



**GREATER SHEPPARTON CITY COUNCIL
COMPLIANCE AND
ENFORCEMENT POLICY**

Effective: Day Month Year



Compliance and Enforcement Policy

Version:	1
Business Unit:	Environment
Responsible Officer:	Manager Environment / Manager Building Planning and Compliance
Adopted By:	Council on Day Month Year
Next Review:	Day Month Year

1. PURPOSE

This policy outlines the guiding principles, relevant legislation, and the approach Council's Authorised Officers take to achieve compliance and undertake enforcement activities for, and on behalf of, the Greater Shepparton community.

Each regulatory department of Council has operational procedures that are particular to those activities. This policy provides an overarching Council approach to compliance and enforcement for each regulatory department.

This policy has been developed in response to an internal audit recommendation.

2. OBJECTIVE

Council, the community, and businesses have a shared responsibility to protect public health and wellbeing, community safety, general amenity and the natural and built environment.

Council is responsible for educating the community and businesses as well as ensuring compliance under a range of Acts, Regulations, and Council Local Laws.

Through adherence to this policy, members of the community, businesses, Council staff, contractors and Councillors can gain a better understanding of Council's compliance and enforcement approach and expect non-compliance will be addressed in a consistent manner.

3. SCOPE

This policy is relevant to a broad range of compliance and enforcement activities in accordance with the applicable Acts, Regulations and Council's Local Laws (listed in Appendix 1) performed by Council's Authorised Officers and authorised contractors working for and on behalf of Council within the municipality.

This policy does not limit the discretion and exercise of official functions, duties or responsibilities of Council's Authorised Officers. In some cases, legislation may prescribe specific actions authorised officers are expected to take when responding to non-compliance.

4. DEFINITIONS

Reference term	Definition
Authorised officers	Council staff (including contractors) who are authorised by the Chief Executive Officer of Council with delegated powers under various pieces of legislation and Council Local Laws.
Compliance	The absence of non-compliance. This includes cooperating with Council's enforcement actions.
Council	Refers to Greater Shepparton City Council.
Discretion	The flexibility Authorised Officers have to make a choice about whether to act or not and to what level, taking into account all relevant information. It recognises that statutory language cannot foresee every possible scenario.
Educate	Explain specific information about compliance and enforcement using clear, plain English language to develop the knowledge and understanding of the issue.
Enforcement	Action in accordance with an Act, Regulation, Local Law, order, notice or direction to seek compliance or to deter further offences from occurring. This includes, but is not limited to, obtaining the right approvals, permits and registrations, conducting any activities within or ceasing any activities outside the scope and conditions imposed by those approvals, permits and registrations.
Reasonably practicable	To do what is reasonably able to be done, balancing the likelihood and degree of risk against the availability and cost of control measures in order to provide a fair and equitable investigative process.
Risk	A combination of two elements: the likelihood or chance of an event or harm occurring, and the consequence of that event or harm.
Non-Compliance	The contravention of an Act, Regulation or Local Law. This includes disobeying an order, notice or direction from an Authorised Officer.

5. POLICY

5.1 Our approach to compliance and enforcement

In undertaking compliance and enforcement activities, Council will strive to:

- Educate the community and businesses to ensure clear information, guidance and advice is available that helps the community and businesses meet their responsibilities.
- Support the community to achieve compliance by clearly explaining the reasons and actions required to be taken by the community and businesses, including any further formal action if required.
- Show procedural fairness and integrity through impartial, trustworthy and sound decision-making in relation to matters that may adversely and directly affect the community and businesses.
- Respond with speed where serious, high-risk, high impact non-compliance exists and be aware of emerging high-risk activities.
- Use risk-based approach, prioritising dangerous non-compliance over detrimental non-compliance.

5.2 Guiding Principles

The following principles will guide Council's compliance and enforcement activities:

- **Consistency** – Authorised Officers will base decisions to undertake the investigation and selecting compliance methods and levels of enforcement on a consistent, standard process, aligned with the response matrix (see *5.5 Assessment of risk and response*).
- **Transparency** - Council will publicly share information about its broad regulatory roles, responsibilities and purpose. Council will also make it clear where regulated parties have a right to a review of regulatory decisions and where feedback and complaints can be made in relation to Council's action.
- **Proportionate and graduated** – the application of various enforcement tools available will be based on the seriousness or potential seriousness of the non-compliance. The choice of compliance methods will consider the circumstances and attitudes of those who are required to comply. A graduated approach to compliance methods used with less severe actions considered in the first instance, increasing in scale should the non-compliance be resolved. The greatest harm and/or intentional non-compliance will be met with Council's strongest enforcement responses.

- **Risk based** - it is not practical or appropriate for Council to take compliance or enforcement action in response to every alleged or suspected breach. Instead, Council's efforts will be directed toward those areas where the greatest risk to health, safety and amenity lies.
- **Privacy** – Council will manage personal information in accordance with its Privacy Policy and the Privacy and Data Protection Act 2014.

