurance information
* Records of business finances and contracts
* Promotional data and customer interactions
* Business performance records
* Policies and procedures.

### Interpreting compliance information

The relevance of some compliance information may be quite obvious. You may identify the need to follow specific organisational procedures and act in accordance with laws. However, it may be worth seeking the assistance of other staff members in some instances. They might have the knowledge required to interpret and explain detailed aspects of compliance.

If there is nobody within your organisation that can provide assistance, then you may consider the option of hiring an external legal expert. They should be able to detail the relevance of business legislation and ethical expectations. You may also arrange meetings for the analysis and evaluation of major compliance issues.

### Breaches of compliance

A breach will occur whenever your business fails to act in accordance with legislative and organisational compliance requirements. This may happen as a result of failing to identify the relevant business laws and potential consequences of non-compliance.

If instances of non-compliance are identified by regulatory bodies, your business could face serious repercussions.

The risks, penalties, and other consequences include:

* Government fines
* Seizure of business property
* Suspension or redundancy of individuals responsible for non-compliance
* Audits and payments for workers who’ve been adversely affected by instances of non-compliance
* Criminal prosecution of business representatives
* Dissolution of the business.

## Assess and act on need for specialist legal advice

By the end of this chapter, the learner should be able to:

* Seek specialist legal advice on compliance
* Identify at least three pieces of Australian legislation relating to compliance.

### Seeking specialist legal advice

Businesses are often reluctant to seek legal advice due to concerns about the costs and amount of time required for legal proceedings. However, such advice should be sought if you lack the knowledge and expertise required to deal with compliance issues internally. You’ll discover that there are numerous sources of legal information, including local business consultancies, and citizen’s advice bureaus. You may also consider the option of hiring a lawyer or solicitor.

You may seek advice for:

* Help in the identification of laws and regulations that apply to your business
* Assistance in the identification of relevant business licenses and subsequent application
* Consultancy on the completion of legally binding forms and contracts
* Support during legal disputes with employees and customers
* Advice on the matter of intellectual property
* Specialist assistance.

You’ll find that there are a wide variety of legal firms specialising in particular aspects of the law. It is important to identify a firm with a proven track record of assisting organisations in your market. Dedicated lawyers may be able to help you identify areas of compliance and resolve disputes that occur as a result of legal breaches.

### Australian standards of compliance

You will have to operate in accordance with different organisational principles and legislative standards specific to the territories of Australia. The major requirements are outlined in the ISO 19600 Compliance Program. This highlights the need for compliance based upon the principles of commitment, implementation, monitoring, measuring, and continual improvement. There are additional expectations regarding registration for Australian business numbers, goods and services tax, and tax file numbers.

**Essential Australian legislation includes:**

* Corporate Law Economic Reform Program Act 2004
* Federal Privacy Act 1988
* Competition and Consumer Act 2010
* Australian Corporations Act 2001.

You are encouraged to contact the Australian Business License Service for further information about laws specific to your organisation.

# 2. Determine ethical responsibilities

* Identify the ethical framework that applies to the work context
* Incorporate scope of practice considerations as part of ethical practice
* Evaluate responsibilities to workers, clients and the broader community
* Model ethical behaviour in own work

## Identify the ethical framework that applies to the work context

## Incorporate scope of practice considerations as part of ethical practice

By the end of this chapter, the learner should be able to:

* Act within their organisation’s ethical framework
* Incorporate scope of practice considerations.

### Identifying ethical frameworks

Businesses that act ethically do what’s right by their employees and stakeholders. They follow the established legal principles and ensure that individuals are treated with appropriate dignity and respect. Ethical frameworks are used as guidance when making decisions which impact employees and other business associates. Managers and other key staff members take responsibility for acting within the ethical framework and setting positive examples.

### International expectations

There are distinct ethical frameworks that apply to different types of businesses. International organisations must account for the laws and ethics that apply in foreign countries. They have to meet different expectations with regards to the ways in which business is conducted. Decisions that may be deemed ethically sound in one country may be frowned upon in another. It is advisable to write distinct codes of conduct in line with the cultural and ethical principles that apply in different countries. You should also consider the sensitive cultural issues in the countries where you are working. There should be regular communication with employees to ensure that they are aware of international standards.

Codes of conduct and ethics should include the following details:

* Ethical principles
* Professional values
* Ethical responsibilities of senior management
* Guidance on accountability within the business
* Appropriate standards of conduct and practice
* Means of establishing and maintaining standards of discipline
* Ways of maintaining relationships with business associates and members of the public
* Specific requirements relating to working hours and practices.

Businesses that adapt sound ethical frameworks may avoid:

* Discrimination
* Corruption
* Unionisation
* Tax avoidance
* Bribery
* Corruption.

### Australian ethical standards

You should also be aware of the ethical frameworks that apply to businesses in the different states of Australia. It is important to maintain general principles of respect and integrity when dealing with customers and colleagues. Business managers should implement policies to ensure that everybody is treated fairly and equally. Australian businesses may draw upon the skills of a multicultural workforce. Employees at all levels will expect to have a say in business decisions. You will also be expected to maintain a fair degree of privacy and confidentiality.

