

# Swinburne University of Technology Compliance Framework

## Purpose of Framework

The University undertakes teaching, research and commercial activities across a diverse spectrum of areas. With such a diverse range of activities and complex environment, comes an equally diverse and complex collection of regulatory requirements that apply to the University's operations.

Compliance management is the process by which managers plan, organize, control, and lead activities that ensure compliance with laws and standards. It helps the University to avoid a range of potential negative consequences including harm to students and staff, financial penalties or fines, damage to organisational or individual reputation and criminal prosecution.

The Compliance Framework sets out the University's governance arrangements in relation to compliance, its approach, and roles and responsibilities, in order to support University personnel in managing compliance obligations.

The Compliance Framework aligns with the ISO Compliance Management Systems Requirements 2021 (ISO37301:2021).

## Scope of Framework

This framework covers Swinburne University and its subsidiary entities in Australia, and its overseas operations where Australian laws have extraterritorial applicability, eg. TEQSA and ASQA Standards, ESOS, ACNC External Governance Standards.

## Governance and Commitment to Compliance

Under the *Swinburne University of Technology Act 2010*, the University Council is responsible for establishing policy and procedural principles for the operation of the University consistent with legal requirements and community expectations and approving and monitoring systems of control and accountability at the University.<sup>1</sup>

Under the University's Governance Framework, the University Council affirms its commitment to fulfilling the objects of the University and meeting Council's responsibilities 'consistent with legal requirements, the spirit of laws that apply to the University and community expectations and by ensuring the University's compliance processes meet the requirements of the current Australian Standards'.<sup>2</sup>

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<sup>1</sup> Section 8 *Swinburne University of Technology Act 2010*.

<sup>2</sup> Part 11 Swinburne University Governance Framework.

The University’s People, Culture and Integrity Policy, approved by the Vice-Chancellor and acknowledged by Council, provides that staff, university officers and visitors must ensure that they comply with the law and the spirit of any legislation that applies to their roles and sets out the following responsibilities:

Role/Decision/Action	Responsibility	Conditions and limitations
Accountability and responsibility for fostering a culture of compliance	Vice-Chancellor	
Submission of compliance reports to Audit and Risk Committee for review	Vice-Chancellor University Secretary	
Reporting issues or concerns relating to the University’s compliance obligations	All staff	Should be reported to manager in the first instance
Administration of compliance program and compliance reporting process	University Secretary/ Director, Governance and Assurance	

The Audit and Risk Committee oversees and reviews the University’s management of compliance risk including:

- Reviewing the adequacy of the Compliance Framework
- Reviewing reports from management, internal audit and external audit and monitoring management responses and actions
- Understanding and monitoring changes to the University’s environment and the effectiveness of the processes for identifying and managing emerging risks
- Considerations of risk and compliance culture.<sup>3</sup>

### **Swinburne’s Approach to Managing Compliance**

With such a diverse range of activities and complex environment, the University has a significant number of compliance obligations. The University’s approach to compliance is to focus on the key compliance risks. The regulatory landscape must be understood in order to make informed decisions

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<sup>3</sup> Audit and Risk Committee Terms of Reference 2021.

about where to focus the University's compliance efforts. For example, the level of monitoring and escalation of breach reporting needs to be commensurate with the associated risk. Following an internal audit of the Compliance Framework in 2017, the Audit and Risk Committee confirmed that a risk-based approach to compliance was appropriate<sup>4</sup> and this aligns with the ISO Compliance Management Systems Requirements 2021 (ISO37301:2021).

Key compliance obligations need to be identified and reviewed regularly to see if their status changes, eg. a new key compliance obligation may emerge when a new legislative regime is introduced. Whereas other compliance obligations will always remain key, eg. health and safety obligations.

Compliance risk assessments should be conducted to analyse the key compliance risks based on the likelihood, and the consequences of a breach, the adequacy and effectiveness of existing controls and any new risk treatment plans required. This should align with the University's Enterprise Risk Management Framework.

Swinburne has a decentralised model of compliance management in which subject matter experts (SMEs) and relevant personnel are allocated responsibility for managing key compliance obligations. This may be University-wide, eg. the University has SMEs in occupational health and safety who work across the institution in consultation with other staff to manage OHS obligations. Responsibility may also be allocated to relevant operational areas for ensuring compliance with key obligations, eg. the management of chemicals in a laboratory.