5.3 Safety of Authorised Officers

Investigation and enforcement activities carried out by Council's Authorised Officers can be risky, as officers are often required to work in:

- Isolated locations and in areas with difficult terrain,
- Outside ordinary work hours,
- Situations where they are exposed to aggressive and threatening behaviours from members of the public who may inflict harm,
- Uncontrolled animals; and
- Possible health hazards.

Council has an obligation to the safety and wellbeing of all staff and is committed to providing safe systems of work including training, equipment, policies and processes.

Council does not tolerate any verbal abuse, aggressive or threatening behaviour or physical assault of its staff and will proactively pursue with determination any such instances from the community or businesses.

5.4 Investigating complaints

Authorised Officers will assess alleged or suspected breaches of Acts, Regulations and Local Laws, including those reported by the community, other enforcement agencies and those identified through Council's own activities. These reports will be assessed to determine the level of risk, the priority and resources given to the matter.

Anonymous reports of non-compliance or unlawful activity will be recorded and assessed by Council based on the information available. In these instances, it may be more difficult to fully evaluate these reports without the ability to seek further information from the reporting party. This may result in limited response options, compliance and/or enforcement actions taken by Council.

Before commencing an investigation, Authorised Officers may make further preliminary enquiries with other internal departments or external agencies, including but not limited to reviewing other intelligence and desktop assessments. This is to ensure the matter is allocated to the agency or area best positioned to address the alleged non-compliance.

Authorised Officers will also consider individual circumstances and communication preferences as is reasonably practicable.

During an investigation, Authorised Officers may collect evidence from a range of sources including:

- Collaborating with other internal departments to seek relevant information,
- Property, street or site inspections (including those conducted through routine inspections or by warrants);
- Obtaining witness statements or verbal accounts about the allegation,
- Undertaking, obtaining and securing evidence such as photographs, video footage, samples and exhibits;
- Seizing animals, items, documents and exhibits;
- Inspecting Council records and other databases;
- Conducting interviews with alleged offender, witnesses and/or reporter;
- Seeking expert assessments and testing;
- Requesting information (including under statutory notices);
- Obtaining information from other law enforcement agencies, external organisations or emergency services; and
- Collecting passive and active surveillance data.

The time taken to investigate will vary depending on the complexity of the issue, the cooperation of all parties involved, and the evidence required and available in accordance with any legislative process. In all cases, Council will maintain records of its assessments, investigations and enforcement actions (if any) so the information collected is in accordance with Councils record keeping policy.

5.5 Assessment of risk and response

When determining Council's response to non-compliance, Authorised Officers will consider:

- The level of risk the non-compliance poses to community health, safety and amenity and the environment;

- Whether Council is best placed to address the risk and non-compliance; and
- The most effective use of regulatory resources available to Council.

This policy recognises it is not practical or appropriate for Council to take compliance or enforcement action in response to every alleged or suspected breach. Instead, Council's efforts will be directed toward those areas where the greatest risk to health, safety and amenity lies. Council's [Risk Management Framework](#) is utilised to assess the risk of an allegation or report.

It must be noted that in some cases, the relevant legislation will dictate the compliance method to be applied, regardless of the risk level.

5.6 Graduated and proportionate compliance methods

The following table outlines some examples of possible actions Authorised Officers may take according to the risk rating of a non-compliance activity. This list is not exhaustive.

Enforcement response level	Possible Enforcement options
Low	<p><u>No action/record only may be suitable after preliminary assessment or investigation where the following circumstances apply:</u></p> <ul style="list-style-type: none"> • Insufficient evidence to substantiate breach of legislation • Report is anonymous source and/or details provided are insufficient to locate the alleged offending or warrant investigation • Concerns raised are frivolous, vexatious or trivial in nature • Offence is outside Council's jurisdiction • Taking action may prejudice other major investigations • Matter is a civil dispute and more appropriately dealt with through dispute resolution • Matter has been rectified or resolved through voluntary compliance (informal action may be more suitable when above do not apply and risk is low) <p><u>Informal actions may include:</u></p> <ul style="list-style-type: none"> • Providing information or advice about requirements and how to be compliant, which may be verbal or in writing • Negotiating with the person to obtain voluntary undertakings or agreement to adequately address the concern • Issue letter for work to be done, an activity to cease, to obtain required permits or registration • Issue verbal or written official warning

