Compliance now goes hand in hand with doing business and applies to all employees and third parties, whatever their role is within an organisation. Compliance initially entered most industries because of a negative action. Early compliance processes were often a response to the need for ongoing oversight. This ensured appropriate policies and procedures were in place and training and education was provided and documented. Over time, this has progressed from being a reactive process, to an essential part of the way an organisation operates.
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Compliance has many definitions, but the simplest way of describing it is through a two-step process.

1. Complying with legal obligations and rules by an organisation

2. Developing a formal program specifying an organisation’s policies, procedures, and actions that will help prevent and detect violations of laws and regulations

The first step has always applied to organisations. The second step, which has been developed in recent years, deals with the issue of how organisations ensure their entities, employees and third parties comply with their obligations. As such, compliance programs and strategies have become increasingly important and common in Australia and are a critical part of an organisation’s risk management strategy.
What is a compliance program?

A compliance program is essentially a system designed to reduce an organisation's risk of breaking the law. In 2015, The Australian Standard on Compliance (the Standard)\(^1\) introduced new terminology, updating the wording of a compliance program to a compliance management system. This updated definition means that an organisation must meet all its compliance obligations and includes obligations set out in an organisation's operating procedures.

The Standard emphasises that compliance is part of an organisation’s culture. It stresses the importance of compliance being the ‘responsibility of an organisation’s governing body’, rather than just a management function. Ultimately, although having the right policies and procedures is important, the way in which they are communicated and implemented within an organisation is key.

\(^1\) Australian Standard on Compliance: AS/ISO 19600:2015
Benefits of an effective compliance program

An effective compliance program helps an organisation to:

- protect itself from unknowingly breaking the law and suffering the consequences of doing so
- demonstrate that it is earning its revenue legitimately
- enhance its business operations through reduced costs and improved safety measures, efficiencies, quality of products and services, as well as innovation
- be more efficient by saving costs and resources
- identify previously unidentified risks
- improve communication, and accurate and regular reporting to executives
- promote ethical behaviour throughout the organisation by encouraging a compliance culture.
If an organisation does commit a breach of compliance, demonstrating that it has an effective compliance program in place may result in a court awarding it reduced penalties. On the other hand, organisations that have inadequate or poorly implemented compliance programs may face increased penalties. Fines, criminal penalties and legal fees are not the only consequences of poor compliance. Other negative consequences include:

- poor publicity
- diverting resources away from its main business activities to focus on an investigation or legal action
- impacting profits and preventing an organisation from generating new business, providing competitors with an opportunity to steal the market share
- employees being diverted from their day-to-day activities, causing considerable stress, de-motivation and may cause people to leave the organisation.
A compliance program requires carefully thought out planning, organisation and training. The Learning Seat Model of Compliance sets out the essential features that need to be present in a compliance program. Aligning culture and behaviour is the central feature that binds everything an organisation does in compliance together; this is led by leaders in your organisation.
There needs to be five key elements to a compliance program.

01 Leadership
02 Risk analysis
03 Standards, procedures and controls
04 Prevent, deter and detect through training and communication
05 Evaluate and review
Leadership

While compliance officers usually undertake the implementation of a compliance program, the actual responsibility for compliance lies with the leadership team. We often talk about ‘tone from the top’ when it comes to leadership taking responsibility for compliance. Essentially, they are the ultimate compliance champions.

This means that they need to:

• fully, genuinely and openly endorse the compliance message by making a clear, visible and active commitment to compliance

• act in a manner that demonstrates their commitment to compliance, e.g. ensuring that their reports exhibit their commitment to compliance and that compliance is a factor in awarding compensation and other employee benefits, rather than just the organisation’s results

• have high-ranking compliance officers with the authority and resources to manage the compliance program on a day-to-day basis

• ensure oversight of compliance and ensure compliance policies, systems and procedures are in place

• monitor the implementation and effectiveness of the compliance program by being actively involved in the program, reviewing, considering and evaluating information provided and making proper enquiry when presented with a potential issue – once management knows of a potential compliance issue they must act.
Risk analysis

A risk analysis assessment acts as a strong preventive measure. It provides an overview of an organisation's compliance obligations and identifies areas of high risk so that the organisation can prioritise their resources to tackle high-risk areas first.

