

Legislative Compliance

First Produced:	14/04/97	Authorisation:	Te Kāhui Manukura (TKM) and the Board
Current Version:	31/10/22	Officer Responsible:	Chief Executive and Director Organisational Insights and Compliance
Past Revisions:	14/12/01, 02/11/11, 11/10/16, 9/09/21		
Review Cycle:	3 years <i>(due to the constantly changing nature of the legislative framework management monitors this closely and updates the policy as necessary.</i>		
Applies From:	Immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left-hand margin

1 Introduction

1.1 Purpose

To enable the Board and Management to carry out its statutory functions and duties by establishing and maintaining systems for monitoring and reporting on Ara Institute of Canterbury's (Ara's) compliance with key legislation.

1.2 Scope and Application

This policy applies to all educational and administrative activities at governance, management, and operational levels.

Ara is required to comply with a range of legislation as part of good governance and management. There are many pieces of legislation which impact on Ara and imply a risk if the performance of the institution or the behaviour of its employees are inconsistent with the intention of the relevant Acts, Regulations, and other legal obligations and requirements.

While the inherent risk and financial exposure can be substantial, this policy in itself is unable to provide absolute assurance that the institution will not be sued (for breaches of contract), subjected to personal grievances, or exposed to claims for damages by employees, learners, or members of the public.

1.3 Formal Delegations

- a The Ara Board has delegated responsibility for legislative compliance to the Chief Executive (CE).
- b The CE delegates responsibility for compliance with specific legislation and regulations in accordance with Schedule 1.
- c Application of this policy and maintenance of the updating, checking, and reporting system is delegated to the Executive Director, Operations.

1.4 Definitions

- a ComplyWith: the web-based software tool used by Ara to manage legislative compliance.

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- b Legislation: for the purposes of this policy, legislation is taken to include Acts of Parliament, associated regulations, and other statutory requirements applicable or potentially applicable to Ara.
- c Critical breaches of legislation: an act or omission in contravention of legislation that will, or is likely to, result in financial penalty, legal action, inability to deliver learning, or negative publicity.

Related Ara Procedures <ul style="list-style-type: none"> • All procedures subject to legislative requirements. 	Related Ara Policies <ul style="list-style-type: none"> • All policies subject to legislative requirements.
Related Legislation or Other Documentation <ul style="list-style-type: none"> • Legislation relevant to Ara 	References <p>Nil.</p>
Notes <ul style="list-style-type: none"> • The first version of this policy was adopted by CPIT Council on 14/4/97. • From 2009 until 2013, CPIT used the ITPNZ Legislative Compliance web tool. • In March 2012, CPIT Policy and Procedures were updated to reflect the changes in structure, committees, roles, and delegations as a result of the CPIT Management Restructure. • From 2014 onwards, CPIT used the ComplyWith web-based software tool to monitor legislative compliance. • In 2016 the policy was updated to reflect the introduction of ComplyWith, changes in management structure and to benchmark the current policy against the sector to ensure best practice. • In 2019, the policy was updated to reflect title changes and changes to Section 3.2 Legislative Compliance Declaration 	

2 Principles

- 2.1 Ara is committed to complying with New Zealand law and will conduct its business in a lawful, professional, and ethical manner.
- 2.2 All Ara managers and employees have a responsibility to ensure that the activities they perform on behalf of Ara comply with the law.
- 2.3 Ara recognises its responsibility to establish policies and procedures that provide assurance that the institute and its employees are complying with the law, and that these are updated in response to organisational and legislative changes.
- 2.4 Ara focuses on key legislation and other legal obligations where non-compliance would expose Ara to a risk of financial penalty; loss of income; inability to fulfil educational, administrative or commercial goals and objectives; negative publicity or reduced public regard; or legal action arising from such non-compliance.
- 2.5 Ara will ensure that:
 - a Procedures exist to inform the Board, management, and employees so they may avoid accidental or inadvertent breaches of the law; and
 - b Procedures exist to monitor legislative change; organisational compliance; and to identify, communicate and rectify areas at risk of non-compliance.
- 2.6 Legislative compliance is dependent on the ability, integrity and diligence of those employees allocated specific compliance responsibilities. Ara will ensure appropriate training is in place to support staff to meet these responsibilities.

