

2.21 COMPLIANCE

Responsible Directorate	Statutory Services	
Resolution	9 July 2024	C3.07.24
Procedure Ref	N/A	

1. PURPOSE

To set out the principles that guide the Shire's approach to compliance and enforcement of legislation.

The Shire's approach to compliance and enforcement reflects its responsibilities under relevant Acts of Parliament, Regulations and local laws. The Shire has a duty to investigate compliance issues and a statutory obligation to enforce the requirements of various legislation.

2. SCOPE

This policy guides the investigation and resolution of:

- a. Offences for breaches of legislation which the Shire is responsible for administering; and/or
- b. Failure to comply with the terms or conditions of approvals and orders; and/or
- c. any appeals arising out of proceedings brought by the Shire.

This policy does not apply to complaints directed at the Shire or employees. These complaints will be handled in accordance with the Shire's "Complaint Management Policy" (AS-02) or "Code of Conduct Behaviour Complaints Policy" (2.7).

3. DEFINITIONS

public interest

action and/or conduct which is to be for the good of society and for the well-being of its members. In the local government context, it specifically relates to the general function of the Shire to provide for the good governance of persons in its district (see section 3.3(1) of the *Local Government Act 1995*).

4. POLICY

The Shire's approach to compliance and enforcement is guided by the following principles:

- a. The Shire will administer its statutory responsibilities under the applicable legislation, in a fair, unbiased and equitable manner in the interest of public health, safety and amenity.

- b. Each compliance investigation undertaken by the Shire will be assessed on a case by case basis and on its merits.
- c. The Shire will generally not investigate or respond to anonymous allegations.
- d. The Shire will endeavour to protect the private details of complainants as much as possible within the legislative framework.
- e. Allegations of a breach or offence will be prioritised for investigation based upon the seriousness of the alleged breach or offence and resources available.
- f. Decisions regarding enforcement will be commensurate with the seriousness of the alleged breach or offence and have regard to upholding the Public Interest.
- g. The Shire will endeavor to resolve matters of non-compliance by way of education and negotiation, unless the seriousness of the offence would warrant otherwise.
- h. Prosecution may commence where a serious breach or offence has occurred, or reasonable attempts to secure compliance by way of education and negotiation have been unsuccessful.
- i. Prosecution will only be commenced where the Chief Executive Officer (or delegate) has considered the prospects of achieving a conviction and is satisfied that prosecution is warranted.
- j. The Shire may discontinue an investigation where it reasonably considers that the allegation is unsubstantiated, mischievous, vexatious, pertains to a civil matter or has previously been investigated and concluded.

5. RELATED LEGISLATION

Related legislation for compliance and enforcement matters includes, but is not limited to:

Building Act 2011 and Regulations

Bush Fires Act 1954 and Regulations

Control of Vehicles (Off-road Areas) Act 1979 and Regulations

Cat Act 2011 and Regulations

Dog Act 1976 and Regulations

Director of Public Prosecutions Act 1991 - Statement of Prosecution and Policy Guidelines

Environmental Protection (Noise) Regulations 1997

Fines, Penalties and Infringement Notices Enforcement Act 1994 and Regulations

Food Act 2008

Freedom of Information Act 1992 and Regulations

Health (Miscellaneous Provisions) Act 1911 and Regulations

Litter Act 1979 and Regulations

Local Government Act 1995 and Regulations

Planning and Development Act 2005 and Regulations

Public Health Act 2016

Shire of Mundaring Local Laws

6. RELATED DOCUMENTS

Code of Conduct for Council Members, Committee Members and Candidates Policy (1.1)

Code of Conduct for Employees CEO Policy (4.15)

Shire of Mundaring Customer Service Charter

Freedom of Information Statement

Community Safety Operations Manual