

Model policies for agencies and boards

Legislative compliance framework

This is a model policy on how legislation, obligations and rules govern your agency or board

An agency is subject to the laws and other obligations that comprise its governance framework.

This framework will help your agency navigate the complex layers of legislation and regulation that governs how you operate.

About the model policy

Which agencies does it apply to?

This applies to board members and employees of all DELWP agencies, including large committees of management (*categories 1 and 2*).

For smaller committees (*category 3*), see www.delwp.vic.gov.au/committees.

Your agency's policy

It is good practice to have a policy on *Legislative compliance* that sets out what legislation and regulation governs, applies to or is specific to your agency. This model policy is provided as a guide.

Adapting the policy

You will need to adapt this model policy to consider the unique nature and functions of your agency.

Terminology

The model policy uses generic terms. Your agency can substitute its own terms, for example:

- *board*: committee, panel, etc.
- *board member*: director, committee member, etc.

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Further information

On Board

For more information, see the legislative compliance module on On Board (www.delwp.vic.gov.au/onboard).

It includes the DELWP model policies, guidance notes for induction and templates.

DELWP relationship manager and team

DELWP also offers support to its agencies through its divisions and regional offices.

Contact your agency's relationship manager or phone the Customer Service Centre on 136 186.

[name of agency/board]

Legislative compliance framework

The framework

We have created the framework as a network of interconnecting obligations, including:

- your establishing Act or terms of reference
- whole-of-government laws and obligations
- universal laws and obligations like health and safety or privacy
- key internal documents like a strategic plan or delegations.

Whole of government

There is a range of laws and other obligations that apply to the whole Victorian public sector, or to particular sections of it.

These aim to apply integrity and governance standards across government. Our agency must carefully follow these standards.

Public Administration Act (PAA)

Most portfolio agencies are **public entities**. Public entities are subject to the Public Administration Act 2004. The PAA sets the over-arching integrity and governance standards for the whole of the Victorian public sector.

Examples of key requirements in the PAA are

- **public sector values** – all board members and employees to perform their role with line with these values
- **public sector employment principles** – these principles enshrine fair and merit-based recruitment and equal opportunity employment
- **integrity standards** – these are the individual and collective standards, duties and accountabilities of board members

Financial Management Act (FAA)

Most major portfolio agencies are also **public bodies**. Public bodies are subject to the Financial Management Act 1994.

The FMA sets financial standards and accountabilities for the Victorian public sector. The Standing Directions of the Minister for Finance 2016 is an important tool in implementing these standards.

If we are subject to the FMA, we must provide the Minister with an annual report. The annual report is then tabled or reported in Parliament.

Public bodies also have performance reporting obligations during the year. We also need to ensure compliance with the Victorian Government Risk Management Framework.¹

Victorian Public Sector Commission (VPSC)

The VPSC aims to strengthen the public sector's efficiency, effectiveness and capability. The VPSC maintains and advocates for public sector professionalism and integrity.

The VPSC issues binding obligations to public officials. These include the Code of Conduct for Victorian Public Sector Employees and the Code of Conduct for Directors of Victorian Public Entities which applies to board members.

It also issues generic guidance on whole-of-government obligations.

Watchdog agencies

There are a range of public watchdog agencies set up by the Victorian Parliament. They have the power to:

- set certain integrity and performance standards for the Victorian public sector
- investigate portfolio agencies to ensure they are working effectively, efficiently and in compliance with its obligations.

Some examples of watchdog agencies include the Victorian Ombudsman, the Victorian Auditor-General's Office (VAGO), and the Independent Broad-based Anti-corruption Commission (IBAC).

Other whole of government laws and obligations

There are many other laws that apply across the Victorian public sector.

Other government departments can also issue directives across the whole-of-government.

A more complete list of whole-of-government laws and obligations is attached to the back of this policy.

¹ All portfolio agencies that are subject to the FMA are also subject to the Standing Directions except for committees of management of Crown land reserves (CoMs). The only CoM that is subject to the Standing Directions is Phillip Island Nature Park. For all other CoMs, DELWP "must establish appropriate financial management requirements".

Establishing Act or terms of reference of reference

Our establishing Act or terms of reference applies specifically us and:

- sets out our purpose, role, functions, powers, and key governance obligations.
- defines what we do, how we do it and why
- limits our activities by preventing activities inconsistent with our core functions
- can impose extra obligations on top of the usual whole-of-government obligations

Universal laws and obligations

There are many laws and obligations that apply for all business or people, not just the government. These include the Occupational Health & Safety Act 2004, Equal Opportunity Act 1995 and Charter of Human Rights and Responsibilities 2006.

We need to follow these laws and obligations the same as any other organisation.