Administration of the compliance program and compliance reporting process has been delegated to the University Secretary within the Governance and Assurance Unit (GAU).

The University has established a Compliance Network consisting of staff from GAU, compliance SMEs and University risk personnel. GAU also consults with other relevant staff across the University on compliance obligations.

Under this Compliance Framework:

- Key compliance risks are continually monitored by SMEs and relevant personnel and reported on to line management
- Key compliance training is mandatory for all relevant staff and refresher training must be undertaken at regular intervals. This program is overseen and implemented by People and Culture and effected through the delivery of online training modules.
- Information on occupational health and safety is reported directly to the Vice-Chancellor's Executive Group and Council throughout the year
- Specific key compliance risks which have been identified as appropriate to be reported to senior management and University-wide governance bodies are reported on every six months to the Vice-Chancellor's Executive Group and the Audit and Risk Committee. This involves a review of their risk ratings to assess if it has changed.

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<sup>4</sup> Audit and Risk Committee meeting in May 2017.

- The regulatory landscape will be scanned annually to see if other regulatory risks have emerged, if existing risks have changed status and if reporting should be changed.
- The University's overall compliance risk is monitored and reviewed as part of its Enterprise Risk Management Framework which includes regular reporting to Audit and Risk Committee.

## Roles and Responsibilities

### Governance and Assurance Unit (GAU)

The GAU is the specialist compliance function at the University and is supported by specialist compliance SMEs.

- Administration of the compliance program and compliance reporting process including preparing reports to the Vice-Chancellor's Executive Group, the Audit and Risk Committee, and Council on complaints and compliance twice a year, with exception reporting as necessary for any material complaints or compliance issues as they arise
- Ensuring that the compliance management system conforms to the requirements of ISO37301:2021
- Facilitating the identification of compliance obligations at an enterprise-wide level and maintaining, monitoring and updating the obligations register
- Documenting compliance risk assessments in consultation with SMEs
- Aligning the compliance management system with the University's compliance objectives
- Providing support and advice to SMEs and other staff on compliance activities and management of breaches as required
- Monitoring and measuring compliance performance in consultation with SMEs
- Management of those compliance obligations for which GAU has direct responsibility, eg. Consumer Law
- Facilitation of the University's Compliance Network
- Facilitation of annual scans of the regulatory landscape to see if other regulatory risks have emerged, if existing risks have changed rating and if reporting should be changed
- In consultation with SMEs and other relevant staff, analyse and evaluate the performance of the compliance management system to identify any need for corrective action
- Ensure that the compliance management system is reviewed at planned intervals
- Establishing a system for raising concerns and ensuring that concerns are addressed
- Ensuring outsourced agreements include clauses detailing compliance responsibilities, communication of breaches and avenues of periodic review.

GAU together with SMEs have responsibility to ensure that responsibilities for meeting compliance obligations are appropriately allocated; compliance obligations are integrated into policies, processes and procedures; relevant personnel are trained; and compliance indicators are established. They provide staff with access to compliance-related resources and advice.

## **Subject Matter Experts (SME) and Relevant Personnel Allocated Responsibility for Managing Key Compliance Obligations**

- The identification, development and documentation of relevant procedures and processes necessary to ensure compliance, monitor compliance, and to manage non-compliance; including a systematic approach to continuous improvement of these procedures and processes
  - The development and implementation of a targeted communications and training program (in addition to the mandatory online training modules) where this is deemed appropriate to ensure relevant personnel are properly informed of their obligations including in relation to breach reporting:
    - Competence and training needs should be identified and addressed to enable staff to fulfil their compliance obligations. Training needs assessment should include consideration of:
      - identified gaps in employee knowledge and competence
      - changes in staff positions or responsibilities
      - changes in internal processes, policies or guidelines
      - changes in statutory obligations
      - issues arising out of monitoring, auditing, reviews, complaints and incidents
    - Records of what communications have been sent and what training has been conducted and who has been trained are to be maintained
  - Breach identification, investigation, management, reporting and escalation as deemed appropriate, remediation (eg. This may require the development of a compliance action plan), including record keeping of high risk breaches or repeated minor breaches to support the identification of trends
  - Adequate recordkeeping of compliance issues and non-compliance incidents
  - Assurance over compliance activities including control checks
  - Recording key obligations, detecting and preventative controls, and treatment plans in the online Compliance Risk Management Record developed by GAU and reviewing these annually with GAU
  - Collaborating with GAU on those elements of the compliance management system for which there is joint responsibility (see GAU responsibilities above)
  - Maintaining a sound knowledge of the compliance obligations and keeping abreast of regulatory changes, keeping relevant staff apprised of any changes, and updating materials and training as required
- Staying in contact with regulators and reporting incidents to regulators as required.

