Legislation Compliance Policy – General Legislation

Procedure for Reporting Actual/Potential Breaches of General Legislation

1. Purpose
This Procedure describes the process to be used in the Department of Health to enable actual or potential breaches in compliance with General Legislation to be proactively identified and managed. This procedure will support the achievement of compliance, prevention of breaches and understanding and management of associated risks.

2. Scope
This Procedure applies to all Department of Health employees and contracted staff (permanent, temporary and casual) employed in the department’s divisions and commercialised business units. The monitoring of other agencies and statutory bodies (e.g., HHSs) is out of scope for this policy.

Roles and responsibilities relating to Portfolio Legislation are outlined in the Regulatory Compliance Policy.

3. Supporting documents
Authorising Policy and Standard/s:
- Legislation Compliance Policy – General Legislation
- Implementation Standard for Monitoring and Reporting Compliance with General Legislation

Forms and templates:
- Legislation Compliance Statement Template
- Legislation Breach Notification Report Form

4. Related documents
- Risk Management Policy and Procedure (QH-POL-070)
- Regulatory Compliance Policy (under development)

5. Procedure
Reporting Actual/Potential Breaches of General Legislation
The principles outlined in the Policy underpin the actions outlined in this Procedure. The SBAR Model (Situation, Background, Assessment, Recommendation) has been chosen to
help organise, prioritise and facilitate the effective transfer of information\(^1\). It is already extensively used throughout the Health System in Queensland and internationally and is easily adapted for non-clinical activities.

**Process** Refer also to flow chart (Attachment 1)

**An actual or potential breach in legislation is identified**

1. **Staff member shall:**
   a. Refer to policy or procedure relevant to the breach where available and take relevant immediate action.
   b. Inform their line manager/supervisor of the situation as soon as possible.

2. **Line Manager/Supervisor shall:**
   a. Consider if actual or potential breach has occurred, then:

   **Actual Breaches**
   b. Develop and implement management action plan which:
      i. Describes the breach and implications (actual and potential)
      ii. Re-establishes/implements actions to regain compliance and reduce risk of recurrence
      iii. Addresses requirements prescribed by legislation and DoH policy or related expectations
      iv. Includes measures to monitor progress e.g. compliance regained and determine success of other management strategies
   c. If a potential for recurrence is identified:
      i. Undertake risk assessment and risk treatment planning in accordance with the Risk Management Procedure
      ii. Document in QHRisk
      iii. Attach a copy of the QHRisk Risk Register Report to the Breach Notification Report.
   d. Forward Breach Notification Report and Risk Register Report if applicable to the Compliance Manager and responsible DDG/CE
      i. Significant breach – within 1 working day of being notified
      ii. All other breaches – within 5 working days of being notified.

   **Potential Breaches**
   b. Undertake risk assessment and risk treatment planning in accordance with the Department of Health *Procedure for Risk Assessment and Treatment*
   c. Document in QHRisk
d. Forward a copy of the Risk Register Report of any high or very high risks to the Compliance Manager within 5 working days of being notified.

3. **Compliance Manager shall:**
   
a. Review Breach Notification and Risk Register Reports to ensure appropriate action taken  
b. Provide advice on the Risk Register Report as required  
c. Identify if risks identified have implications for other areas or the Health System as a whole  
d. Ensure Breach Reports and any high or very high risks have been communicated to DDG level and discuss any actions/communication requirements  
e. Sign Breach Notification Report and send copy to Risk and Governance Unit via email (**QHIRM@health.qld.gov.au**) and the reporting Line Manager/Supervisor within 5 working days of receipt of report  
f. Maintain a record of breaches, investigations, actions and outcomes.

4. **Risk and Governance Unit is to:**
   
a. Enter Breach Notification Reports into the Legislation Compliance Register within 5 working days of receipt of report.