### Scope of practice considerations

The scope of practice considerations relate to the specific decisions and functions that you have to carry out on an everyday basis. It is absolutely essential that such actions are carried out in accordance with the ethical standards set by your organisation. You may be required to comply with the ethical standards when employing new staff members and making promotional decisions. You might also have responsibility for supervising and assigning duties in a fair manner. You should follow the principles established in the codes of conduct and ethics.

You must consider the responsibilities for:

* Maintaining principles of justice
* Preventing discrimination
* Acting with integrity despite pressure in the workplace
* Respecting the rights of privacy and confidentiality
* Acting with self-control and discipline
* Following business conventions
* Respecting the right to freedom of speech
* Refusing to engage in slander.

## Evaluate responsibilities to workers, clients and the broader community

By the end of this chapter, the learner should be able to:

* Identify their responsibilities to workers
* Identify their responsibilities to clients
* Identify their responsibilities to the broader community.

### Evaluating responsibilities to workers

Your organisation has a variety of legal and ethical responsibilities to workers, clients, and the broader community. It is important to respect the rights of these distinctive groups and not focus solely on profitability. The nature of your organisation will have a direct bearing on the types of responsibilities that should be upheld. It may be necessary to oversee the use of heavy industrial machinery and ensure that high standards of health and safety are maintained. You may also have to find ways of minimising the environmental impact of any work that is undertaken.

### Responsibilities to workers

Health and safety

Employers have a duty to ensure the health and safety of their workers. They should create clear policies and procedures to highlight the safest ways of carrying out business tasks. Machinery should be maintained and regular inspections undertaken to ensure that employees are acting in accordance with the health and safety standards. Organisations must also abide by legislation regarding the storage of potentially hazardous chemicals and maintenance of safe working environments.

WHS legislation stipulates that employers must provide their staff with:

* Safe premises
* Safe machinery and materials
* Safe systems of work
* Information, instruction, training and supervision
* A suitable working environment and facilities.

Employees are also obliged to ensure that they work safely and do not endanger the safety of their colleagues, clients and others.

How WHS affects your work in health will vary according to your job role and your industry. In order to work safely and legally in your role, you should have been trained to do so by your organisation, as this is a legal requirement.

Where you identify possible or actual WHS breaches in your planned responses, they will need to be reviewed and amended to be compliant immediately before they are used again.

Equal opportunities

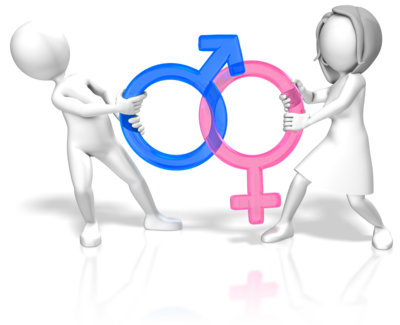
Employers should recognise their responsibility to ensure that workers are given equal opportunities for advancement. It is also important to maintain fair rates of pay and recognise the contributions of all employees. The minimum wage rate varies depending upon age and other circumstances. However, employers must be aware of the legislation and make appropriate wage adjustments. It is also important to safeguard employees against discrimination in the workplace. If discrimination does occur then, it should be investigated and dealt with according to the law.

Equal opportunity/discrimination

All people should be valued and treated with respect when it comes to their individual differences. The Equal Opportunity Act 1984 was created to be enforced in all workplaces. It identifies features that may cause prejudices among groups of people.

Discrimination means unfair treatment of a person based on prejudices.

Under the Act, it is illegal for any person or establishment to discriminate against another based on:

* Gender
* Marital status
* Sexual preference
* Race
* Culture/religious beliefs
* Personal principles or beliefs
* Pregnancy
* Age
* Physical or mental impairment.

### Responsibilities to clients

It is absolutely essential for businesses to maintain positive relationships with their clients. Companies with high levels of customer engagement appreciate the importance of inviting and responding to feedback. They encourage customers to give their opinions about the development and improvement of products and services. It is only natural for business representatives to be enthusiastic about the features and benefits of their goods and services. However, it is important to provide customers with realistic information. Ethical companies also maintain fair pricing policies and deal with complaints in the appropriate manner. They establish systems for the protection of customer information and only share details with third parties when the customers give their consent.

Rights and responsibilities of clients

All clients have certain statutory rights that must be awarded to them regardless of your personal opinion of them.

Rights may include:

* To be treated in a professional and courteous manner
* To have differences respected, in relation to:
* race
* ethnicity
* gender
* nationality
* sexual orientation
* religion
* age
* disability
* economic situation
* personal values
* Respect for personal privacy and confidentiality
* A right to a safe environment
* A right to choice of services
* Participation in decisions concerning their care
* A right to complain
* A right to view information held about them
* Consultation on any changes to the services they receive.

Competition and Consumer Act 2010

The Competition and Consumer Act 2010 replaced the Trade Practices 1974. It promotes fair trading and competition for businesses, as well as protecting the consumers their products are aimed at.

It covers the following:

* Dealings with suppliers, wholesalers, retailers, customers and competitors
* Industry codes of practices
* Product safety
* Unfair market practices
* Product labelling
* Price
* Industry regulation (e.g. gas, electricity, airports, telecommunications).

The Australian Competition and Consumer Commission is in charge of enforcing the Competition and Consumer Act.

Consumer protection law

The Australian Consumer Law (ACL) came into effect on January 1, 2011.