### **Management**

Management (ie. line management) shall be accountable and responsible for compliance within its area of responsibility by:

- Cooperating with and supporting the compliance function and encouraging personnel to do the same
- Ensuring that all personnel within their control are complying with the organization's compliance obligations, policies, processes and procedures

- Identifying and communicating compliance risks in their operations
- Integrating compliance obligations into existing business practices and procedures in their areas of responsibility
- Attending and supporting compliance training activities
- Developing personnel awareness of compliance obligations and directing them to meet training and competence requirements
- Encouraging their personnel to raise compliance concerns and supporting them and precluding any form of retaliation
- Actively participating in the management and resolution of compliance-related incidents and issues as required
- Ensuring that, once the need for corrective action is identified, appropriate corrective action is recommended and implemented.

### **Executive Accountability**

Members of the Vice-Chancellor's Executive Group have high managerial responsibility for key compliance areas. For example:

- The Senior Deputy Vice-Chancellor Academic has overall responsibility for the University's compliance with the requirements of the Tertiary Education Quality and Standards Agency (TEQSA), the Australian Skills Quality Authority (ASQA) and the Victorian Registration and Qualifications Authority (VRQA)
- The Deputy Vice-Chancellor Research has overall responsibility for the University's compliance with requirements around research ethics and integrity
- The Deputy Vice-Chancellor Global and Community Engagement has overall responsibility for the University's compliance with the Education Services for Overseas Students (ESOS) regulatory regime
- The Chief Operations Officer has overall responsibility for compliance with legislation relating to financial management, and data protection.

### **All Staff**

All staff shall:

- Adhere to the organisation's compliance obligations, policies, processes and procedures
- Report compliance concerns, issues and failures
- Participate in training as required.

### **Staff Responsible for Managing Agreements with Third Parties**

Those responsible for contract management should ensure that roles and responsibilities, and processes for the management of compliance breaches by outsourced providers are documented.

### **Obligations Register**

The obligations register should record the major legislative frameworks and internal policies to which the University is subject. This allows the regulatory landscape to be scanned and understood.

However, the legislative frameworks and internal policies will have differing degrees of risk associated with them. A risk assessment needs to be undertaken to determine the degree to which active monitoring is required. Additionally, not all obligations within a legislative framework or an internal policy will entail the same risks, eg. within the Education Services for Overseas Students (ESOS) regulatory framework compliance risks that relate to student welfare should rate more highly than some more procedural compliance obligations. Informed decisions need to be made about which obligations within each regulatory framework and internal policy are recorded for active monitoring. Recording all possible obligations will denigrate from the focus on, and monitoring of, key compliance obligations.

Risk analysis must be undertaken in accordance with the University’s existing Enterprise Risk Management Framework and risk descriptors.

Adopting this risk-based approach, all key compliance requirements are to be included in the obligations register. The register will be subject to regular monitoring and review. Key controls and treatment plans are recorded in the in the online Compliance Risk Management Record developed by GAU and reviewed annually with GAU.

### Third Party Compliance Obligations

GAU should ensure outsourced agreements include clauses detailing compliance responsibilities, communication of breaches and avenues of periodic review.

Those responsible for contract management should ensure that roles and responsibilities, and processes for the management of compliance breaches by outsourced providers are documented.

### Review of Compliance Framework

This Compliance Framework is endorsed by Audit and Risk Committee and approved by University Council. It should be reviewed at a minimum every two years.

Review	Date of ARC Endorsement	Date of Council Approval
Development of framework document following internal audit	21 November 2017	11 December 2017
Review of framework by GLI taking account of how the framework is being implemented in practice and changes requested by Council	14 November 2019	09 December 2019
Review of framework by GAU taking account of:	15 November 2021	6 December 2021

<ul style="list-style-type: none"> <li>• How the framework is being implemented in practice, including new online recording of compliance risks</li> <li>• 2021 international standard for Compliance Management Systems Requirements (ISO37301)</li> <li>• 2021 Audit and Risk Committee terms of reference.</li> </ul>		
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