

Shire of Mundaring

POLICY

COMPLIANCE

Policy Ref:	PS-10	File Ref: GV.OPP 1	
Adopted:	C11.12.18	Date:	11 Dec 2018
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Procedure Ref:		Delegation Ref:	
Statute Ref:			
Local Law Ref:			

PURPOSE

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

1. Scope

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.

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 'Complaints Management' policy.

2. 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 case by case 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. 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.
- h. 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.

3. Definitions

Public Interest means 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. Relevant Policies/Documents

The following may be relevant in dealing with compliance and enforcement matters and include but are not limited to:

- Shire of Mundaring Customer Service Charter;
- Shire of Mundaring Code of Conduct – Elected Members and Employees;
- Freedom of Information Statement.

5. Relevant Legislation

The guiding 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*
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- *Food Act 2008*
- *Freedom of Information Act 1992*
- *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.*