The ACL includes:

* A national unfair contract terms law covering standard form consumer contracts
* A national law guaranteeing consumer rights when buying goods and services
* A national product safety law and enforcement system
* A national law for unsolicited consumer agreements covering door-to-door sales and telephone sales
* Simple national rules for lay-by agreements
* New penalties, enforcement powers and consumer redress options.

It applies in all States and Territories and to all Australian businesses, for all transactions that have occurred since January 1, 2011. The full text is set out in the Competition and Consumer Act 2010, in Schedule 2.

Australian Government Policy Framework for Consumer Protection in Electronic Commerce

Consumer Protection in Electronic Commerce is designed to provide consumer protection for people who make purchases online and online businesses.

The policy requires:

* Accurate and sufficient information is provided about the product
* A secure payment process
* The availability and provision of effective and accessible redress
* Agreement upon relevant areas of jurisdiction
* That customer information is protected and remains private.

### Responsibilities to the broader community

There’s a good chance that your business operations will have a direct impact on the surrounding environment and people in the local community. However, you can offset the potentially negative impacts by offering training opportunities, employing local people and supporting community initiatives. Local businesses and residents may also enjoy the benefits of quality services. There is a great emphasis on the environmental sustainability of businesses at present. Ethical companies develop initiatives to limit their environmental impact and encourage employees to take part in local projects. The introduction and maintenance of social projects may have an overwhelmingly positive impact on public perceptions of your business.

## Model ethical behaviour in own work

By the end of this chapter, the learner should be able to:

* Model ethical behaviour
* Train employees.

### Modelling ethical behaviour

You can set a positive example for other employees to follow by modelling ethical behaviour in your own work. It is particularly important for senior managers and other key business representatives to lead by example. The standards that they set will be picked up by other members of the organisation and have a direct impact on the employee’s work.

Managers with good ethical standards will:

* Take the lead and model ethical behaviour
* Take colleague’s views into account and explain the ethical reasons for business decisions
* Include details of business ethics in different forms of communication
* Encourage discussions about ethical issues
* Ensure that ethical principles are outlined for all employees
* Act upon the sound advice and suggestions made by subordinates.

### Acting as a role model

It is important act in accordance with the codes of conduct and ethics. Your organisation may also provide an employee handbook for guidance on how to act in different situations. You should show a respect for your colleagues and customers. Treat everybody fairly and show appreciation for other people’s contributions. Don’t talk behind people’s backs or discriminate for any reason. Accept ultimate responsibility for your own decisions and actions, despite the potentially negative repercussions. Fulfil your duties, as outlined in the job description and maintain compliance with established organisational policies.

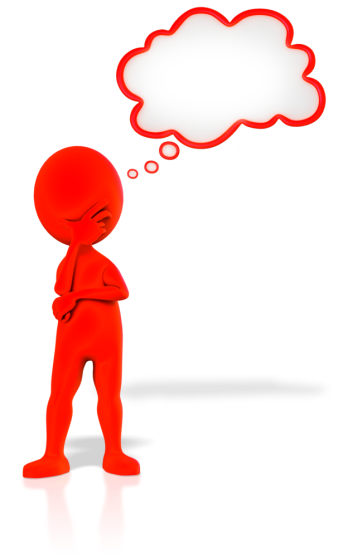
You should remember the ethical principle of doing unto to others as you would have them do unto you. Consider the implications of what you say and how you act in the workplace. Respect other people’s rights to privacy and freedom of speech. Take any feedback into account and don’t burden others with duties that they will struggle to perform. Follow through on rewards and punishments for ethical or unethical behaviour in the workplace.

It is essential to show respect for the organisation that you are working for. You should take care when claiming expenses and using resources in the workplace. You should also demonstrate commitment and do your best to maintain positive relationships with customers and other business associates. Adopt ethical selling practices and act appropriately when there are conflicts of interest.

### Training employees

There are numerous means of communicating appropriate forms of behaviour in the workplace. Your organisation may arrange training sessions and workshops so that employees can learn about the ethical principles. Example scenarios may be posed and employees given the opportunity to demonstrate ethical decision-making ability. They should seek assistance whenever there is concern about the ethical implications of decisions.

You may highlight the six step decision-making model:

* **Define the problem** – Identify the issue and consider the scope for impact upon your organisation
* **Identify alternatives** – Consider the various ways of overcoming the problem in accordance with your ethical standards
* **Evaluate alternatives** – Think about the advantages and disadvantages of resolution methods
* **Make the decision** – Choose the best means of resolution for your business
* **Implement the decision** – Take the necessary steps to overcome the problem
* **Evaluate the decision** – Consider the effectiveness of your chosen process for overcoming the problem.

# 3. Develop and communicate policies and procedures

* Clearly articulate and document policies and procedures to support legal and ethical practice in readily accessible formats
* Integrate documentation and record keeping requirements into policies and procedures
* Ensure systems protect client information
* Nominate the roles and responsibilities of different people in meeting requirements where multiple people are involved
* Distribute policies, procedures and legal information to colleagues and peers in a timely fashion

## Clearly articulate and document policies and procedures to support legal and ethical practice in readily accessible formats

By the end of this chapter, the learner should be able to:

* Use a variety of methods to communicate legal and ethical practice in the workplace.