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3 Associated Procedures for Ara Corporate Policy on: Legislative Compliance

Contents:	3.1	Overview
	3.2	Legislative Compliance Declaration
	3.3	Additional Procedures
	3.4	Relationship between Legislative Compliance and other Audit and Risk Procedures

3.1 Overview

- a Ara Board has overall responsibility for the good governance and discipline of the institute. The CE is responsible for the management of the academic and administrative affairs of the institute and for all the functions, duties, and powers delegated to them by the Board. The CE also has the power to further delegate several of their functions, duties, or powers. In terms of legislative compliance, the CE delegates responsibility for ensuring organisational compliance with certain legislation to relevant managers.
- b The Executive Director, Operations, is responsible for the monitoring legislative compliance on behalf of the CE, recommending updates to delegated compliance, and for raising compliance issues with the CE and TKM as appropriate.
- c Legislative compliance supports the institute's Assurance Framework, and compliance has been integrated into day-to-day management by delegating responsibilities into the appropriate operational areas.
- d Ara employs two key approaches to legislative compliance. Firstly, accountable managers are required to routinely declare their compliance in certain areas based on their roles. Secondly, legislative compliance is a component of the internal and external audit processes.

3.2 Legislative Compliance Declaration

- a Routine checks of legislative compliance are facilitated through an annual legislative compliance declaration using the ComplyWith web-based software tool. This tool covers a wide range of legislation, and these are simplified into a series of questions and declarations which are allocated to employees as per the delegation schedule. The ComplyWith software is also regularly updated with fresh content relating to new or amended legislation, as well as software updates and enhanced usability.
- b Certain pieces of legislation and regulations will have shared responsibility, with multiple people required to declare compliance.
- c The Director Organisational Insights and Compliance is responsible for the running of the declaration and verifying full and accurate responses are received.
- d The declaration using the ComplyWith tool is to be run twice annually, and any issues identified will be investigated. These may include non-compliance, partial compliance, improper allocation of compliance responsibility, or other issues of risk or concern. If deemed necessary, corrective actions will be specified. A summary of the results of the declaration and associated issues and corrective actions will be provided to the CE, TKM and the Board.
- e New hires (where applicable) will be made aware of compliance applicable to them upon hire. They will then, complete the tool in the next assessment.

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3.3 Additional Procedures

- a The Director Organisational Insights and Compliance will report any significant changes in legislation to TKM and the CE, and the CE will in turn report these to Ara Board.
- b In addition to the routine declaration, the following are to be reported to the CE by managers immediately as they become known:
 - i Critical breaches of legislation
 - ii Significant concerns regarding undue exposure to risk
- c The CE will report significant breaches and risks to Ara Board.

3.4 Relationship between Legislative Compliance and other Audit and Risk Procedures

- a In addition to the routine declarations, key aspects of legislative compliance are also checked through internal and external audit processes. These include areas such as external financial reporting, compliance with health and safety regulations, and accurate recording of student enrolment and achievement.
- b Aspects of legislative compliance are also considered as part of the Ara risk management process. Specifically, critical areas of potential or actual non-compliance that could have significant impacts on Ara are likely to be identified as organisational risks and managed accordingly.

