

6. LEGISLATION COMPLIANCE RISKS

General Manager responsible:	General Manager Corporate Services
Officer responsible:	Internal Audit Manager
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PURPOSE OF REPORT

1. This report is in response to a request by the Audit and Risk Management Subcommittee for a listing of the legislation that the Council currently has the responsibility to administer.

BACKGROUND/DISCUSSION

2. Local government has been given the responsibility to administer and enforce various pieces of legislation on behalf of the government. These are listed in the appendix attached along with the Council unit that is responsible for the particular legislation. The Council is responsible to not only comply itself with the legislation but to ensure the compliance by others eg Fencing of Swimming Pools Act requires property owners to fence pools to certain standards.
3. The other legislation that the Council needs to comply with generally applies to everyone and is enforced by central government agencies through the court system eg health & safety in Employment act, Commerce act, Employment relations act. A list of these pieces of legislation that impact on Council would be extensive and would include both acts of parliament as well as regulations.

RISK OF NON-COMPLIANCE

4. The key risk is that either the Council or a staff member acting on behalf of the Council, either deliberately or unintentionally, fails to comply with a legislative provision. The consequences of this vary depending on the legislation itself and the extent of the breach. These can include:
 - Fines, penalties (can be personal liability for individuals in some cases)
 - Council decisions overturned
 - Civil liabilities e.g. damages or restitution
 - Adverse publicity to the Council
 - The cost of recovery of damage from outsiders' illegal actions
 - Legal costs and management time is dealing with above issues
 - Increased insurance premiums.
5. In terms of the enforcement of legislation, the Council is limited by the amount of resources that can be applied to police compliance and the Council needs to judge what is reasonable e.g. although all dogs in the city are required to be registered under the Dog Control Act, there will always be a number of dog owners who continue to flout the law regardless of this. The question for the Council is what is an appropriate level of resources that should be applied to enforcement duties. Here the Council balances the cost of enforcement against the consequences of less than complete compliance. In the dog registration example, this would be mainly that the Council misses out on revenue and the cost of animal control is spread over a smaller number of complying dog owners. A secondary effect may be that more lost dogs are unidentified and this causes increased cost in having to impound these dogs. In this area, the Council relies on established processes being set up that comply with the legislation that relates to them, and in staff diligence in following those processes. These are also subject to occasional internal audit scrutiny.
6. In terms of general legislation that applies to citizens as a whole, Council compliance relies heavily on the specialist staff providing advice to operational staff and elected members e.g. HR group in regard to Health & Safety and Employment act, Employment Relations Act, and Legal Services Unit.

STAFF RECOMMENDATION

It is recommended that this report be received.