Medium	<p><u>Actions may include:</u></p> <ul style="list-style-type: none"> • Issuing a notice to comply or other legal direction to remedy breach of legislation • Issue an official warning or a penalty infringement notice that carries a low level monetary value • Seizure or impound of items or animals on public land or on private land at the request of the landowner/occupier • Issuing a notice of intention to serve an order or notice under relevant legislation, and then serving the order or notice if appropriate • Issuing a notice of intention to seize an animal or thing, where a search warrant is not required, and then seizing that animal or thing
High	<p><u>Actions may include:</u></p> <ul style="list-style-type: none"> • Issuing a penalty infringement notice and/or multiple notices where appropriate that carries a high level monetary value • Council carrying out works specified in a notice to comply or other legal direction after a person's failure to comply with the direction, and pursuing action to recover costs • Executing search and seizure warrants or other court issued orders to search for and/or seize animals, things, or prevent access to a premises • Commence formal administrative proceedings (eg dangerous or menacing dog declarations, euthanasia of seized animals, revoking permits or amending permit conditions such as limitations and restrictions) • Formal undertakings/agreements with Council
Extreme	<p><u>Actions may include:</u></p> <ul style="list-style-type: none"> • Seeking an injunction through the courts to prevent future or continuing unlawful activity • Executing court orders to conduct works or remove person from a premises • Commence prosecution or other legal proceedings for an offence against the relevant Act or Regulation • Monitoring orders of the court to ensure ongoing compliance

5.7 Compliance Methods

Council's Authorised Officers will use their discretion to determine the most appropriate level of response in order to achieve compliance from the community or businesses. Their discretion is informed by legislation, case law, delegations, available evidence, risk assessments, operating procedures, relevant public interest considerations and the facts of the individual case.

When considering the most appropriate level of response, the following discretionary factors will be considered:

- Cooperation of the parties/people concerned.
- Personal circumstances including physical and/or mental health, financial hardship, family violence, age, gender and other special and exceptional circumstances.
- If the non-compliance was inherited or the person committed the offence.
- Seriousness of the offence.
- Level of malice or culpability of the person concerned (intentional, reckless, negligent or by mistake).
- History of offending by the person concerned.
- Likelihood of the offence continuing or being repeated.
- Whether there is an opportunity for voluntary compliance.
- The age of the offence and statute of limitations.
- The impact of the offence on victims and/or witnesses and the potential for Court awarded compensation.
- Impact on community, public health and safety, environment and amenity.
- Community expectations of how Council would reasonably deal with the matter.
- Risk factors such as legal litigation or reputational damage.
- Cost to pursue the offence compared to the public and/or Council interest in pursuing it.
- The evidence available and likelihood of a successful prosecution.
- Most appropriate response to ensure an effective deterrent.
- Availability of Council resources.

Compliance methods may be non-enforcement or enforcement based and could include both.

Non-enforcement based options include:

- Education initiatives designed to highlight the legislative requirements.
- Providing clear and detailed advice to those who are non-compliant regarding which requirements have not been met, their responsibilities and duties, how the breaches can be rectified (such as applying for permits, licenses or registrations), and Councils role in ensuring compliance. This can include verbal or written advice, information on Councils website, media, brochures or referral to other agencies and organisations.

Enforcement based options include:

- Issuing a penalty infringement notice – usually applies to offences of a minor nature, is a one-off incident and is considered that the issuing of the notice will lead to compliance.
- Issuing a notice to comply, or other legal notice or directions – where the offence is ongoing, is of a nature where it cannot be allowed to continue and can be rectified by the Accused.
- Undertaking direct actions to secure compliance with the requirements of permits, licences or registrations issued, which can include the impounding of items or potentially forced closure of a business eg under the Food Act or Domestic Animals Act.
- Direct intervention through the Judicial system including the Magistrates Court and Victorian Civil and Administrative Tribunal (VCAT) where an activity poses a serious threat to the public or environment.
- Holding internal panel of authorised staff to make a decision on a matter where legislation permits Council to take action not covered by the above options. eg Declaring a dog menacing or dangerous under the Domestic Animals Act.

As part of any enforcement-based approach Council will ensure that all parties involved are provided full details of the legislative requirements, recommend that the parties seek independent legal advice and further details regarding how they can lodge any internal or external appeals against the action taken by Council.

6. RELATED POLICIES

- Complaints Policy
- Privacy Policy
- Public Transparency Policy
- Risk Management Framework

7. RELATED LEGISLATION

- *Building Act 1993*
- *Building Regulations 2018*
- *Country Fire Authority Act 1958*
- *Domestic Animals Act 1994*
- *Domestic Animals Regulations 2015*

- *Domestic Animals Regulations 2025*
- *Environment Protection Act 2017*
- *Fines Reform Act 2014*
- *Fire Rescue Victoria Act 1958*
- *Food Act 1984*
- *Impounding of Livestock Act 1994*
- *Infringements Act 2006*
- *Infringements Regulations 2016*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Public Health and Wellbeing Act 2008*
- *Public Health and Wellbeing Regulations 2009*
- *Tobacco Act 1987*
- *Road Safety Act 1986*
- *Road Safety Road Rules 2017*
- *Summary Offences Act 2004*
- *Prevention of Cruelty to Animals Act 1986*
- *Prevention of Cruelty to Animals Regulations 2019*
- All Local laws of Greater Shepparton City Council
- *Privacy and Data Protection Act 2014*

8. REVIEW

The Manager Environment and Manager Building Planning and Compliance is to review this Policy no later than four years from the date of adoption. All reviews will be undertaken in conjunction with relevant departments, with proposed amendments presented to Council for consideration.

DOCUMENT REVISIONS

Version #	Date Adopted	Date Effective
1		