5. **Review**

This Procedure is due for review on: 31/7/2014  
**Date of Last Review:** 31/07/2013  
**Supersedes:** New procedure – replaces the Legislative Compliance Protocol

7. **Business Area Contact**

Principal Risk and Governance Advisor

8. **Definitions of terms used in the policy and supporting documents**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition / Explanation / Details</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency</td>
<td>A department of government or independent body that reports to the Minister for Health e.g. Department of Health.</td>
<td>DoH</td>
</tr>
<tr>
<td>Breach of compliance with legislation</td>
<td>A breach can occur as a result of an act or failing to act, and includes a failure to comply with a legislation or other requirement under this Policy</td>
<td>Acts Interpretation Act 1954 (Qld)/ DoH</td>
</tr>
<tr>
<td>Actual</td>
<td>Evidence suggests breach has occurred</td>
<td>DoH</td>
</tr>
<tr>
<td>Potential</td>
<td>Evidence suggests breach is likely to occur without intervention</td>
<td>DoH</td>
</tr>
<tr>
<td>Compliance Manager</td>
<td>Nominated senior officer responsible for monitoring and reporting compliance with a particular Act of part of an Act of (General Legislation)</td>
<td>DoH</td>
</tr>
<tr>
<td>General Legislation</td>
<td>Legislation that applies across government</td>
<td>DoH</td>
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</table>
Department of Health: Procedure for Reporting Actual/Potential Breaches of General Legislation

<table>
<thead>
<tr>
<th>Monitored Agency</th>
<th>An agency that is monitored by DoH e.g. The Australian Health Practitioner Regulation Agency</th>
<th>DoH</th>
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<tbody>
<tr>
<td>Legislation Custodian</td>
<td>Nominated senior officer responsible for administration of a particular Act or part of Act (Portfolio Legislation)</td>
<td>DoH</td>
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<tr>
<td>Portfolio Legislation</td>
<td>Legislation that is the responsibility of the Minister via an agency</td>
<td>DoH</td>
</tr>
<tr>
<td>Significant Breach of compliance with legislation</td>
<td>Failure to meet responsibilities under General Legislation and the failure could result in the discipline or suspension or the termination of employment of the officer or officers involved and/or penalties under legislation</td>
<td>DoH</td>
</tr>
<tr>
<td>SBAR Model</td>
<td>A structured Communication Tool which improves the quality of information /interaction (Situation, Background, Assessment, Recommendation)</td>
<td>Australian Commission for Safety and Quality in Health Care</td>
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9. Approval and Implementation

**Policy Custodian:**
Chief Governance Officer, Governance Branch

**Responsible Executive Team Member:**
Deputy Director-General, System Support Services Division

**Approving Officer:**
Director-General, Department of Health

**Approval date:** 03/09/2013

**Effective from:** 03/09/2013

**Version Control**

<table>
<thead>
<tr>
<th>Version</th>
<th>Date</th>
<th>Prepared by</th>
<th>Comments</th>
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<tr>
<td>1.0</td>
<td>July 2013</td>
<td>Linda Moule</td>
<td>Replaces the Legislative Compliance Protocol</td>
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1 (OSSIE Guide to Clinical Handover Improvement, Australian Commission on Safety and Quality in Health Care: 2010)
Process Map: General Legislation Breach Reporting

**Staff member**
- Potential/actual breach of General Legislation identified
- Take relevant immediate action
- Inform Manager / Supervisor as soon as possible

**Manager / Supervisor**
- Notify compliance manager of any ‘High’ or ‘Very High’ compliance risks (within 5 days)
- Complete risk assessment and treatment planning (document in QHRisk)
- Potential
- Actual or potential?
- Actual
- Develop and implement management action plan
- If risk of reoccurrence – Complete risk assessment and treatment planning (document in QHRisk)
- Complete and email breach report (and if applicable, risk register report) to Compliance Manager and responsible DDG/CE
  - Within 1 day – Significant Breach
  - Within 5 days – other breaches

**Compliance Manager**
- Review Risk Register Report and ensure risk has been communicated to responsible DDG/CE
- Discuss any further action/communication requirements
- Ensure breach report and any high/very high risks have been communicated to the responsible DDG/CE
- Copy to Risk and Governance Unit via QHRM@health.qld.gov.au and reporting area line manager/supervisor within 5 days
- Review breach report

**Risk & Governance Unit**
- Enter breach report into legislation compliance register (within 5 days)
- End