Schedule 1: Delegated Responsibilities for Legislative Compliance

Legislation/Regulation	Responsible Executive	Delegated to Manager
Related to Governance		
<u>Education and Training Act 2020</u>	Chief Executive	Relevant aspects delegated to the Board Secretary; Director International; Manager, Finance; Manager, Portfolio and Assurance; Manager, Organisational Performance; Manager, Registry; and Senior Administration Manager.
<u>State Sector Act 1988</u>	Chief Executive	Relevant aspects delegated to the Board Secretary; Manager People and Culture (P&C); and aspects to all managers
<u>Local Authorities (Members' Interests) Act 1968</u>	Board Secretary	nil
<u>Local Government Official Information and Meetings Act 1987</u>	Board Secretary	nil
<u>Public Records Act 2005</u>	Executive Director, Operations (ED Ops)	Manager, Information and Records
<u>Electronic Transactions Act 2002</u>	ED Ops	Manager, Information and Records
Related to Academic Practices and Pastoral Care		
<u>Education Pastoral Care of Tertiary and International Learners Code of Practice 2021</u>	Chief Executive	Relevant aspects delegated to Executive Director, Akonga Success (ED AS), Director International, Heads of Department, and Managers within Student Services Division
Consent to Assess Against Standards on the <u>Directory of Assessment Standards Rules</u>	Executive Director, Academic, Innovation and Research (ED AIR)	Manager, Quality and Portfolio
<u>NZQF Offshore Programme Delivery Rules</u>	ED AIR	Manager, Quality and Portfolio
<u>NZQF Programme Approval and Accreditation Rules</u>	ED AIR	Manager, Quality and Portfolio
<u>Training Scheme Rules</u>	ED AIR	Manager, Quality and Portfolio
<u>Copyright Act 1994</u>	ED AIR	Relevant aspects delegated to Director, ICT; Manager, Academic Support; Heads of Department and academic staff
<u>Films, Videos, and Publications Classification Act 1993</u>	Director, Student Services	Librarian

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Related to Health and Safety and Facilities		
<u>Health and Safety at Work Act 2015</u>	Chief Executive (noting Board retain final responsibility for health and safety at Ara)	Relevant aspects delegated to Corporate Services; all TKM members; Director Health, Safety & Wellbeing, plus obligations on all managers.
<u>Health and Safety at Work (General Risk & Workplace Management) Regulations 2016</u>	Executive Director People & Culture (ED P&C)	Relevant aspects delegated to Director Health, Safety & Wellbeing, plus obligations on all managers.
<u>Plumbers, Gasfitters, and Drainlayers Act 2006</u>	ED Ops	Director Learning Environments
<u>Building Act 2004</u>	ED Ops and ED P&C	Relevant aspects delegated to Director Learning Environments and Director Health, Safety & Wellbeing
<u>Electricity Act 1992</u> [<u>& Safety Regs 2010</u>]	ED Ops and ED P&C	Relevant aspects delegated to Director Learning Environments and Director Health, Safety & Wellbeing
<u>Fire Service Act 1975</u>	ED P&C	Director Health, Safety & Wellbeing
<u>Occupiers' Liability Act 1962</u>	ED P&C	Director Health, Safety & Wellbeing
<u>Smokefree Environments and Regulated Products Act 1990</u> <u>Regulations 2021</u>	Chief Executive	Relevant aspects delegated to Head of Department, Hospitality, Business and Service Industries, Manager Early Learning Centre, and all managers
<u>Residential Tenancies Act 1986</u>	Executive Director, Akonga Success (ED AS)	Manager, Student Transition
Related to Financial Practices, Taxation and Financial Reporting		
<u>Crown Entities Act 2004</u>	ED Ops	Director, Finance
<u>Financial Reporting Act 2013</u>	ED Ops	Director, Finance
<u>Goods and Services Tax Act 1985</u>	ED Ops	Director, Finance
<u>Income Tax Act 2007</u>	ED Ops	Director, Finance
<u>Public Bodies Contracts Act 1959</u>	ED Ops	Director, Finance
<u>Tax Administration Act 1994</u>	ED Ops	Director, Finance
<u>Unclaimed Money Act 1971</u>	ED Ops	Director, Finance
<u>Public Audit Act 2001</u>	ED Ops	Director, Finance (plus obligations on all managers)
<u>Education (Export Education Levy) Regulations 2011</u>	ED Ops and ED AS	Relevant aspects delegated to Director, Finance and Manager, Registry

