

Compliance and Enforcement

Introduction

This policy ensures that the Shire follows a consistent approach to any compliance and enforcement actions undertaken in accordance with the *Criminal Procedure Act 2004*.

Objective

The Shire has a duty to investigate compliance issues and an obligation to enforce the requirements of legislation, including fulfilment of its responsibilities under Prescribed Acts, Regulations and the Shire's local laws.

The Shire will ensure that where any compliance or enforcement actions are undertaken the principles of transparency, procedural fairness and natural justice will apply.

Scope

This policy applies to any Shire Officers who have responsibilities under delegated authority for ensuring compliance on behalf of the Shire of Toodyay.

Definitions

Term	Definition
Act	<i>Local Government Act 1995</i> .
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Member	means in relation to a council or committee, a Council Member in the Act; Elected Member; or Councillor; or a member of the committee.
Natural justice	The principles of natural justice should be free from bias and parties should be given fair opportunity to be heard and all the reasons and decision taken by the court should be informed by the court to the respective parties.
Prescribed Act	Means an Act that is prescribed by the regulations made under the <i>Criminal Procedure Act 2004</i> .
Prescribed Offences	Means an offence prescribed under section 5(1) of the <i>Criminal Procedure Act 2004</i> .
Procedural justice	There are four key principles of procedural justice: voice, neutrality, respect and trust. Adherence to these principles is linked to improved compliance and positive outcomes.

Term	Definition
Regulations	made under a prescribed Act that may prescribe an offence under the prescribed Act, or under any regulations made under the prescribed Act, to be an offence for which an infringement notice may be issued.
Shire	the Shire of Toodyay.
Transparency	Transparency, as used in the humanities and in other social contexts, is operating in such a way that it is easy for others to see what actions are performed. Transparency implies openness, communication, and accountability.

Policy Statement

To investigate and resolve offences for breaches of legislation including failure to comply with terms or conditions of Notices, Approvals, and Orders; and appeals arising out of proceedings brought by the Shire.

1. Principles

The Shire will:

- (a) administer its statutory responsibilities in a fair, unbiased and equitable manner in the interest of public health, interest, safety and amenity.
- (b) prioritise, consider, investigate, and assess any allegation of a breach, or an offence, on the merits of each case.
- (c) not investigate or respond to anonymous allegations.
- (d) endeavour to protect the private details of complainants, within the parameters of the legislative framework.
- (e) make decisions regarding enforcement in a manner that is in proportion with the seriousness of the alleged breach, or offence.
- (f) only proceed with enforcement action where the CEO (or delegate) has considered the prospects of achieving a conviction; satisfied that prosecution is warranted.
- (g) Inform Members of any legal proceedings, anticipated costs, progress and outcomes brought against any party by the Shire.
- (h) discontinue investigations where the CEO (or delegate) reasonably considers that the allegation(s) are unsubstantiated; mischievous; vexatious; pertaining to a civil matter; has previously been investigated; and/or concluded; or is likely to result in disproportionate costs being incurred.

2. Limit of Authority

The CEO is authorised to seek legal advice and engage or procure legal representation to an amount not exceeding \$5,000 for any single matter. If legal costs are anticipated

to exceed \$5,000, the CEO will submit a report to Council for approval, prior to proceeding with legal action.

Reference Information

- [Legal Representation Costs Indemnification](#) (ADM4);
- [Purchasing Policy](#) (FIN3);
- [Compliance](#) (REG5); and
- [Risk Management](#) (ADM18) – containing the Risk Matrix tables.

Legislation

Local Government Act 1995 and its subsidiary legislation.

Animal Welfare Act 2002 and its subsidiary legislation.

Biosecurity and Agriculture Management Act 2007 and its subsidiary legislation.

Building Act 2011 and its subsidiary legislation.

Building Services (Complaint Resolution and Administration) Act 2011 and its subsidiary legislation.

Caravan Parks and Camping Grounds Act 1995 and its subsidiary legislation.

Cat Act 2011 and its subsidiary legislation.

Cemeteries Act 1986 and its subsidiary legislation.

Control of Vehicles (Off Road Areas) Act 1978 and Regulations and its subsidiary legislation.

Criminal Procedure Act 2004 and its subsidiary legislation.

Dog Act 1976 and its subsidiary legislation.

Fines, Penalties and Infringement Notices Enforcement Act 1994 and its subsidiary legislation.

Food Act 2008 and its subsidiary legislation.

Liquor Control Act 1988 and its subsidiary legislation.

Litter Act 1979 and its subsidiary legislation.

Local Government (Miscellaneous Provisions) Act 1960 and its subsidiary legislation.

Planning and Development Act 2005 and its subsidiary legislation.

Public Health Act 2016 and its subsidiary legislation.

Shire of Toodyay Local Laws.

Associated documents

Nil.

Version control information

Version No.	Date Issued	Review position	Developed by	Approved by
V1	13/10/2020	Adopted new policy	CEO	Council
V2	27/04/2022	Reformatted	Executive Services	Council

Document control information	
Document Theme	Governance
Document Category	Governance
Document Title	Compliance and Enforcement
Document ID	GOV1
Document Owner (position title)	Chief Executive Officer
Author (position title)	Executive Services
Date of approval	27 April 2022 (CRN: OCM058/04/22)
Approving authority	Council
Access restrictions	Nil
Date Published	28 April 2022
Date of last review	27 April 2022
Date of next review	5 February 2025
Archived antecedent documents and previous versions	Policy was numbered G.1 previously.