### Communicating legal and ethical practice in the workplace

There are numerous ways of communicating legal and ethical practice in the workplace. The codes of conduct and ethics should be written in combination with employee handbooks and policies on behaviour. You may be legally required to produce regular financial accounts and follow specific procedures when hiring staff. It will also be necessary to consider ethical issues such as discrimination and freedom of speech in the workplace.

Your policies and procedures should account for the legal and ethical issues associated with essential business practices. It is important to identify the responsibilities of individual personnel and include descriptions of any technical terms. It is generally advisable to use plain and simple language for the understanding of all employees. Workers will be able to follow and act in accordance with any documentation that is clearly articulated.

You policies and procedures should be written in accordance with the seven c’s:

* Context – Detailing the specific processes and employee responsibilities
* Consistency – Maintaining standards of content and presentation
* Completeness – Ensuring that all relevant details are included
* Control – Establishing methods for measuring the effectiveness of business procedures
* Compliance – Taking account of the relevant laws and regulations
* Correctness – Ensuring that your documentation is factually and grammatically correct
* Clarity – Clearly expressing the terms and procedures for general understanding.

You should also follow these rules on writing clearly:

* Consider the concerns and requirements of people who will be reading your documentation
* Use short and uncomplicated words wherever possible
* Keep your sentences short and focussed
* Use the active voice (particularly when writing procedures)
* Use bullet points and italics to emphasise important sections of text
* Break up the text with visuals to clarify meaning
* Reread your documentation and ensure that it has a clear purpose.

### Formatting your policies and procedures

It is important to choose relevant titles for your policies and procedures. Specific codes may be used for documentation which applies to certain types of legislation and business ethics. You may also use a file management system to ensure that your employees can gain rapid access. Your documentation should be clearly structured so that employees can identify the relevant sections. There should also be links to other policies and procedures of relevance. The dates of approval and revision should be included, to ensure that your documentation is up-to-date.

## Integrate documentation and record keeping requirements into policies and procedures

By the end of this chapter, the learner should be able to:

* Document and record compliance measures.

### Documenting and recording compliance measures

Your organisation will have specific requirements regarding the documentation and maintenance of records associated with the various areas of compliance. You should include such requirements in your policies and procedures, for access by relevant personnel. It is essential for auditors to be able to obtain information about the steps that you have taken to achieve compliance. The relevant documents should be stored for ready access.

You should ensure that your compliance documentation is:

* **Accurate** – Highlighting the exact steps and procedures that have been undertaken in order to ensure compliance
* **Accessible** – Using appropriate means of storage
* **Detailed** – Ensuring that all of the relevant details are included for the benefit of employees and auditors
* **Clear and user-friendly** – Written in terms that the readers can understand. Giving an accurate picture of how the organisation is meeting compliance requirements
*  **Compatible with different forms of technology** – Ensuring that the documentation can be accessed on the devices and systems that are used by employees and auditors.

Employees should be aware of the need to:

* Write documentation in the appropriate style and tone
* Focus on the requirements of expected readers
* Maintain consistent formatting
* Check and update documentation on a regular basis.

### Inclusion of information

There may be strict requirements regarding the types of information that you include in written documentation. It may be necessary to write and format your documents in accordance with style guides and established conventions. Templates may assist you in the completion of data entry tasks.

These textual elements should be considered:

* **Language** – The choice of language will depend upon your intended audience. It is generally advisable to write in a simple style for general understanding. Direct phrases and active verb tenses should be used when giving instructions. Any technical terms or jargon should be explained at the beginning of your documentation
* **Style** – There are bound to be stylistic conventions specific to the types of documents that you are producing. Appropriate typography and balances of colour may be used for readability and quality of presentation. Particular wording styles should be applied consistently
* **Format** – You should ensure consistency in the formatting of your documents. The choice of headings, fonts, bullet points, and other stylistic elements should be maintained. You are advised to make use of document templates
* **Drafting** – You might have to produce numerous drafts and obtain organisational approval before documents are finalised for distribution. Outlines may be used in the organisation of information
* **Editing** – Poor standards of grammar and punctuation will reflect badly on your business. It is advisable to use word checking tools once the information has been entered. However, you should also take the time to read through and ask colleagues for feedback. Consider the organisation and logical progression of your documentation.

### Record keeping requirements

You may be aware of laws and organisational requirements regarding the storage of information about compliance. You may be required to keep details about the ways in which you have satisfied legal and ethical compliance requirements. You should include details of the management of relevant files in your policies and procedures. Employees should be aware of file naming and storage conventions. It may be necessary to restrict access to particular personnel and ensure that the documentation is regularly updated. Compliance documentation may be kept for a specific amount of time and then disposed of appropriately.

## Ensure systems protect client information

By the end of this chapter, the learner should be able to:

* Take measures to protect client information.

### Protecting client information

Your organisation may be required to ensure the confidentiality of various types of client information. It may be necessary to arrange systems for the protection of written records, video/audio tapes, radiographic films and images, and computer files. You might also need to take precautions when communicating verbally with clients.

The risks to client information include:

* Exposure by employees
* Virus/malware
* Data being transferred between premises – lost/stolen
* Insufficient data security.

Your organisation may use the following systems for protecting client information:

* Dedicated servers
* Data encryption
* Maintaining back-ups of essential files
* Regularly updated anti-virus and firewall protection
* Training staff on appropriate means of data storage and protection
* Restricting the transfer of sensitive data
* Limiting access to particular personnel
* Disposing of documents in the appropriate manner
* Using computer file wiping programmes.