Internal documents

Some agency-specific obligations include government policies, codes of practice or regulations.

The Minister may have issued ministerial directions, statements of expectations or obligations.

The Secretary may have issued guidelines or notifications that we provide certain information.

Our CEO might endorse a strategic plan or business strategy we need to put in place and report against.

These internal documents are as important as formal legal frameworks. They represent how we work through our obligations.

[name of agency/board]

Overview of the legislative compliance framework

Context - public sector environment

Laws that apply to portfolio agencies

Agency-specific: establishing Act or terms of reference (sets the agency’s purpose, role, functions, powers, and key governance obligations) and related regulations.

Whole of Government: Public Administration Act (PAA) and related codes and other integrity obligations. Financial Management Act and related Standing Directions, Instructions and Guidance, and associated obligations (e.g. compliance with the Victorian Government Risk Management Framework). Other whole of government laws.

General: laws not limited to the public sector (e.g. health and safety laws).

Public watchdogs

Victoria’s Ombudsman, VAGO, IBAC and other public watchdogs appointed by Parliament have the power to investigate and report on whether a portfolio agency is meeting required governance and performance standards.

Victorian Public Sector Commission

Promotes public sector integrity and good governance – e.g. issues whole of government integrity codes and requirements under the PAA, whole of government generic guidance, advice on executive remuneration levels.

On Board

DELWP’s external governance website for boards

(Support modules – e.g. conflict of interest - with model policies, guidance notes, templates, and governance e-alerts.)

Also acts as a **knowledge site** for DELWP relationship managers and teams.

Other obligations that apply

Government policy (agency-specific and whole of government). Ministerial directions, guidelines and statements of expectation. Guidelines and notification of information required by the Secretary under s 13A of the PAA. Premier’s Circulars and other whole of government obligations (e.g. Appointment Guidelines). The agency’s strategic and business plans, etc.

Components of the legislative governance framework

Oversight and support by department

Relationship managers and teams in divisions and regions oversee and support portfolio agencies with support from Corporate Services.

Portfolio relationship program

Sets out the respective roles of relationship managers (divisions and regions) and corporate divisions (Legal Services, Finance and Planning) in the oversight and support of agencies.

Portfolio review program

Sets out the process for reviewing each agency at least once every six years. Also helps to identify systemic issues.

Internal governance knowledge site

For DELWP relationship managers and teams.

[name of agency/board]

Implementing the legislative compliance framework

Governance & Culture

Step 1: identify compliance obligations

Commitment

Management accountability

Key legislative obligations

Common law
Commonwealth and State laws
Critical Standards and Policies

Environment

Compliance
Continual improvement culture

Implementation

Step 2: Assign responsibility

Key compliance roles and responsibilities

CEO – ensure commitment to effective legislation compliance
Risk and Audit Committee – oversee the effectiveness of the legislative compliance program
Executive Team – support, endorse and monitor the legislative compliance program
Head of Corporate – develop and review the legislative compliance program
Compliance managers – identify and record compliance risks and controls
Line management – support compliance and report on compliance risks
Staff and contractors – ensure compliance with legislative obligations

Training and awareness

Controls

Policies, Codes, Processes and Procedures

Monitoring

Step 3: Assess compliance risks
Step 4: Implement mitigation strategies

Identification

Identifying compliance risks as part of business risk planning

Monitoring

Monthly reporting and review of compliance risks

Reporting

Step 5: Report compliance

Reporting

Compliance risks reported in risk attestation to the Board
Accountable Officer's attestation in the agency's annual report

Continual Improvement

Step 6: Regular reviews

Regular reviews

The legislative compliance program will be regularly reviewed for continual improvement

[name of agency/board]

Acts administered by our agency

Note: Agencies are to review and customise these suggested mechanisms. You need to ensure each piece of legislation is tasked to a Compliance Manager and all relevant compliance and assessment mechanisms are filled in.

