



Treasury Internal Policy & Procedure

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## TIPP5.15 Compliance Incident Policy

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## Table of Contents

Introduction	2
Out of Scope	2
Definitions	2
Incident	2
Incident Management Process	3
1. Identification and Recording	3
Recording the Incident and Information	3
2. Verification	4
3. Rectification	4
4. Closure	5
Reporting	5
1 Internal Reporting	5
2 External Reporting	5
Appendix 1: Incident Management Roles and Responsibilities	6
Appendix 2: Compliance Incident Notification Form	7

## Introduction

This Compliance Incident Policy (Policy) outlines the process by which NSW Treasury (Treasury) manages potential compliance failures. This Policy forms part of Treasury's Compliance Management Framework and must be read in conjunction with the Compliance Management Framework document.

The Policy intends to ensure that:

- Treasury complies with its compliance obligations and that staff follow the correct procedure to escalate and report compliance incidents as appropriate.
- Treasury has processes in place to identify and record compliance incidents.
- Compliance incidents are recorded and reviewed on an ongoing basis.

The Policy applies to all Treasury divisions and the Long Service Corporation.

## Out of Scope

This Policy does not apply to fraud, corruption, work, health and safety incidents and conflicts of interest. Refer to the relevant Treasury documents for reporting and managing these events.

## Definitions

### Incident

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An **Incident** is an instance of non-compliance which occurs from non-compliance with:

- an Act or Regulation (Material Incident);
- Treasury internal policies and procedures (TIPPs);
- Treasury policies and procedures (TPPs);
- Treasury Circulars;
- Relevant Department of Premier and Cabinet Circulars and Memoranda;
- Relevant Department of Finance, Services and Innovation Circulars;
- Relevant Public Service Commission Circulars, or
- Treasurer's Directions

It should be noted that non-compliance with a Treasurer direction is considered a breach of the *Public Finance and Audit Act 1983* and will automatically be a Material Incident.

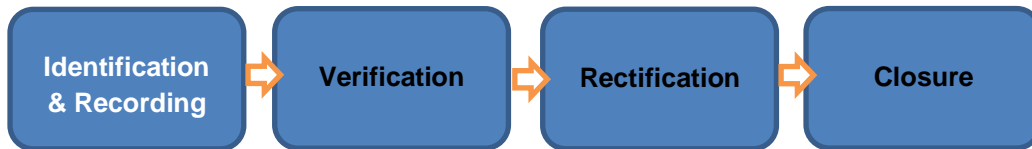
If you are unsure if an incident is *material*, you can seek assistance from the Risk Unit which can make this determination in consultation with General Counsel (if required).

## Incident Management Process

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The following steps outline the process which must be followed in relation to incident management. To ensure each activity is complete Divisions must define the people responsible for each designated role. However, it is recognised that sequencing may vary.

More information about these roles and responsibilities are outlined in **Attachment 1**.



To support the timely management of compliance incidents, incident management activity should be progressed and escalated through each of the above steps.

### 1. Identification and Recording

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All staff (including contractors, temporary and casual staff) have a responsibility to identify and report compliance incidents.

All incidents must be reported at first instance to the first line manager and recorded on the Compliance Incident Notification Form – refer to **Attachment 2**. This form must be sent to the Risk Unit at [risk@treasury.nsw.gov.au](mailto:risk@treasury.nsw.gov.au) within **48 hours** of discovery. Sufficient information must be recorded to enable the nature of the incident to be understood, verified and assessed. Once reported to the Risk Unit, the Unit will conduct an investigation and come to a determination if an incident has occurred.

Where an incident meets the criteria set out in this Policy, the Risk Unit will record the incident details in Protecht (Treasury’s Enterprise Risk and Compliance Management software) based on the information supplied on the Incident Notification Form.

The responsibilities of the incident identifier are set out in **Attachment 1**.

### Recording the Incident and Information

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You should provide as much information as possible. At a minimum the incident record must contain the following information to ensure the incident can be verified and assessed:

- Contact details of incident identifier and incident owner;
- Date that incident occurred;
- Date the incident was identified;
- Description and title of incident;
- Rectification steps undertaken to resolve incident, and
- Impact of incident – including risk impact and potential financial loss.

Additional information is collected for Material Incidents that involve non-compliance with an Act and /or Regulation, such as:

- Legislation / Regulation reference that is not complied with;
- Length of non-compliance and reporting requirements to external agencies; and
- Any similar instances of non-compliance in the recent period.

The *incident identifier* must ensure that the *incident owner* (co-ordinator of remedial action) is aware of the incident and agrees with all details recorded and takes action for the remediation of the incident.

Note: All potential losses will be advised to Treasury's Finance Unit for provisioning purposes. It is imperative to ensure this estimate is as accurate as possible.

Refer to the NSW Treasury Obligations Register, which outlines Treasury's key obligations and lists the Obligations' Owners [<insert link here>](#).