You can assess the effectiveness of your data protection strategies in different ways. You should include relevant details in your policies and ensure that they are read by your employees. You may also raise the issue of data protection during business meetings. Ask your employees to detail their concerns and make suggestions for improvement. Consider ‘what if’ scenarios and test your systems regularly.

### Essential business laws

The need to maintain confidentiality is outlined in various Australian and international laws. The main aspect of confidentiality requirements is The Privacy Act. This is an Australian law that came into force in 1988 and governs how organisations handle personal information about people, whether staff, clients or customers, etc.

The Privacy Act comprises of 13 Privacy Principles that legally must be adhered to and also, as explained by the Office of the Australian Information Commissioner (OAIC) website:

* “Regulates the collection, storage, use, disclosure, security and disposal of individuals' tax file numbers
* Permits the handling of health information for health and medical research purposes in certain circumstances, where researchers are unable to seek individuals' consent
* Allows the information commissioner to approve and register enforceable app codes that have been developed by an app code developer, or developed by the information commissioner directly
* Permits a small business operator, who would otherwise not be subject to the Australian privacy principles (apps) and any relevant privacy code, to opt-in to being covered by the apps and any relevant app code
* Allows for privacy regulations to be made.”

Further information on the Privacy Act can be found on the Office of the Australian Information Commissioner (OAIC) website, which is included within the references section at the end of this Learner Guide.

### Privacy legislation

You need to be able to protect client data and respect the relationships you have – if you fail to do this, they can likely move to your competitors.

Privacy is governed by the Privacy Act 1988 (Privacy Act), which regulates the handling of personal information.

As of March 2014, the following privacy legislation amendments came into effect:

* Privacy Amendment (Enhancing Privacy Protection) Act 2012
* Privacy Regulation 2013
* Credit Reporting Privacy Code.

You can read more about the privacy law reform at: www.oaic.gov.au/privacy/privacy-act/privacy-law-reform

There are 13 Australian Privacy Principles that apply to the handling of personal information, contained in Schedule 1 of the Privacy Act:

1. Open and transparent management of personal information
2. Anonymity and pseudonymity
3. Collection of solicited personal information
4. Dealing with unsolicited personal information
5. Notification of the collection of personal information
6. Use or disclosure of personal information
7. Direct marketing
8. Cross-border disclosure of personal information
9. Adoption, use or disclosure of government related identifiers
10. Quality of personal information
11. Security of personal information
12. Access to personal information
13. Correction of personal information.

Full information on the Privacy Act and its terms can be found at [www.oaic.gov.au/privacy/privacy-act/the-privacy-act](http://www.oaic.gov.au/privacy/privacy-act/the-privacy-act).

## Nominate the roles and responsibilities of different people in meeting requirements where multiple people are involved

By the end of this chapter, the learner should be able to:

* Identify their compliance responsibilities.

### Compliance responsibilities

It is likely that your organisation will be required to satisfy numerous compliance requirements. It will be necessary to monitor compliance with laws and regulations, identify potential compliance breaches, and find ways of addressing them. You should write policies and procedures in accordance with compliance standards and file reports to the relevant authorities. However, the compliance responsibilities will ideally be shared between multiple members of your workforce. This is particularly important for large organisations, which have to meet a wide range of compliance requirements. Duties should be shared fairly among workers with the required skills and knowledge to minimise the risks of non-compliance.

These employees should assume responsibility for compliance:

* Chief executive officer
* Director of Compliance
* Head of Compliance
* Frontline and senior managers
* Fraud Investigators
* Compliance specialists at the operational level.

Relevant external personnel may include:

* Legal and business advisors and consultants with expertise in compliance management
* Representatives of professional associations and institutes relevant to the organisation's operations and sphere of business
* Representatives of relevant authorities in pertinent compliance areas.

Ensuring that compliance is maintained by the organisation

Employees should work together in the aim of meeting business objectives and upholding legislative responsibilities. It is quite possible that separate departments will identify means of working in accordance with compliance. Effective measures may be shared throughout the organisation for the purpose of maintaining compliance.

**Additional compliance responsibilities and functions:**

* Developing and monitoring complaint handling systems
* Maintaining compliance related management information systems
* Ensuring continuous improvement of processes for compliance, including monitoring, evaluation, and review
* Organising corporate induction and training processes for compliance management
* Documenting compliance requirements relevant to the organisation
* Liaising with relevant internal and external personnel on compliance related matters
* Distributing information on compliance issues throughout the organisation
* Organising and maintaining records about compliance
* Reporting processes on compliance management including reports on breaches and rectification action
* Specifying compliance management functions, accountabilities, and responsibilities.

## Distribute policies, procedures and legal information to colleagues and peers in a timely fashion

By the end of this chapter, the learner should be able to:

* Distribute information organisational policies and procedures to colleagues
* Distribute legal information to colleagues.

### Distributing information to colleagues

It is important to ensure that colleagues and peers receive information on the introduction of new policies, procedures, and legislation. They may be required to change their working practices and take additional measures to minimise the risk of compliance breaches. The communication will be deemed effective if all of the relevant employees are aware of changing roles and responsibilities.

