

Legislative Compliance

First Produced:	14/04/97	Authorisation:	Te Kāhui Manukura and Council
Current Version:	11/10/16	Officer Responsible:	Director, Governance and Strategy
Past Revisions:	14/12/01, 02/11/11		
Review Cycle:	3 years <i>(due to the constantly changing nature of the legislative framework management monitors this closely and updates the policy as necessary.)</i>		
Applies From:	Immediately		

1 Introduction

1.1 Purpose

To enable Council and Management to carry out its statutory functions and duties by establishing and maintaining systems for monitoring and reporting on Ara Institute of Canterbury's compliance with key legislation.

1.2 Scope and Application

This policy applies to all educational and administrative activities at governance, management, and operational levels.

Ara is required to comply with a range of legislation as part of good governance and management. There are many pieces of legislation which impact on Ara and imply a risk if the performance of the institution or the behaviour of its staff are inconsistent with the intention of the relevant Acts, Regulations, and other legal obligations and requirements.

While the inherent risk and financial exposure can be substantial, this policy in itself is unable to provide absolute assurance that the institution will not be sued (for breaches of contract), subjected to personal grievances, or exposed to claims for damages by staff, students, or members of the public.

1.3 Formal Delegations

- a The Ara Council has delegated responsibility for legislative compliance to the Chief Executive (CE).
- b The CE delegates responsibility for compliance with specific legislation and regulations in accordance with Schedule 1.
- c Application of this policy and maintenance of the updating, checking, and reporting system is delegated to the Director, Governance and Strategy.

1.4 Definitions

- a ComplyWith: the web-based software tool used by Ara to manage legislative compliance.

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- b Legislation: for the purposes of this policy, legislation is taken to include Acts of Parliament, associated regulations, and other statutory requirements applicable or potentially applicable to Ara.
- c Critical breaches of legislation: an act or omission in contravention of legislation that will, or is likely to, result in financial penalty, legal action, inability to deliver learning, or negative publicity.

Related Ara Procedures <ul style="list-style-type: none"> All procedures subject to legislative requirements. 	Related Ara Policies <ul style="list-style-type: none"> All policies subject to legislative requirements.
Related Legislation or Other Documentation <ul style="list-style-type: none"> Legislation relevant to Ara 	References <p>Nil.</p>
Notes <ul style="list-style-type: none"> The first version of this policy was adopted by CPIT Council on 14/4/97. From 2009 until 2013, CPIT used the ITPNZ Legislative Compliance web tool. In March 2012, CPIT Policy and Procedures were updated to reflect the changes in structure, committees, roles and delegations as a result of the CPIT Management Restructure. From 2014 onwards, CPIT used the ComplyWith web-based software tool to monitor legislative compliance. In 2016 the policy was updated to reflect the introduction of ComplyWith, changes in management structure and to benchmark the current policy against the sector to ensure best practice. 	

2 Principles

- 2.1 Ara is committed to complying with New Zealand law and will conduct its business in a lawful, professional and ethical manner.
- 2.2 All Ara managers and employees have a responsibility to ensure that the activities they perform on behalf of Ara comply with the law.
- 2.3 Ara recognises its responsibility to establish policies and procedures that provide assurance that the Institute and its employees are complying with the law, and that these are updated in response to organisational and legislative changes.
- 2.4 Ara focuses on key legislation and other legal obligations where non-compliance would expose Ara to a risk of financial penalty; loss of income; inability to fulfil educational, administrative or commercial goals and objectives; negative publicity or reduced public regard; or legal action arising from such non-compliance.
- 2.5 Ara will ensure that:
 - a Procedures exist to inform Council, management, and staff so they may avoid accidental or inadvertent breaches of the law; and
 - b Procedures exist to monitor legislative change; organisational compliance; and to identify, communicate and rectify areas at risk of non-compliance.
- 2.6 Legislative compliance is dependent on the ability, integrity and diligence of those staff allocated specific compliance responsibilities. Ara will ensure appropriate training is in place to support staff to meet these responsibilities.