## 2. Verification

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For all identified Material Incidents that involve non-compliance with an Act or Regulation, the Director of Risk will verify that non-compliance has occurred and may seek input from General Counsel to make this determination (based on available information).

The Obligation Owner (as set out in the Treasury Compliance Plan) may assist in determining if non-compliance has occurred and the Director of Risk will verify this assessment.

## 3. Rectification

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The incident owner (Owner) is accountable for the majority of rectification activities for the incident. An Owner should ensure that rectification is managed on a timely basis. An integral component of incident management and the rectification process is the identification of the cause of the incident and the subsequent identification and adoption of controls to mitigate a future recurrence of the incident. Depending on the nature of the control breakdown which led to the incident occurring a new control could include:

- process or system improvements;
- changes to procedures;
- education and awareness training, or
- a manual work around.

The steps of the rectification process should be reported to the Risk Unit for documenting within Protecht.

Once known, the actual (\$) financial loss should be reported to the Risk Unit for updating in Protecht and the Risk Unit will also notify Treasury's Finance Unit of these losses.

## 4. Closure

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The Owner must authorise closure of the incident, once the following steps have been completed:

- all rectification activities are complete, and there are no pending or outstanding items
- the correct “actual” financial loss has been advised and recorded on Protecht
- the incident is linked by the Risk Unit to an appropriate risk in Protecht.

The Risk Unit will review the incident and will only close the incident when all rectification steps have been completed satisfactorily.

## Reporting

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### 1 Internal Reporting

The Director of Risk is responsible for reporting compliance incidents to the Leadership Team, the Audit & Risk Committee (ARC), the Incident Identifier’s manager and other stakeholders as required.

### 2 External Reporting

The Director of Risk and / or General Counsel is responsible for reporting Material Incidents to external agencies (as required).

Note: the incident owner may be required to provide timely additional information in relation to the Material Incident as required.

## Appendix 1: Incident Management Roles and Responsibilities

Role	Responsibility
<b>Incident Identifier</b>	<p>Report an Incident via the Compliance Incident Notification Form (<b>Attachment two</b>) in a timely manner and submit to the Risk Unit.</p> <p>If applicable, identify the potential financial loss of an incident.</p>
<b>Incident Owner</b>	<p>Co-ordinate the development and execution of a rectification plan in conjunction with mandatory stakeholders. This may be the Obligation Owner or the Head of the Division / Function.</p> <ul style="list-style-type: none"> <li>▪ If applicable, identify the financial impact of an incident.</li> <li>▪ Prepare status reports and the final report.</li> <li>▪ Ensure that an accurate record has been created by the Risk Unit within Protecht.</li> <li>▪ Ensure that the Incident is rectified in a timely manner.</li> <li>▪ If required, provide additional information for reporting purposes.</li> </ul>
<b>Obligation Owner</b>	<p>Assigned owner of a compliance obligation as set out in the Treasury Compliance Plan.</p>
<b>Director of Risk</b>	<p>Ensure that all incidents are recorded accurately, completely and actioned. Provide advice on impact of and associated risk and control failures. If applicable, the Risk Unit to link the incident to risk and/or a control in Protecht.</p>
<b>General Counsel</b>	<p>Provide technical legal advice for <i>material</i> compliance assessments and reporting to External Agencies.</p>
<b>Divisional Heads</b>	<p>Ensure that all Incidents are recorded accurately, completely and actioned.</p>

## Appendix 2: Compliance Incident Notification Form

This form is to be completed by the incident identifier and all mandatory fields must be completed.

- Before submitting this form, the Incident Owner must be in agreement they are the Incident Owner and responsible for the rectification activities associated with this incident.
- This form must be emailed to the Treasury Risk Unit at: [risk@treasury.nsw.gov.au](mailto:risk@treasury.nsw.gov.au) within 48 hrs of discovery.

Incident identifier	
Name:	
Role title:	
Division:	
Group	
Contact Details:	
Incident owner	
Name:	
Role Title:	
Division:	
Group	
Contact Details:	
Incident details	
Date incident occurred:	
Date incident identified:	
Incident title:	
Description of incident:	
How was the incident discovered?	
Outline of rectification steps:	
Expected completion date of rectification:	
<sup>^</sup> Actual completion date of rectification:	
Estimated financial (\$) loss (if any):	
<sup>^</sup> Actual financial (\$) loss (if any):	
*Linkage to risk failure (if known):	
*Linkage to control failure (if known):	
Material incident: further details	
Immediate Manager notified:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Role Title of Manager	
Source / Legislation:	
Reportable to external agency (if known):	
Length of non-compliance & immediate action taken:	
Are there instances of similar incidents in the recent period?	
Legal advice sought / General Counsel notified?	

\*Linkage to risk and / or control from Divisional Risk Register.

<sup>^</sup> To be filled in at closure of incident.