

Compliance and Enforcement Policy



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1. Purpose

1.1 Overview

The purpose of this Compliance and Enforcement Policy is to describe our approach in fulfilling our regulatory functions with the laws we administer. This policy is intended to enhance transparency, consistency and effectiveness across Logan City Council's regulatory activities. The policy aims to ensure that all compliance and enforcement activity is conducted in accordance with key guiding principles, for the benefit of Logan city.

This policy explains:

- Our regulatory context
- Our guiding regulatory principles
- Our approach to compliance and enforcement
- Prosecution decision making
- How we set enforcement priorities
- How we continuously improve
- Complaints, disputes and appeals

This policy applies to all Councillors and Council officers who are involved in the compliance and enforcement of legislation and local laws we administer. The policy also serves to inform all persons (including individuals and corporations) of our approach to compliance and enforcement within Logan city.

1.2 Regulatory context

Our regulatory services play a vital role in achieving the city's vision of a safe, clean and liveable environment. We administer a wide range of legislation and local laws to protect the public from harm, minimise environmental impacts and maintain quality of life. With regulatory responsibility spanning over 33 legislative and local law instruments, our role is extensive. Key areas of regulation include planning, development, animal management, food and water safety, building, parking and transport, public health, nuisances and the environment.

We use regulation to control risks that affect the community, industry and environment. In a local context, regulation helps to ensure:

- Neighbourhoods stay clean and appealing
- People access safe food and water
- The environment is protected and preserved
- Roads and parks are safe and orderly

Our regulatory services are linked to the *Logan City Council Corporate Plan 2021 - 2026*, which outlines our organisation's strategic goals and priorities. By aligning our regulatory services with our corporate plan, we ensure that our activities contribute to the broader objectives of fostering a healthy, thriving and proud city.

2. Regulatory principles

To achieve these outcomes, we apply a consistent regulatory approach guided by the following principles.

2.1 Information and data driven

By using information, analytics and data, we make informed decisions regarding resource allocation and enforcement actions. This ensures that our regulatory efforts are targeted and efficient, addressing issues based on intelligence rather than anecdotal evidence. We conduct behavioural research to understand who obeys our laws, who breaks them, why and with what impact. The use of this information helps us predict potential regulatory breaches and allows for proactive compliance and enforcement action, reducing the future occurrence of non-compliance. Information and data drive our prioritisation and regulatory response. The information that forms the basis of our intelligence comes from a variety of sources, including public reports, technology, our own monitoring activities, investigations, research and trend analysis.

2.2 Risk-based

We decide our response to non-compliance by evaluating the level of risk of harm that it may cause and determining the most efficient use of resources

to respond. It is not possible or necessary to take enforcement action in response to every non-compliance. Therefore, our efforts are focused where there is the greatest risk of harm and where we can efficiently and effectively reduce that risk. To assess non-compliance, we analyse the consequence of harm, which is the severity of potential or actual impact on people, property or the environment, and the likelihood of harm occurring or continuing. Using this risk-based approach to focus our regulatory efforts also helps to achieve best value for money in the delivery of our compliance and enforcement functions.

2.3 Proportionate

We ensure that our regulatory actions are proportionate to the level of risk posed by any non-compliance, guaranteeing that the level of response we provide matches the seriousness of the issue. This balanced approach ensures fairness by preventing overly harsh penalties for minor non-compliances while applying robust measures for serious offences. Our activities to support compliance or respond to non-compliance with the law is proportionate to the risk of harm caused and we consider the circumstances and attitudes of those required to comply. Consequently, the greatest harms are met with our strongest enforcement responses.

2.4 Safety focussed

We prioritise the safety of the public and our staff as a key aspect of our regulatory goals. This principle guides every regulatory decision we take. Ensuring the safety of neighbourhoods, parks, roads and other public spaces is a fundamental part of our mandate. Our safety-focused approach to regulation includes continuous monitoring of public spaces and facilities, along with swift measures to address any hazards. By doing so, we protect the wellbeing of our residents and foster a sense of security within the community.

3. Our approach to compliance and enforcement

3.1 Overview

In performing our regulatory role, we have a scaled and proportionate approach to compliance and enforcement, in accordance with our guiding regulatory principles. Below is an overview of how we approach compliance and enforcement.

3.2 Educating and encouraging compliance with the law

We are committed to supporting the public in achieving compliance with the law through a combination of education, guidance and incentives. We actively engage in public awareness campaigns to educate the public about the law, fostering voluntary compliance.