You should distribute the following policies:

* **Ethical policies** – Highlighting the ethical principles that should be maintained by employees
* **HR policies** – Addressing issues such as employment, redundancy, and salary adjustments
* **Customer service policies** – Detailing the appropriate means of communicating with customers
* **Accountancy policies** – Providing essential guidance on financial practices including the recording of sales and acceptance of financial gifts.

### Business procedures

The procedures should highlight the means of achieving the aims set out in your company policies. You may have procedures relating to the everyday duties that employees have to perform. Procedures will also have to be followed when hiring new staff members and supervising activities, where there is some element of risk. Your workers should follow procedures when organising time off and dealing with instances of discrimination in the workplace. There is a good chance that you’ll introduce new procedures and make adjustments over time. It will be necessary to provide your employees with details of new or modified procedures.

### Legal information

There are bound to be numerous laws and items of legislation that apply to your business. You will have to ensure that all of your employees are aware of their legal responsibilities, so that you avoid any breaches of compliance. You should monitor changes in the legal framework and distribute information at the appropriate times. It may be necessary to make changes to legal documents for general understanding. You should also present legal information in accessible formats for your workers.

You may use the following means of communication:

* Noticeboard postings
* Intranet or business network
* Presentations
* Staff handbooks
* Emails
* Formal letters
* Newsletters
* Notes in regularly accessed areas
* Cloud servers
* Reports.

### Considering the choices

The choice of communication method will depend on the types of information that you are sending. Brief procedural updates may be written on notes or communicated via the intranet. Major legal changes may be communicated in reports and newsletters. Consider the types of technologies and communication mediums that are regularly used by your staff members. Give the workers enough time to consider, respond, and implement any necessary changes.

# 4. Monitor compliance

* Evaluate work practices for non-compliance on an ongoing basis, and implement modifications
* Maintain and update required accreditations or certifications
* Refer issues or breaches of ethical or legal practice to relevant people

## Evaluate work practices for non-compliance on an ongoing basis, and implement modifications

By the end of this chapter, the learner should be able to:

* Evaluate work practices for non-compliance on an ongoing basis
* Take measures to deal with non-compliance.

### Considering instances of non-compliance

It is particularly important to identify compliance breaches. They can have an overwhelmingly negative impact on perceptions of your business and limit the prospects of continued success. You should carry out workplace observations and inspections to ascertain whether compliance standards are being maintained. There may be a need to monitor some business processes on an everyday basis. Other work practices may be considered during comprehensive compliance audits. You are encouraged to arrange regular meetings and invite your workers to raise any concerns about compliance issues.

It will be important to account for all of the relevant laws and ethical standards which relate to your business. Your business practices should be reviewed and analysed in light of the rules and standards. You might use a checklist to ensure that all of the relevant aspects of compliance are considered. The findings should be documented and presented to senior members of your organisation. They will have to decide on suitable strategies to ensure ongoing compliance.

You may identify the following types of non-compliance:

* Health and safety
* Environmental
* Customer service
* Personal (discrimination, harassment etc.)
* Data storage and security.

### Dealing with non-compliance

It is important to respond quickly and limit the impact of any compliance problems. However, thorough evaluation and planning will be necessary if you are to avoid any recurrences in the future. You must decide on how best to communicate the reasons for compliance issues and highlight the importance of change. Your employees may be resistant to further training and mentoring. It might even be necessary to relocate, as a consequence of environmental issues. However, you may overcome resistance by involving employees in key discussions and allowing them to have a say in plans for the future. Transparency is recommended in order to maintain positive relationships with customers, employees, and business associates. People will appreciate your honesty and trust you to take the appropriate action. Managers and other influential business representatives should set a positive example for the workforce to follow.

## Maintain and update required accreditations or certifications

By the end of this chapter, the learner should be able to:

* Maintain and update required accreditations or certifications.

### Legal and professional responsibilities

Your business may be legally required to maintain and update a variety of accreditations and certifications. The required standards will vary in accordance with the specialisation of your business. You might have to prove compliance with rules on the provision of alcohol to certain customers, or laws regarding the discrimination in the workplace. You might deem it necessary to hold certain certifications as proof of the high standards that your business has achieved in a particular market. You may assign responsibilities for monitoring and identifying the need for new accreditations and certifications. It will also be necessary to maintain standards in case of audits and inspections.

There may be regulatory bodies responsible for establishing and maintaining standards in your industry. They will be primarily concerned with protecting the public and ensuring that your organisation remains in compliance. Examples of highly regulated sectors include Australian health and community service. Organisations in these sectors have to register with the government and other regulatory agencies. They have to obtain licenses and follow specific laws. Individuals working in the healthcare sector must apply for national registration and accreditation.

The national registration and accreditation scheme covers the following professions:

* Aboriginal and Torres Strait Islander health practice
* Chinese medicine
* Chiropractic
* Dental practice
* Medicine
* Medical radiation practice
* Nursing and midwifery
* Occupational therapy
* Optometry
* Osteopathy
* Pharmacy
* Physiotherapy
* Podiatry
* Psychology.

Organisations may also obtain accreditation and certifications for:

* Achieving specified levels of diversity
* Acting in accordance with environmental legislation
* Restricting product and service access to certain groups
* Maintaining fairness and equality in the workplace
* Providing excellent customer service
* Maintaining high standards of health and safety.