All organisations will encounter strategic, operational, and financial risks. These risks will differ depending on the industry. They are usually greater in highly regulated industries, however, such as the healthcare and finance sectors. Risks are also increased for organisations operating internationally, which require compliance with anti-corruption laws and need to comply with a variety of national regulatory policies. It is likely that the compliance risk is not a one-off risk but continues throughout the entire product or service life cycle that the organisation is offering. For this reason, risk assessments should be conducted regularly.
Organisations generally have three levels of control.

1. **The Code of Conduct** states the organisation’s ethical principles.

2. **The standards and policies** build on the Code of Conduct and cover such issues as anti-bribery and corruption, reporting, working in foreign jurisdictions, fraud, data privacy, anti-trust, conflicts of interest, third-party due diligence, dealing with government agencies and accounting practices. A policy is a statement that sets out the organisation’s commitment to sustainable, compliant behaviour in the way it executes activities. It must be appropriate to the purpose of the organisation and provide a framework for its compliance objectives. The standards are the details that determine how the policies will be implemented. There might also be guidelines in place, which provide further information and guidance on the standards.

3. **Controls and procedures** to ensure that such policies and standards are implemented, followed and enforced.
To ensure that an organisation’s officers, employees and third parties understand the Code of Conduct and policies and standards, and can implement the procedures and controls, it is critical that proper training is in place. This can help detect, prevent and deter certain behaviours. This training should not only cover the relevant laws, regulations, policies, standards and prohibited conduct, but also the ethical culture of the organisation. It is not enough to simply train employees. Regulators want to see that an organisation has taken steps to ensure that the training is relevant, useful and understood by its learners. An organisation will need to prioritise training employees who operate in high-risk markets, may have direct contact with government officials or deal with state-owned entities. There may be different training depending on the role, seniority and responsibility an employee has. For example, an employee who is in a finance role may need different training to an employee who is in a sales role working internationally with government agencies. The frequency of the training will be determined on a risk basis, but it is often conducted annually. Although regulators prefer face-to-face training for employees operating in high-risk markets, online courses are often conducted for general and less high-risk training.

Prevent, deter and detect
Evaluation and review

The effectiveness and performance of a compliance program must be regularly monitored and evaluated. For monitoring to be effective, it must be carried out in a structured manner on a consistent and regular basis. Monitoring entails reviewing and detecting compliance issues in real time and then acting to address any gaps in the program. It is not satisfactory to just gather data and identify issues; remedial action must be taken in relation to any issues when they are discovered.

Monitoring is essential not just for detecting immediate problems, but also for helping to improve a compliance program. To do this, indicators can be developed to evaluate compliance risks and the achievement of the organisation’s compliance objectives. Deviation from such indicators can be a valuable tool for any improvements that need to be made to the compliance program.

Indicators can be divided into three categories.

- **Activity indicators** – relating to the training of staff (e.g. the use of the whistleblowing system, or the use of the benefits/conflicts of an interest register)

- **Reactive indicators** – relating to past events (e.g. the promptness of any response to potential or actual compliance breaches)

- **Forward-looking indicators** – relating to potential future events (e.g. the likelihood of future compliance breaches based on past data)
ROLE
of a compliance officer

A compliance officer’s role is to protect their organisation from harm and to implement measures to ensure that wrong-doing does not happen in the future. They manage regulatory risk and ensure that the organisation has systems of internal control that adequately measure and manage the risks that it faces. In this regard, their role involves the following.

