
COMMUNITY EDUCATION & COMPLIANCE POLICY

APPROVALS

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CATEGORY	Statutory		
POLICY OWNER	Community Education & Compliance		
APPROVAL DATE	16 December 2020	RESOLUTION NUMBER	7013

OBJECTIVE

The Community Education and Compliance Policy (this 'Policy') outlines Isaac Regional Council's risk and outcome-based approach to, and priority setting process for, compliance and enforcement.

It is intended to:

- Create opportunities to educate and assist the community to comply with legislative obligations.
- Encourage voluntary compliance with the law.
- Provide a framework to facilitate a responsive and risk and outcome-based approach to proactive and reactive compliance and enforcement matters.
- Inform strategic decision-making in prioritising investigations and allocating resources based on a "risk-based assessment".
- Facilitate the use of resolution options which are appropriate and proportionate to the seriousness of the compliance matters under investigation.
- Explain the approach to our communities and businesses, including how and why Council conduct compliance activities.

SCOPE

This policy applies to Isaac Regional Council (IRC) staff with responsibility for managing and investigating compliance matters and unlawful activities associated with:

- Animal management
- Building and pool safety compliance
- Development compliance
- Plumbing and drainage compliance
- Local Law compliance
- Public health and safety
- Food safety compliance
- Environmental health
- Waste and water
- Air, noise and water pollution

DEFINITIONS

TERM / ACRONYM

MEANING

Compliance and enforcement	The actions undertaken by Council in ensuring a person is reasonably complying with, or is taking appropriate steps towards reasonable compliance with, relevant laws, regulations, approvals, standards and/or policies.
Council or IRC	Isaac Regional Council.
Report alleged unlawful activity	An expression of concern or a request for service about an alleged unlawful activity where a response or resolution is explicitly or implicitly expected or legally required.
Unlawful activity	Unlawful activity means any regulatory requirement, activity or work that has been or is being carried out: <ul style="list-style-type: none">• contrary to a requirement of an Act, Regulation, Local Law or associated provision regulating a particular activity, work or matter;• without a required development consent, approval, permit, certificate or licence; and/or• contrary to the conditions or requirements of a development approval, approval, permit, certificate or licence.
Recommended compliance response option	Recommended compliance response option as outlined in the Community Education & Compliance Procedure and supporting strategy(s) for respective compliance areas.

POLICY STATEMENT

This policy applies to Isaac Regional Council (IRC) staff with responsibility for managing and investigating compliance issues within the Isaac Regional Council Local Government area. IRC takes a risk and outcomes-based approach to compliance and enforcement focusing on risks associated with non-compliance with legal rules, rather than the legal rules themselves. The purpose of this approach is not to eliminate risk to regulatory outcomes. The purpose is to:

- use a **risk-based approach (impact or risk of impact)** to prioritise efforts in assisting compliance and identifying and enforcing instances of non-compliance.

- use an **outcomes-based approach** to assess both the efficiency and effectiveness of regulatory actions and outcomes respectively.

This enables Council to tailor its regulatory responses to balance individual and community interests, considering risk to the community in all matters and appropriately allocate resources to issues that present the highest risk to regulatory compliance.

Council commits to:

- a. Act in accordance with the principles of natural justice and procedural fairness
- b. Focus on changing behaviours to assist achieving acceptable compliance outcomes
- c. Emphasis will be placed on the objectives outlined in the applicable legislation
- d. Apply a risk and outcome based, graduated and proportionate approach to inform the strategic decision making and prioritise investigations and the allocation of resources accordingly.