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Related to HR		
Child Support Act 1991	ED P&C	Director People and Performance
Criminal Records (Clean Slate) Act 2004	ED P&C	Director People and Performance
Equal Pay Act 1972	ED P&C	Director People and Performance
Immigration Act 2009	ED P&C	Director People and Performance (plus obligations on all managers of staff)
KiwiSaver Act 2006	ED P&C	Director People and Performance, Director Finance
Minimum Wage Act 1983	ED P&C	Director People and Performance
Minimum Wage Order 2022	ED P&C	Director People and Performance
Social Security Act 2018	ED P&C	Director People and Performance
Student Loan Scheme Act 2011	ED P&C	Director People and Performance
Volunteers Employment Protection Act 1973	ED P&C	Director People and Performance
Vulnerable Children Act 2014	ED P&C	Director People and Performance
Wages Protection Act 1983	ED P&C	Director People and Performance
Juries Act 1981	ED P&C	Director People and Performance (plus obligations on all managers of staff)
Employment Relations Act 2000	ED P&C	Director People and Performance (plus obligations on all managers of staff)
Fair Trading Act 1986	ED P&C	Director People and Performance (plus obligations on all managers of staff)
Holidays Act 2003	ED P&C	Director People and Performance (plus obligations on all managers of staff)
Parental Leave and Employment Protection Act 1987	ED P&C	Director People and Performance (plus obligations on all managers of staff)
Accident Compensation Act 2001	ED P&C	Director People and Performance and Director Health, Safety & Wellbeing
Related to Privacy, Complaints, Official Information and Human Rights		
Harmful Digital Communications Act 2015	Chief Executive	Complaints Coordinator
Ombudsmen Act 1975	Chief Executive	Complaints Coordinator (plus obligations on all managers)
Protected Disclosures (Protection of Whistleblowers) Act 2022	Chief Executive	Complaints Coordinator (plus obligations on all managers)
Official Information Act 1982	Chief Executive	Complaints Coordinator (plus obligations on all managers)
Human Rights Act 1993	Chief Executive	Complaints Coordinator; Director People and Performance

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Privacy Act 2020	ED AS	Privacy Officer, Director People and Performance (plus obligations on all managers)
Unsolicited Electronic Messages Act 2007	ED Ops and ED P&C	Director ICT, Marketing Manager
Related to Animals and Agricultural Compounds		
Animal Welfare (Records and Statistics) Regulations 1999	ED AIR	Head of Department, Applied Sciences and Social Practice (APS)
Agricultural Compounds and Veterinary Medicines Act 1997	ED AIR	Head of Department, APS
Animal Welfare Act 1999	ED AIR	Head of Department, APS
Related to Alcohol, Food Preparation and Hairdressing		
Food Hygiene Regulations 1974	ED AIR	Head of Department, Hospitality and Service Industries,
Health (Hairdressers) Regulations 1980	ED AIR	Head of Department, Hospitality and Service Industries,
Sale and Supply of Alcohol Act 2012	ED AIR	Head of Department, Hospitality and Service Industries,
Related to Broadcasting		
Broadcasting Act 1989	ED AIR	Manager NZ Broadcasting School
Related to Early Learning Centre		
Education Act 1989 – Early Childhood Education and Care & Education (Early Childhood Services) Regs	ED AS	Manager Early Learning Centre
Health (Immunisation) Regulations 1995	ED AS	Manager Early Learning Centre
Related to Health Centre		
Health (Needles and Syringes) Regulations 1998	ED AS	Manager, Health Centre
Health (Retention of Health Information) Regulations 1996	ED AS	Manager, Health Centre
Health Act 1956	ED AS	Manager, Health Centre
Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996	ED AS	Manager, Academic Support Manager, Health Centre
Health and Disability Commissioner Act 1994	ED AS	Manager, Academic Support Manager, Health Centre
Health and Disability Services (Safety) Act 2001	ED AS	Manager, Academic Support Manager, Health Centre
Health Information Privacy Code (2020)	ED AS	Manager, Health Centre
Health Practitioners Competence Assurance Act 2003	ED AS	Manager, Health Centre
Medicines (Standing Order) Regulations 2002	ED AS	Manager, Health Centre

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Medicines Regulations 1984	ED AS	Manager, Health Centre
Mental Health (Compulsory Assessment and Treatment) Act 1992	ED AS	Manager, Health Centre
Misuse of Drugs Act 1975	ED AS	Manager, Health Centre
Misuse of Drugs Regulations 1977	ED AS	Manager, Health Centre
Related to Radiation and Medical Imaging		
Radiation Safety Act 2016	ED AIR	Head of Department, Health Practice
Radiation Safety Regulations 2016	ED AIR	Head of Department, Health Practice

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