IDENTIFICATION
Identifying and advising on risks

PREVENTION
Designing and implementing controls

DETECTION
Monitoring and reporting on controls

RESOLUTION
Resolving compliance issues as and when they arise

ADVISORY
Advising the business on rules and controls
The compliance officer’s role, however, has evolved to include far more than these elements. To help their organisation build a culture of compliance they need to help ensure that compliance is a part of everyone’s role and their daily lives. To achieve this, they need to be:

**BRILLIANT SALES PEOPLE**
To sell the message of compliance

**GREAT PRESENTERS AND EFFECTIVE STORYTELLERS**
To motivate, communicate and train people on compliance

**GREAT NETWORKERS**
To know the right people who can help them champion the compliance message and so that they can get a seat at the table when new projects are happening

**KNOWLEDGEABLE OF THEIR ORGANISATION**
So they can competently understand and discuss what their organisation does to fully understand the risks

**CREATIVE**
To be able to communicate compliance in a way that resonates with different audiences.
To help the organisation to be the most ethical organisation it can be, compliance can be a business advantage as it can help organisations win large contracts, particularly with government agencies.

To help the organisation avoid compliance breaches and the consequences associated with such breaches.

A compliance officer will have several motivators to persuade the business to play their part in implementing the compliance program.

This includes:

**BUSINESS MOTIVATION**
To help the organisation avoid compliance breaches and the consequences associated with such breaches.

**PRIDE**
To help the organisation to be the most ethical organisation it can be.

**COMPETITIVE EDGE**
Compliance can be a business advantage as it can help organisations win large contracts, particularly with government agencies.
Lines of defence against risk

There are three lines of defense to a risk management model.

01 MANAGEMENT CONTROLS
functions that own and manage risks

02 RISK CONTROL AND COMPLIANCE OVERSIGHT
functions established by management that oversee risks

03 AUDIT
functions that provide independent assurance

This model describes the interface between operating units that manage the risks, departments that provide oversight, and groups that provide independent assurance. Internal audits provide independent assurance that an organisation’s risks are managed at suitable levels and provides assurance that second-line oversight functions work to the standard required.

Ideally, these three lines should operate in every organisation, regardless of the industry, its size, or complexity. Some organisations, however, merge certain functions between the lines. In certain sectors, such as financial services, regulations require that the lines be very clear and that there are separate risk management and compliance functions.
COMMUNICATING Compliance

The risks associated with every organisation will be different and will depend on its industry, size, location, and whether it has offices or operates internationally. You should communicate certain compliance topics in your Code of Conduct and compliance policies and standards. These include topics such as:

- Anti-bribery and corruption
- Conflicts of interest
- Fraud
- Whistleblowing and reporting misconduct
- Ethical conduct
- Data privacy
- Antitrust/Dealings with competitors
- Working with government officials
- Bullying and harassment
- Human rights
- Discrimination
- Insider trading
- Protecting trade secrets
- Records management
- Health and Safety
- Cyber security
- Global security
- Travelling abroad
Of course, to ensure that the topics above are fully implemented and followed, they must be understood. This is where effective training and communication comes in.

You might not want to overload your employees and train them on every topic every year. Instead, organisations tend to train their employees on the areas of key risks annually, and then different specialist topics every other year. For example, one year you might decide to concentrate on key risk topics, such as bribery and corruption, third parties and bullying and harassment, and focus on a few specialist topics such as insider training and trade secrets. The following year may have the same topics for the key risks, but the specialist topics might be replaced with human rights and data privacy.

The typical forms of training that organisations require are:

**FACE-TO-FACE TRAINING**
For high-risk employees

**WEBINARS**
For employees who cannot attend face-to-face training in person but still need to interact in real time with a trainer

**ONLINE TRAINING**
This can involve short videos, animations and interactive online training in which employees answer questions and follow a story/narrative throughout
Online training is the method that most organisations use to train the majority of their employees. Even if employees have attended face-to-face or webinar training it is useful to have them complete online training to remind them of other key areas.

Learning Seat can provide custom-made training tailored to your organisation’s specific compliance needs and online training that prepared by experts covering the key compliance risks. Take a look at the Learning Seat Library of existing suite of compliance training materials.

There are also less obvious ways that an organisation informally trains its employees. This could be by:

- internal social media, newsletters and intranet articles
- informal communications in meetings, discussing a compliance issue or media article
- compliance campaigns using engaging stories, graphics and animations featuring a compliance message
- group discussions and workshops relating to relevant compliance issues and ethical dilemmas
The goal of compliance is that it needs to be part of how an organisation operates and not something outside of normal work practices. The reason is two-fold. Firstly, you do not want compliance to be thought of as extra work. Secondly, for compliance training to be successful, it needs to align with the way an organisation works.

