



Health, Environment & Waste

**COMPLIANCE STRATEGY
LOCAL LAW 9 (LICENSING) 1999**

**BUILDING OUR COMMUNITIES
BUSINESSES AND PRIDE**



Compliance Strategy for Local Law 9 (Licensing) 1999

The main purpose of *Logan City Council Local Law 9 (Licensing) 1999* is to ensure that a prescribed activity does not result in:

- harm to human health or safety or personal injury; or
- property damage or a loss of an amenity; or
- environmental harm or environmental nuisance; and
- the operation of the prescribed activity complies with the Local Government Acts that regulate the prescribed activity by subjecting the prescribed activity to an inspection, monitoring and enforcement regime

The role of Local Government in relation to achieving the purposes of the legislation is:

- to require business proprietors and operators to take reasonable precautions and care to minimise environmental harm, property damage or loss of amenity and harm to human health or safety or personal injury; and
- to require business proprietors who operates a prescribed activity under Local Law 9 to hold a licence; and
- to provide for compliance with Local Law 9 to be monitored and enforced

Compliance Objectives for Environmental Health

The objectives of the Environmental Health Program are to prevent, control and reduce risks to the environment and to public health; ensure that businesses are regulated in a fair and effective manner and to provide business and the public with relevant information in relation to the operation of these activities. In addition, the Environmental Health Program will work alongside other regulators and policy makers (i.e. Department of Health, Local Authorities, Workplace Health and Safety Queensland) to ensure the overarching purposes of the legislation are achieved.

Strategy for Compliance Activities

The Environmental Health Program will use the Compliance Strategy as a framework, using a risk-based approach, to conduct routine inspections, complaint investigation and proactive regulatory work to achieve the objectives outlined.

Routine Inspection of Licensed Prescribed Activities

The Environmental Health Program will undertake routine inspection of all prescribed activity businesses under a routine inspection program. Officers will aim to identify non-compliance with legislative requirements and thereafter work with the business operator in order to ensure the risk to public health and safety is minimised.

Investigation of Customer Requests for Prescribed Activities

The Environmental Health Program investigates customer requests relating to the operation of prescribed activities. Issues investigated include environmental nuisance, unlicensed premises, record keeping, cleanliness, risks to public health and safety etc. Officers will inspect the business to assess the validity of the complaint and take appropriate action to ensure any non-compliance found are resolved in a suitable timeframe.

Risk Assessment of Compliance Outcomes

The Environmental Health Program identified consistency in decision making, and in particular the adoption of appropriate enforcement tools, as being critical to the work of the Program and to ensure they are an open, fair and transparent regulator. To foster greater consistency between individual officers, this Compliance Strategy for the *Local Law 9 (Licensing) 1999* has been developed.

This Compliance Strategy utilises a risk assessment based on two distinct factors, these being the human health risk posed by the breach and the likelihood of the business operator to resolve the non-compliance in a reasonable timeframe. The factors are independent of each other, however when assessed together in the Enforcement Matrix, provide the 'recommended enforcement option'. It is then expected that officers will adopt the 'recommended enforcement option' in regards to securing compliance. If however, an officer believes that an alternative enforcement option is more suitable than the 'recommended enforcement option', the officer must provide an evidence report to their supervisor outlining the reason for this decision. If the evidence report provides clear evidence that another enforcement tool would better secure compliance, then the 'recommended enforcement option' may be replaced with a more appropriate option.

Regardless of the enforcement action that may be required, the officer will always discuss the issues with the business operator / alleged offender. For some lower risk, first time offences, the officer may only provide verbal advice. However, if escalated enforcement action is recommended, the officers will explain this prior to it occurring. The Environmental Health Program is committed to being an open and transparent regulator that works with business operators / customers to achieve compliance.