Council undertakes a range of activities to support people complying with the law, including:

- **Promoting laws and guidelines.** We actively share information and guidelines about what the law requires and how people can comply with it. We offer a range of customer service options to support people seeking information about the law.
- **Public engagement and education:** We engage in focussed campaigns to educate the public about the law, aiming to foster voluntary compliance and raise awareness about important issues. We also consult with the public when creating a new law.
- **Incentives:** we provide incentives to help people engage in lawful behaviours through a range of financial or non-financial mechanisms.

3.3 Monitoring for compliance

We proactively conduct a range of monitoring activities to assess compliance levels and identify potential areas of concern. This proactive approach ensures that any non-compliance is promptly addressed, maintaining the safety and wellbeing of the community. We do this through activities like:

- **Monitoring and information gathering.** We conduct monitoring and data collection to assess compliance levels and identify potential areas of concern. This includes through inspections, public patrols and the use of technology.
- **Audits and spot checks.** We perform routine audits and random spot checks to check on compliance with the conditions of licences, approvals and permits we have issued.
- **Notices to produce information.** Where we need more information on the status of compliance, we issue formal requests to individuals or entities to provide information to help us gain more understanding.

3.4 Assessing and investigating non-compliance

Before deciding whether to take any action, we assess complaints and where appropriate, undertake an investigation. This includes determining if a non-compliance has occurred, identifying the cause of an incident and determining what actions may be needed in response.

It is not possible for us to investigate all complaints of non-compliance. This especially applies to complaints made anonymously, or that are frivolous or vexatious in nature, or not made in good faith or lacking in substance.

Therefore, we apply the principle of proportionality, dedicating our investigation resources to the most serious issues and our strategic enforcement priorities.

3.5 Enforcement action

Following the identification of non-compliance, we have a range of regulatory mechanisms available to respond. Using the principles of risk and proportionality, we will take the most appropriate form of action available to:

- Stop the non-compliance
- Remedy the non-compliance (for example, by fixing damage caused by an offending act)
- Punish for non-compliance
- Deter an offending party or others from continuing to commit offences

This may be achieved through one or a combination of the below interventions:

- **Advice, directions and warnings.** When non-compliance is detected, we may issue advice letters, directions or warnings to request or require certain actions.
- **Statutory notices, directions, declarations, and orders.** We may use enforcement notices, compliance notices, orders and a range of other statutory directives to remedy harm, compel compliance or mandate specific actions within defined timeframes.
- **Amendment, suspension or cancellation of licences and permits.** We may seek to amend, suspend or cancel licences or permits in cases of serious or persistent non-compliance, ensuring that only compliant license holders can continue to operate.
- **Infringement notices.** We issue fines as a punishment for non-compliance. Fines can vary in value, typically ranging from minor fines to substantial financial penalties based on the severity of the offence.
- **Injunctions and enforcement orders.** In cases of significant non-compliance or harm, we may start civil legal proceedings to secure injunctions or enforcement orders to prevent a non-compliance, remedy harm or compel compliance.
- **Referrals and co-response with other enforcement agencies.** We actively collaborate with other regulatory agencies to enhance enforcement efforts through shared resources and expertise.

4. Prosecution

Prosecution is a mechanism we reserve for the most serious or systemic instances of non-compliance.

When making decisions on whether to prosecute, we observe the Queensland Department of Public Prosecutions guidelines. We carefully evaluate each case based on its merits, considering factors such as the sufficiency of the evidence and whether it is in the public interest to pursue prosecution.

When having regard to the public interest, we will consider factors¹ such as:

- the level of seriousness or triviality of the alleged offence, or whether or not it is of a ‘technical’ nature only
- the existence of any mitigating or aggravating circumstances
- the youth, age, physical or mental health or special infirmity of the alleged offender or a necessary witness
- the alleged offender’s antecedents and background, including culture and ability to understand the English language
- the staleness of the alleged offence
- the degree of culpability of the alleged offender in connection with the offence
- whether or not the prosecution would be perceived as counterproductive to the interests of justice
- the availability and efficacy of any alternatives to prosecution
- the prevalence of the alleged offence and the need for deterrence, either personal or general
- whether or not the alleged offence is of minimal public concern
- any entitlement or liability of a victim or other person to criminal compensation, reparation or forfeiture if prosecution action is taken
- the attitude of the victim of the alleged offence to a prosecution
- the likely length and expense of a trial
- whether or not the alleged offender is willing to co-operate in the investigation or prosecution of others, or the extent to which the alleged offender has done so