Below is how compliance can be incorporated into an organisation’s normal work practices.

**Induction**

Usually, every employee has an induction. This may consist of an induction pack, induction training, or a face-to-face or online introduction to the organisation. A section on compliance can be a section added to the induction about how to contact the compliance department/officer, what the relevant policies are, where to find the policies, and any key messages on ethics and compliance. These messages could be very simple and include the importance of asking questions, reporting suspected breaches and understanding the compliance policies.

**Compensation schemes**

One of the most effective ways to compensate employees is through bonuses and enhanced compensation schemes. Many organisations now make ethics and compliance a factor in determining whether to award such compensation.
Travel guidelines
Travel guidelines that provide employees with information on what to do when they travel should also include a section on compliance. This may relate to what to do when offered or requested to make a bribe or facilitation payment (e.g. small payments to low-level government officials), and how to deal with government officials.

Benefits
As part of an employee’s role, they are often offered incentives by organisations. This may be as simple as a service provider wanting to pay for lunch, or perhaps a larger benefit like a free ticket to a sporting event or an expensive conference. Make sure that your compliance policy on accepting and offering benefits is relevant to the types of benefits that your organisation typically offers.

Conflicts of interest
Many people make the mistake of thinking that conflicts of interest are a bad thing. The truth is that they are usually a fact of business and are not a problem if the organisation knows about them and can manage them with a fully transparent process. Find out what conflicts of interest usually occur in your organisation and ensure that your policies, standards and training covers them.
TIPS
to protect your organisation

Whether you have a robust compliance strategy in place or are just starting your compliance journey, now is a great opportunity to incorporate some simple techniques that will help keep your organisation compliant.

Create a calendar of upcoming compliance regulations that impact your organisation.

This should detail what you will communicate in terms of compliance, when the communication will be sent out and what the method of the communication will be. This strategy can then be shared with other parts of the business to ensure it is not overlapping with other important announcements and vice versa.

Be organised

Create an annual communication strategy

Keep up-to-date with compliance regulations and news

It’s important that you know what is happening in the world that could impact your organisation. Subscribe to compliance newsletters and websites. This will not only give you news and any changes to laws and regulations that impact you, but also insights into what other organisations are doing and practical advice.
The most persuasive way for the compliance message to be heard is directly from the organisation. Find ways to persuade the business to get the compliance message out there for you. For example, you can run a competition to seek the best ‘good news’ compliance story or offer a monthly/quarterly compliance success award for the most creative way of communicating compliance to teams. The point is to motivate people to talk about compliance and celebrate ‘compliance wins’.

Mix up your training so that it involves short-focused videos, different scenario-based training and fun animations. You can also provide ethical dilemmas using graphic novels or even workshops in which people act out scenarios. For training to be engaging, you want to give people something they don’t expect.

If most people make small changes, these small changes get magnified into a large-scale change for an organisation. Try asking people to change one small thing or develop one new compliance habit that takes up a fraction of their time. For example, ask people who approve expenses to spend an extra five minutes of their time each day checking through transactions. This may pick up a fraud that would otherwise go undetected. Another idea is to ask managers to spend three to five minutes each week in their team meeting discussing a newspaper or online story relating to compliance. You can even provide a list of stories for them to choose from.
If you are thinking about introducing compliance training into your organisation or need more compliance courses, Learning Seat can help by offering the following.

**Risk Analysis Services**
- Risk analysis consultancy services
- Risk management training
- Analysis tools and risk expertise

**Align culture and behaviour**
- Professional development online training courses
- Custom course development
- Learning Management System
- Culture and behaviour consultancy services

**Prevent, deter and detect compliance breaches**
- Compliance online training courses
- Template policies
- Compliance implementation guide

**Evaluate and review**
- Compliance case studies and case law updates
- Whistleblowing service
- Compliance consultancy services
Learning Seat’s white papers provide you with current insights into the trends affecting workplace learning. Credible and concise, they’ll help you get to grips with contemporary issues and new technologies, while arming you with evidence to make the decisions that will benefit your people and your business.