Legislation & Related Documents	Compliance Manager	Compliance Mechanisms	Assessment Mechanisms	Governing Entity
Financial Management Act 1994 <ul style="list-style-type: none"> • Standing Directions 	Chief Finance Officer	<ul style="list-style-type: none"> • Financial management policies and procedures • Financial sustainability planning and performance management • Financial Code of Conduct • Fraud and Corruption Policy, Guidelines and Plan • Risk management policy • Systems, controls and training for: <ul style="list-style-type: none"> – Financial transactions – Financial delegations – Procurement and contracting – Corporate credit cards – Asset management – Fraud and corruption – Business continuity – Business preparedness 	<ul style="list-style-type: none"> • Victorian Government Financial Management Compliance Framework • Victorian Government Risk Management Framework • Financial compliance reporting to DELWP • Reports to Risk and Audit Committee • Theft and loss reporting • Annual report 	Board
Audit Act 1994		<ul style="list-style-type: none"> • Internal audit program • Performance audits by VAGO 	<ul style="list-style-type: none"> • Financial and performance reviews by the Auditor-General 	Board
Public Administration Act 2004 <ul style="list-style-type: none"> • Code of Conduct for VPS employees • Premier's Circulars • Public Administration (Public Sector Communication) Regulations 2018 	[insert responsible executive]	<ul style="list-style-type: none"> • Enterprise Bargaining Agreement • Human Resources policies, procedures and training for <ul style="list-style-type: none"> – Employee performance planning and management – Leave management – Recruitment – Payroll – Organisational Change • Conflict of interest policy and declaration process • Gifts, benefits and hospitality policy, declaration process • Organisational Culture initiatives 	<ul style="list-style-type: none"> • Fair Work Commission actions • Reviews or investigations by oversight bodies • Grievance reports 	Board

[name of agency/board]

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Legislation & Related Documents	Compliance Manager	Compliance Mechanisms	Assessment Mechanisms	Governing Entity
		<ul style="list-style-type: none"> Diversity and Inclusion Strategy Workplace Capability Human Resources Delegations Schedule Management training 		
Equal Opportunity Act 1995	[insert responsible executive]	<ul style="list-style-type: none"> Equal Opportunity Policies and procedures Recruitment procedures 	<ul style="list-style-type: none"> Fair Work Commission actions Grievance reports 	Board
Occupational Health and Safety Act 2004	[insert responsible executive]	<ul style="list-style-type: none"> Workplace safety and wellbeing programs, procedures and advice Job Safety Planning tools and training Critical Incident Management Framework Education provided to agency staff, including Appropriate Workplace Behaviour Incident reporting system Internal investigations Employee Assistance Program 	<ul style="list-style-type: none"> Incident reports Internal investigations WorkCover investigations Analysis of leave trends and other workforce data 	Board
Public Records Act 1973 and Crimes Act 1958, s254 (document destruction)	[insert responsible executive]	<ul style="list-style-type: none"> Records Management Policies Records Management Systems Email policy Education provided to DELWP staff 	<ul style="list-style-type: none"> Assessment against Public Records Office policies 	Board
Privacy and Data Protection Act 2014 • Protective Data Security Standards	[insert responsible executive]	<ul style="list-style-type: none"> Policies, procedures and training to support all workplace participants to comply Information privacy policy Privacy Impact Assessment Workbook Privacy Collection Statement Builder Protective Data Security Standards Attestation Education provided to staff 	<ul style="list-style-type: none"> Assessments by external bodies, including the Office of the Victorian Information Commissioner (OVIC) Monitoring the number and type of privacy complaints by individuals 	Board
Freedom of Information Act 1982	[insert responsible executive]	<ul style="list-style-type: none"> Freedom of Information procedures FOI requests register 	<ul style="list-style-type: none"> Reviews and complaints assessed by the Office of the Victorian Information Commissioner (OVIC) 	Board

[name of agency/board]

Acts administered by our agency

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Legislation & Related Documents	Compliance Manager	Compliance Mechanisms	Assessment Mechanisms	Governing Entity
Protected Disclosures Act 2012 and Independent Broad-Based Anti-Corruption Commission Act 2011	[insert responsible executive]	<ul style="list-style-type: none"> • Advice to public on how to make FOI requests • Education to staff on FOI obligations. • Education to DELWP staff on protected disclosures and the role of IBAC • Welfare support to staff involved in investigations 	<ul style="list-style-type: none"> • OVIC Annual report • Compliance with investigations • Maintaining confidentiality 	Board
Ombudsman Act 1973	[insert responsible executive]	<ul style="list-style-type: none"> • Complaint Management Process on external site 	<ul style="list-style-type: none"> • Compliance with investigations 	Board
Charter of Human Rights and Responsibilities Act 2006	[insert responsible executive]	<ul style="list-style-type: none"> • Protecting human rights of employees and the public 	<ul style="list-style-type: none"> • Victorian Human Rights and Equal Opportunity Commission 	Board
Child Wellbeing and Safety Act 2005	[insert responsible executive]	<ul style="list-style-type: none"> • Child Safety Policy 	<ul style="list-style-type: none"> • Commission for Children and Young People 	Board
Agency-specific legislation [list specific legislation]	[insert responsible executive]	<ul style="list-style-type: none"> • Policies and procedures for exercising powers under legislation 	<ul style="list-style-type: none"> • Reviews of appropriate use of delegations to exercise powers under legislation • Ombudsman reviews • Complaints received • Legal challenges to administrative decisions 	Board