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3 Associated Procedures for Ara Corporate Policy on: Legislative Compliance

Contents:	3.1	Overview
	3.2	Legislative Compliance Declaration
	3.3	Additional Procedures
	3.4	Relationship between Legislative Compliance and other Audit and Risk Procedures

3.1 Overview

- a Ara Council has overall responsibility for the good governance and discipline of the institute. The CE is responsible for the management of the academic and administrative affairs of the institute and for all the functions, duties, and powers delegated to him or her by the Council. The CE also has the power to further delegate a number of his/her functions, duties, or powers. In terms of legislative compliance, the CE delegates responsibility for ensuring organisational compliance with certain legislation to relevant managers.
- a The Director, Governance and Strategy, is responsible for the monitoring legislative compliance on behalf of the CE, recommending updates to delegated compliance, and for raising compliance issues with the CE and TKM as appropriate.
- b Legislative compliance supports the Institute's Assurance Framework, and compliance has been integrated into day to day management by delegating responsibilities into the appropriate operational areas.
- c Ara employs two key approaches to legislative compliance. Firstly, accountable managers are required to routinely declare their compliance in certain areas based on their roles. Secondly, legislative compliance is a component of the internal and external audit processes.

3.2 Legislative Compliance Declaration

- a Routine checks of legislative compliance are facilitated through a six-monthly legislative compliance declaration using the ComplyWith web-based software tool. This tool covers a wide range of legislation, and these are simplified into a series of questions and declarations which are allocated to staff as per the delegation schedule. The ComplyWith software is also regularly updated with fresh content relating to new or amended legislation, as well as software updates and enhanced usability.
- b Certain pieces of legislation and regulations will have shared responsibility, with multiple people required to declare compliance.
- c The Director, Governance and Strategy, is responsible for the running of the declaration, and verifying full and accurate responses are received.
- d The declaration using the ComplyWith tool is to be run biannually, and any issues identified will be investigated. These may include non-compliance, uncertain compliance, improper allocation of compliance responsibility, or other issues of risk or concern. If deemed necessary, corrective actions will be specified. A summary of the results of the declaration and associated issues and corrective actions will be provided to the CE, TKM and Council.

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3.3 Additional Procedures

- a. The Director, Governance and Strategy will report any significant changes in legislation to TKM and the CE, and the CE will in turn report these to Ara Council.
- b. In addition to the routine declaration, the following are to be reported to the CE by managers immediately as they become known:
 - i Critical breaches of legislation
 - ii Significant concerns regarding undue exposure to risk
- c. The Chief Executive will report significant breaches and risks to Ara Council.

3.4 Relationship between Legislative Compliance and other Audit and Risk Procedures

- a. In addition to the routine declarations, key aspects of legislative compliance are also checked through internal and external audit processes. These include areas such as external financial reporting, compliance with health and safety regulations, and accurate recording of student enrolment and achievement.
- b. Aspects of legislative compliance are also considered as part of the Ara risk management process. Specifically, critical areas of potential or actual non-compliance that could have significant impacts on Ara are likely to be identified as organisational risks and managed accordingly.

Schedule 1: Delegated Responsibilities for Legislative Compliance

Legislation/Regulation	Responsible Executive	Delegated to Manager
Related to Governance		
Education Act 1989	Chief Executive	Relevant aspects delegated to Council Secretary; Director International; Manager, Finance; Manager, Portfolio and Assurance; Manager, Registry; Manager, Youth; and Senior Administration Manager.
State Sector Act 1988	Chief Executive	Relevant aspects delegated to Council Secretary; Manager HR; and aspects to all managers
Local Authorities (Members' Interests) Act 1968	Council Secretary	nil
Local Government Official Information and Meetings Act 1987	Council Secretary	nil
Public Records Act 2005	Director, Governance & Strategy	Manager, Information and Records
Electronic Transactions Act 2002	Director, Governance & Strategy	Manager, Information and Records
Related to Academic Practices and Pastoral Care		
Code of Practice for the Pastoral Care of International Students	Chief Executive	Relevant aspects delegated to Director International, Heads of Department, and Managers within Student Services Division
Consent to Assess Against Standards on the Directory of Assessment Standards Rules 2011	Director, Academic	Manager, Portfolio and Assurance
NZQF Offshore Programme Delivery Rules 2012	Director, Academic	Manager, Portfolio and Assurance
NZQF Programme Approval and Accreditation Rules 2013	Director, Academic	Manager, Portfolio and Assurance
Training Scheme Rules 2012	Director, Academic	Manager, Portfolio and Assurance
Copyright Act 1994	Director, Academic	Relevant aspects delegated to Director, ICT; Manager, Library; Heads of Department and academic staff
Films, Videos, and Publications Classification Act 1993	Director, Student Services	Librarian