You are advised to keep records of the standards that should be maintained and the dates of re-application for accreditations and certifications. It might be necessary to contact the regulatory bodies and arrange assessments of your workplace. You should also carry out regular reviews and make adjustments in accordance with any updates in accreditation or certification.

## Refer issues or breaches of ethical or legal practice to relevant people

By the end of this chapter, the learner should be able to:

* Refer issues or breaches of ethical or legal practice to relevant colleagues.

### Breaches of compliance

Breaches of compliance may result in governmental reviews, fines, and forced redundancies. However, businesses can avoid these negative scenarios by monitoring and responding to changes in legislation and working practices. Principle 10 of the AS 3806 standard specifies that it isn’t sufficient to have policies in place for the satisfaction of compliance requirements. Businesses are also required to monitor and evaluate the success of their compliance strategies.

There are various ways of responding to compliance breaches. Product returns may be accepted and replacements offered in the event of customer complaints. Employees who fail to abide by the code of conduct may be appropriately disciplined and warned about future action. It may also be necessary to pay fines and produce documents to prove that the organisation has changed its non-compliant practices. Timely action will be required if you are to limit the impact of compliance breaches. You are also encouraged to establish clear schedules for the resolution of non-compliant practices.

### Informing relevant internal and external personnel

There should be clear reporting procedures in place, to ensure that organisations are in compliance with the relevant legislation and business rules. All members of the organisation should be aware of the appropriate reporting procedures. They should know who to communicate with regarding the non-compliance of employees in positions of authority.

Businesses may choose to enlist the assistance of third-party experts, with the knowledge required to address breaches of compliance. Book-keepers and other financial experts may be hired to ensure that the business accounts are in order. Legal experts may be called upon to deal with specific legislative issues. A report should be issued upon the successful resolution of compliance breaches. It may detail the actions taken and the involvement of different staff members. The effects of any action should be closely monitored.

**You may also have to communicate instances of non-compliance to external personnel, representing:**

* Educational institutions and organisations
* Government departments
* Professional associations and institutes
* State/territory or national licensing authorities
* State/territory or national statutory standards authorities
* State/territory, national or international regulatory authorities.

# 5. Maintain knowledge of compliance requirements

* Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues
* Share updated knowledge and information with peers and colleagues
* Pro-actively engage in process of review and improvement

## Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues

By the end of this chapter, the learner should be able to:

* Identify new legal requirements
* Identify new ethical issues.

### Maintaining knowledge of legal requirements and ethical issues

It is essential to ensure that your business operates in compliance with all of the applicable legal requirements and ethical standards. The amount of regulation will vary in accordance with the size and specialisation of your business. You may be aware that there are numerous laws applicable to the insurance and bar service industries. Such companies might deem it necessary to employ dedicated legal staff for the purpose of identifying legal requirements. However, the owners of small businesses may rely on different types of legal assistance.

### Investigating legal requirements

You will need to monitor and adapt to changes in legislation if you are to avoid potentially costly compliance breaches. It will be necessary to review the licenses, registrations, contracts and leases that apply to your company. You’ll find that there are a variety of legal firms and specialist lawyers that can help to develop and implement compliance measures. They should help you to identify any licensing requirements and make the necessary applications. You may also require assistance when it comes to the drafting of legal documents and resolution of disputes in the workplace.

Additional legal assistance is provided by the Australian government. You can access a variety of legal guides on the website (<http://www.business.gov.au/>). You can also use the Australian business license and information service to identify the licences, permits and registrations which apply to your business. There are a variety of legal clinics in the different states of Australia offering guidance on issues such as debt recovery, employment law, and business law.

You should take the following legal issues into account:

* Privacy
* Anti-discrimination
* Consent to medical treatment
* Duty of care
* Release of client information
* Child protection
* Industrial relations
* Trade practices
* Equal Employment Opportunity
* Occupational health and safety
* Contractual obligations
* Licensing laws.

### Considering the ethical issues

There are a range of ethical issues that will apply to your business. Employees should act with integrity and treat their colleagues with due respect. You also have a responsibility to consider the requirements of diverse ethnic and cultural groups. You should base employment decisions on relevant skills and knowledge, rather than issues of race or religion. It is also important to make ethical decisions and give employees a chance to contribute. You should assess the workplace in light of your ethical principles and ensure that the workers are given opportunities to voice any concerns. Audits should be carried out to ensure that the business is committed to maintaining its ethical principles.

You may also consider these forms of research:

* Workplace observations
* Surveys
* Interviews
* Questionnaires
* Complaint reviews.

## Share updated knowledge and information with peers and colleagues

By the end of this chapter, the learner should be able to:

* Share their updated knowledge and information with peers and colleagues.

### Communicating compliance

It is necessary to ensure that colleagues and peers are aware of the compliance information specific to your organisation. However, you will face a challenge when it comes to the communication of such details. Employees may be loath to spend large amounts of time reading about legislation and company policies. They may feel that their time is better spent focussing on the development of products and business strategies. However, there are some proven ways of enhancing compliance communications. The messages should be simple, direct, and relevant to the business audience. It is important to identify individual information requirements and create appropriate communications.

You may inform peers and colleagues of:

* New policies and procedures that are being introduced by your organisation
* The development of best practices
* Relevant legislation and business registrations/licences
* Agreed strategies for overcoming compliance risks
* Positive steps that have been taken towards the achievement of legal and ethical compliance
* Information about helpful compliance research sources.