Local Law 9 (Licensing) 1999: Enforcement Matrix

		HUMAN HEALTH RISK (Actual or Potential)		
		MINOR (low Risk)	MAJOR	CRITICAL (Very High Risk)
LIKELIHOOD OF COMPLIANCE (COMPLIANCE HISTORY/WILLINGNESS AND CAPACITY TO COMPLY)	CATEGORY A (Low Risk)	Verbal Advice	Compliance Notice Infringement Notice	Compliance Notice Infringement Notice
	CATEGORY B	Verbal Advice Compliance Notice	Compliance Notice Infringement Notice	Infringement Notice Compliance Notice
	CATEGORY C	Compliance Notice Infringement Notice	Infringement Notice Compliance Notice	Infringement Notice Stop Order Prosecution
	CATEGORY D (High Risk)	Infringement Notice Compliance Notice	Infringement Notice Stop Order Prosecution	Infringement Notice Stop Order Prosecution

Note 1: The enforcement options in the enforcement matrix are a guide only. Enforcement should be undertaken in accordance with the enforcement matrix and unless approval is obtained from the officer's line manager.

Note 2: Officers must always discuss the identified issues / offences and proposed actions with the business operator / alleged offender prior to any documentation / notices being delivered.

Note 3: Officers must always refer to the relevant legislation to determine whether a particular enforcement option (e.g. Infringement Notice) is permitted for a particular offence.

Note 4: If deviating from the above default enforcement options, the decision must be clearly documented and validated by the responsible officer.



Levels of Human Health Risk (Actual or Potential)

MINOR (Low Risk)

- Legislative non-compliances which have the potential to result in a minor, temporary threat to human health. Minor non-compliances can be easily rectified during the normal course of business.
- Minor administrative non-compliances.

Examples:

- Minor cleaning or maintenance issues e.g. section of unclean flooring, single damaged wall etc.
- Small number of records not completed in full.
- Licence not displayed in a suitable manner in the premises.

MAJOR (High Risk)

- Legislative non-compliances which have the potential to result in a significant threat to human health. Business operators may not be able to fix major non-compliances during the normal course of business.
- Serious administrative non-compliances.

Examples:

- Serious cleanliness issues e.g. large areas of unclean floors, walls, equipment etc.
- Serious maintenance issues e.g. broken items and/or structures widespread throughout premises.
- Large number of incomplete or missing records and/or certification e.g. fire evacuation plan, electrical safety certificate etc.
- Serious public health breaches such as unsatisfactory water quality (commercial swimming pools).

CRITICAL (Very High Risk)

- Legislative non-compliances which represent an imminent and significant threat to human health. Critical non-compliances represent a fundamental breakdown of public health in the business and require immediate corrective action.

Examples:

- Critical health and safety or public health issues e.g. fire safety practices insufficient, serious pest infestation of the premises etc.
- Releases of contaminants to air, water and/or land which have caused or have the potential to cause environmental harm e.g. release of swimming pool backflow into a waterway, waste oil spillage etc.
- Business operator not holding a current licence with Council

Categories of Likelihood of Compliance

(Compliance History/Willingness and Capacity to Comply)

CATEGORY A - Indications of future and ongoing compliance are high (Low Risk)

- No known occurrences of historic and/or current ongoing serious non-compliance;
- Good demonstrated awareness of and/or capacity to meet regulatory requirement; and/or
- Reasonable and cooperative attitude.

CATEGORY B - Indications of future and ongoing compliance are uncertain

- Few known occurrences of historic and/or current ongoing non-compliance; and/or
- Questionable awareness of and/or capacity to meet regulatory requirement.

CATEGORY C - Indications of future and ongoing compliance are low

- Numerous known occurrences of historic and/or current ongoing non-compliance; and/or
- Low awareness of and/or capacity to meet regulatory requirement.

CATEGORY D - No indication of future and ongoing compliance

- Historic and/or current wilful violation of regulatory requirement; and/or
- Little or no demonstrated willingness or capacity to meet regulatory requirement.

Level of Action

VERBAL ADVICE

- Minor compliance issue that is expected to have a high level of compliance; and/or
- Unlikely to result in any imminent human health risk.

COMPLIANCE NOTICE

- Minor non-compliance where there is doubt in relation to the likelihood of the business operator to comply ; and/or
- May ultimately result in a serious human health risk if not resolved.

STOP ORDER

- Critical imminent risk to human health; and/or
- Known or expected ongoing legislative non-compliance.

INFRINGEMENT NOTICE

- Evidence of previous, current and/or ongoing serious non-compliance indicating a low likelihood of compliance; and/or
- Wilful non-compliance; and/or
- Serious risk to human health if not resolved swiftly.

PROSECUTION

- Critical imminent risk to human health; and/or
- Known or expected ongoing legislative non-compliance.