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Related to Health and Safety and Facilities		
Health and Safety at Work Act	Chief Executive (noting Council retain final responsibility for health and safety at Ara)	Relevant aspects delegated to CFO/Director, Corporate Services; all TKM members; Manager, Health & Safety, plus obligations on all managers.
Health and Safety at Work (General Risk & Workplace Management) Regulations 2016	CFO/Director, Corporate Services;	Relevant aspects delegated to Manager, Health & Safety, plus obligations on all managers.
Plumbers, Gasfitters, and Drainlayers Act 2006	CFO/Director, Corporate Services	Manager FM
Building Act 2004	CFO/Director, Corporate Services	Relevant aspects delegated to Manager FM and Manager Health and Safety
Electricity Act 1992 [& Safety Regs 2010]	CFO/Director, Corporate Services	Relevant aspects delegated to Manager FM and Manager Health and Safety
Fire Service Act 1975	CFO/Director, Corporate Services	Manager Health and Safety
Occupiers' Liability Act 1962	CFO/Director, Corporate Services	Manager Health and Safety
Smoke-free Environments Act 1990	Chief Executive*	Relevant aspects delegated to Head of Department, Hospitality and Service Industries, Manager Early Learning Centre, and all managers
Residential Tenancies Act 1986	Director, Student Services	Manager, Student Wellbeing
Related to Financial Practices, Taxation and Financial Reporting		
Crown Entities Act 2004	CFO/Director, Corporate Services	Manager, Finance
Financial Reporting Act 2013	CFO/Director, Corporate Services	Manager, Finance
Goods and Services Tax Act 1985	CFO/Director, Corporate Services	Manager, Finance
Income Tax Act 2007	CFO/Director, Corporate Services	Manager, Finance
Public Bodies Contracts Act 1959	CFO/Director, Corporate Services	Manager, Finance
Tax Administration Act 1994	CFO/Director, Corporate Services	Manager, Finance
Unclaimed Money Act 1971	CFO/Director, Corporate Services	Manager, Finance
Public Audit Act 2001	CFO/Director, Corporate Services	Manager, Finance (plus obligations on all managers)
Education (Export Education Levy) Regulations 2011	CFO/Director, Corporate Services	Relevant aspects delegated to Manager, Finance and Manager, Registry

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Related to HR		
Child Support Act 1991	CFO/Director, Corporate Services	Manager, HR
Criminal Records (Clean Slate) Act 2004	CFO/Director, Corporate Services	Manager HR
Equal Pay Act 1972	CFO/Director, Corporate Services	Manager HR
Immigration Act 2009 - All Managers	CFO/Director, Corporate Services	Manager HR
KiwiSaver Act 2006	CFO/Director, Corporate Services	Manager HR
Minimum Wage Act 1983	CFO/Director, Corporate Services	Manager HR
Minimum Wage Order 2016	CFO/Director, Corporate Services	Manager HR
Social Security Act 1964	CFO/Director, Corporate Services	Manager HR
Student Loan Scheme Act 2011	CFO/Director, Corporate Services	Manager HR
Volunteers Employment Protection Act 1973	CFO/Director, Corporate Services	Manager HR
Vulnerable Children Act 2014	CFO/Director, Corporate Services	Manager HR
Wages Protection Act 1983	CFO/Director, Corporate Services	Manager HR
Juries Act 1981	CFO/Director, Corporate Services	Manager HR (plus obligations on all managers of staff)
Employment Relations Act 2000	CFO/Director, Corporate Services	Manager HR (plus obligations on all managers of staff)
Fair Trading Act 1986	CFO/Director, Corporate Services	Manager HR (plus obligations on all managers of staff)
Holidays Act 2003	CFO/Director, Corporate Services	Manager HR (plus obligations on all managers of staff)
Parental Leave and Employment Protection Act 1987	CFO/Director, Corporate Services	Manager HR (plus obligations on all managers of staff)
Accident Compensation Act 2001	CFO/Director, Corporate Services	Manager HR and Manager Health and Safety