¹ Taken from Section 4 of the Queensland Department of Public Prosecutions guidelines

- the likely outcome in the event of a conviction considering the sentencing options available to the Court
- whether the alleged offender elected to be tried on indictment rather than be dealt with summarily
- whether or not a sentence has already been imposed on the offender which adequately reflects the criminality of the episode
- whether or not the alleged offender has already been sentenced for a series of other offences and what likelihood there is of an additional penalty, having regard to the totality principle
- the necessity to maintain public confidence in the Parliament and the Courts
- the effect on public order and morale

We will conduct prosecution fairly and in accordance with our obligation to act as a model litigant as stated in the Queensland Model Litigant Principles 2010. This approach helps us maintain public confidence in our enforcement actions and uphold the rule of law in our community.

5. Strategic enforcement priorities

We are committed to ensuring the safety and liveability of our community. To achieve this, we will set annual enforcement priorities that align with our strategic goals and address the most pressing issues facing our city. By focusing our efforts on key identified areas of importance, we can effectively allocate resources, enhance compliance and improve overall quality of life for our residents.

Our approach will be data driven, informed by behavioural analysis and responsive to emerging trends, ensuring that we remain proactive in addressing the current and emerging needs of Logan city.

6. Continuous improvement

We are committed to the continuous improvement of our regulatory functions. We measure the performance and effectiveness of services that are linked to these core functions in a range of ways.

We analyse intelligence, data and undertake research to identify emerging issues or trends that could trigger the need to amend our local laws, regulations and enforcement methodologies. Such triggers could include legislative reforms, changing community needs, enhancements in technology and new developments in best practice approaches. This is critical to ensuring our laws and regulations remain current and responsive to the needs of our community.

We use proven effective analytical tools to gain a better understanding of the behavioural causes and consequences of non-compliance with our laws and regulations. This helps us identify opportunities to improve these business functions, to positively influence members of the public who are (either intentionally or unknowingly) breaching our laws and regulations. We do this with the aim of achieving continuous improvement in the following areas:

- Greater public awareness of laws and regulations, as they apply to individuals and businesses in our city.
- Voluntary compliance with our laws and regulations.
- Enhanced safety and liveability of our city.
- Fairness and impartiality through our investigation and enforcement actions.
- Service cost avoidance and value for money for our ratepayers.

7. Expectations

In performing our regulatory role, our staff will help individuals understand their obligations under the laws we administer, treating everyone equally, without prejudice and in line with our corporate values.

When we engage with the public we will do so respectfully and in good faith. We ask for the same in return.

Responsibility for complying with the laws we administer rests with individuals and entities. We may look more favourably upon those that choose to voluntarily self-report non-compliance to Council seeking to work with us to stop or remedy the non-compliance at the earliest possible stage.

8. Complaints, disputes and appeals

8.1 Independent oversight

We are committed to engaging in fair, impartial and transparent decision making processes, in line with our obligations under the *Local Government Act 2009* and Council's Decision Making Framework. We uphold procedural fairness in our decision making, ensuring all parties are heard. Recognising that regulatory activity can have significant impacts on individuals, we closely observe our obligations under the *Human Rights Act 2019* and *Information Privacy Act 2009*.

In performing our regulatory functions, we are subject to the scrutiny of various overseeing entities and the courts, such as the Queensland Ombudsman, Office of the Information Commissioner and Queensland Audit Office.

8.2 Complaints and reviews

Individuals or corporations impacted by a regulatory action of Council have the right to request a review under Council's Administrative Action Complaint Policy. Types of matters which may be reviewed include:

- a decision or failure to make a decision, including a failure to provide a written statement for the reasons of a decision
- an act or failure to act
- the formulation of a proposal or intention
- the making of a recommendation.

This includes seeking review of an infringement notice. Details of the process can be found on Council's website.

8.3 External reviews and appeals

Persons seeking to challenge enforcement decisions may have the option to seek independent review of a decision of Council through bodies such as the Queensland Ombudsman, Queensland Civil and Administrative Tribunal or courts. For court or tribunal proceedings, we recommend seeking independent legal advice.

While we recognise these mechanisms are available, it is always our preference to seek early resolution of disputes and appeals, where possible, for the benefit of all.