It is advisable to use a variety of communication channels to spread the word about compliance. You should focus on the concerns of the readership and address individual staff members appropriately. Comprehensive training may be required for those employees in high-risk departments. It should be tailored in accordance with the relevance of risk. Regular emails and newsletters should be sent to those employees are directly affected by compliance issues. However, basic documents may be provided and signed off by those at little risk.

You can use these means of sharing knowledge and information:

* Posters
* Press releases
* Games
* Websites
* Emails
* Social media feeds
* Newsletters
* Intranet
* Blogs.

### Importance of regular communication

You are encouraged to create a plan for the development and circulation of communications about compliance. You should maintain regular contact with employees and provide information about compliance in short and easily comprehensible bursts. This will mean that your employees are continuously aware of compliance issues.

**Your communication strategy** may include:

* Attendance of relevant conferences, seminars, etc. dealing with relevant aspects of applicable compliance requirements and related compliance management
* Hardcopy and electronic newsletters either dedicated to compliance management issues or having a section dealing with compliance management issues
* Nominated internal contacts linked to an established network of external contacts in relevant regulatory authorities and other organisations with an interest in applicable compliance requirements
* Presentations and papers at conferences or in relevant journals covering relevant aspects of the organisation's compliance program/management system
* Production and distribution of external documentation requirements including press releases, published information on compliance policies, and organisational initiatives for compliance management, submissions and reports to regulatory authorities, and others with an interest in applicable compliance requirements
* Production and distribution of internal documentation requirements, including overall specification of the compliance program/management system, procedures, standards, organisational structures, descriptions of staff roles and responsibilities, information on compliance program/management system components, breach management policies, and procedures
* Subscription to and/or systematic access and review of, relevant publications and periodicals dealing with relevant aspects of applicable compliance requirements and related compliance management.

## Pro-actively engage in process of review and improvement

By the end of this chapter, the learner should be able to:

* Review business compliance
* Improve business compliance.

### Reviewing business compliance

It will be necessary to monitor and evaluate the success of compliance measures taken by your organisation. You are advised to create checklists for evaluating the various aspects of compliance. Transactions and quality checks may be reviewed. The means of interaction with customers may be monitored, to ensure that employees are acting in the proper manner. Sales presentations and meetings with suppliers may also be attended and inspected for compliance.

It is important for employees to be able to access sources of information regarding the implementation of compliance measures. You may include such details in written manuals and digital communications about compliance. You should carry out regular research and ensure that employees are updated on legislation and suitable business practices. Any explanations of relevant laws should be written in plain English, for the benefit of all employees. You are also advised to establish metrics for the evaluation of your compliance program. Consider the impact that compliance measures are having on the achievement of your business objectives. Keep records of compliance tests and strategies that have been used to overcome breaches.

**You may use the following means of gathering information about compliance:**

* Business inspections
* Consultations with internal personnel
* Details of customer complaints
* Communication with auditors, consultants, and others with compliance expertise
* Publications containing relevant articles on business compliance
* Discussions with government representatives and organisations with responsibility for regulation
* Contact with relevant industry associations.

### **Compliance audits**

You are advised to carry out regular compliance audits, to ensure that standards of ethical and legal compliance are being maintained. Employees should be aware of their responsibilities and have a comprehensive understanding of the relevant compliance requirements. Various members of the organisation should be questioned. It will be necessary to identify any areas of concern and develop strategies to ensure that relevant standards are met.

Gap analysis

You should carry out a step by step analysis of business processes and consider whether they are being undertaken in accordance with compliance criteria. A gap analysis will allow you to identify any forms of legislation and effective practices which haven’t necessarily been considered. It will involve an analysis of your present business situation in light of expectations regarding future compliance. You may consult relevant members of the organisation and access business data on the effectiveness of your compliance measures. Then develop a plan to meet your compliance objectives.

You should consider these means of obtaining feedback:

* Customer surveys, hotlines, and focus groups
* Statistical data collection
* Consultations with key decision makers
* Peer reviews
* Digital communication
* Interviews with customers and employees.

### Key performance indicators

There should be analysis of feedback, based upon agreed key performance indicators (KPIs). It is essential to evaluate the steps that are being taken to improve the compliance of your organisation, the effectiveness and reliability of compliance systems, and the impact of implemented procedures. You should present such information clearly, for general understanding. Graphs and other visual elements may be used to highlight the effect of compliance measures over time. The organisation should be progressing towards the achievement of compliance objectives.

You may consider these KPIs:

* Content of reports of breaches of compliance requirements
* Number and details of alleged breaches of relevant laws, codes, and organisational standards
* Number and details of complaints recorded that are related to compliance requirements and action taken
* Operational costs of the compliance program/management system
* Reported problems in the operation of the complaints management system
* Reports on action taken in the event of a breach in compliance requirements
* Results of assessments of skills and knowledge of managers and operations staff in terms of the organisation's compliance requirements, the compliance program/management system and their individual roles, accountabilities and responsibilities.

## 

## References

***These suggested references are for further reading and do not necessarily represent the contents of this unit.***

Websites

**Australian consumer law:** [www.consumerlaw.gov.au](http://www.consumerlaw.gov.au)

**The Department of health:** <http://www.health.gov.au/>