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Related to Privacy, Complaints, Official Information and Human Rights		
Harmful Digital Communications Act 2015	Chief Executive	Complaints Coordinator
Ombudsmen Act 1975	Chief Executive	Complaints Coordinator
Protected Disclosures Act 2000	Chief Executive	Complaints Coordinator
Official Information Act 1982	Chief Executive	Complaints Coordinator (plus obligations on all managers)
Human Rights Act 1993	Chief Executive	Complaints Coordinator; Manager HR
Privacy Act 1993	CFO/Director, Corporate Services	Privacy Officer (plus obligations on all managers)
Unsolicited Electronic Messages Act 2007	CFO/Director, Corporate Services*	Director ICT, Marketing Manager
Related to Animals and Agricultural Compounds		
Animal Welfare (Records and Statistics) Regulations 1999	Director, Education and Applied Research	Head of Department, Science and Primary Industries
Agricultural Compounds and Veterinary Medicines Act 1997	Director, Education and Applied Research	Head of Department, Science and Primary Industries
Animal Welfare Act 1999	Director, Education and Applied Research	Head of Department, Science and Primary Industries
Related to Alcohol, Food Preparation and Hairdressing		
Food Hygiene Regulations 1974	Director, Education and Applied Research	Head of Department, Hospitality and Service Industries,
Health (Hairdressers) Regulations 1980	Director, Education and Applied Research	Head of Department, Hospitality and Service Industries,
Sale and Supply of Alcohol Act 2012	Director, Education and Applied Research	Head of Department, Hospitality and Service Industries,
Related to Broadcasting		
Broadcasting Act 1989	Director, Education and Applied Research	Manager NZ Broadcasting School
Related to Early Learning Centre		
Education Act 1989 – Early Childhood Education and Care & Education (Early Childhood Services) Regs	Director, Student Services	Manager Early Learning Centre
Health (Immunisation) Regulations 1995	Director, Student Services	Manager Early Learning Centre

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Related to Health Centre		
Health (Needles and Syringes) Regulations 1998	Director, Student Services	Manager, Student Centres
Health (Retention of Health Information) Regulations 1996	Director, Student Services	Manager, Student Centres
Health Act 1956	Director, Student Services	Manager, Student Centres
Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996	Director, Student Services	Manager, Student Centres
Health and Disability Commissioner Act 1994	Director, Student Services	Manager, Student Centres
Health and Disability Services (Safety) Act 2001	Director, Student Services	Manager, Student Centres
Health Information Privacy Code 1994	Director, Student Services	Manager, Student Centres
Health Practitioners Competence Assurance Act 2003	Director, Student Services	Manager, Student Centres
Medicines (Standing Order) Regulations 2002	Director, Student Services	Manager, Student Centres
Medicines Regulations 1984	Director, Student Services	Manager, Student Centres
Mental Health (Compulsory Assessment and Treatment) Act 1992	Director, Student Services	Manager, Student Centres
Misuse of Drugs Act 1975 & Misuse of Drugs Regulations 1977	Director, Student Services	Manager, Student Centres
Related to Radiation and Medical Imaging		
Radiation Protection Act 1965	Director, Education and Applied Research	Head of Department, Nursing, Midwifery and Allied Health
Radiation Protection Regulations 1982	Director, Education and Applied Research	Head of Department, Nursing, Midwifery and Allied Health

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