THE GUIDING PRINCIPLES

Council aims to undertake its compliance role in a clear and responsive manner. The compliance actions are guided by the following principles:

- **Risk-based** - compliance and enforcement activities are focussed on operational activities that are based on the likelihood of harm towards the community & environment.
- **Outcomes-focused** - compliance and enforcement activities are focussed on the desired result that a regulation intends to achieve.
- **Proportionate and graduated** - ensuring the level of compliance and enforcement action match the level of harm, the risk (impact) posed to the community and the environment, the seriousness of the non-compliance and the culpability of the offender.
- **Transparent** - engaging better with the community, stakeholders and regulated parties. This includes compliance and enforcement activities that are based on documented evidence, being open and transparent about the compliance approach and the limitations and constraints on what action Council can take. Ensures meaningful reasons for decisions are given to all relevant parties, particularly when there is a departure from this policy.
- **Safe** - ensure that compliance activities are undertaken in a manner that is safe for our staff and the community.
- **Consistent** - compliance and enforcement activities are clearly outlined, and staff receive ongoing training to ensure a consistent approach. This ensures the public and regulated community know what to expect when a breach occurs, and that breaches of similar significance result in similar responses.

COMPLIANCE MODEL – RISK AND OUTCOME BASED COMPLIANCE APPROACH

Council compliance officers undertake two main forms of compliance:

- **Proactive** – to promote compliant behaviour and detect non-compliance through proactive auditing, monitoring, inspection and educational compliance activities.
- **Reactive** – in response to unforeseen incidents or reports alleging non-compliance from members of the public, information from other agencies, regulators and private certifiers.

Prioritisation of investigations

Council will prioritise both its reactive and proactive compliance based on the risk posed by the alleged offending (level of significance of the breach). In this context, specific priority is afforded to alleged compliance matters that impact public health, wellbeing, safety or the environment. Council will be transparent about its compliance priorities and prioritisation decisions.

Compliance and Enforcement Response

Compliance and enforcement responses are designed to achieve one or more of these outcomes:

- raise awareness of the law
- stop the non-compliant activity
- restrain or remedy a breach
- remedy/address environmental or public health impacts
- prevent and provide a deterrent to potential future breaches
- build community confidence that development projects and business/community activities are appropriately regulated

The level of significance of the breach guides Council's approach and the response necessary to remedy the breach. In determining the risk (impact or risk of impact) and the level of significance of the breach, Council will consider:

- **Consequence** – This is the level of harm or potential harm (severity) likely to be caused to human health, the economy, the community and the environment as a result of the non-compliance. It also considers the scale and duration of any harm or impact.
- **Likelihood** – the relative chance of a non-compliance, offence or incident occurring or recurring. This takes into account the culpability of the alleged offender such as compliance history, financial benefit, the timeframe of the non-compliance, whether the harm is still occurring or has been reduced, foreseeability and intention. It also considers the frequency of similar non-compliance in a particular industry or area.

These factors are independent of each other, however when assessed together provide a 'recommended compliance response option'. Council officers will apply the 'recommended compliance response option' to achieve compliance. If an officer believes that an alternative compliance option is more suitable than the 'recommended enforcement response option', the officer must provide evidence to their supervisor outlining the reason for this decision. If the Supervisor agrees, then the 'recommended enforcement option' may be replaced with a more appropriate option.

Council responses can be divided into the following categories:

- Information, education, and advice
- Directing, and requiring follow-up action to fix or remedy non-compliance
- Penalties and sanctions initiated to deter non-compliance

Council can determine whether to take informal or formal action in response to an issue. As a general guide, Council will consider a 'sliding scale' of appropriate enforcement action, escalated according to the significance of the breach and the appropriate outcome. The nature and significance of a breach and desired compliance outcome will drive the decision on which tools and measures are used.

Roles, responsibilities, accountabilities and consequences related to delivery of the policy

The Community Education and Compliance Policy will be implemented and monitored by Manager Community Education and Compliance.

Compliance and enforcement action to be undertaken is in accordance with the Community Education & Compliance Procedure.

Authorised Persons

Only employees who are deemed competent through training, qualification and/or experience will be appointed by the CEO to undertake enforcement actions. Such employees must ensure currency of any relevant training/qualifications to maintain this authorisation.

Delegations for Compliance Enforcement Action

Various Council positions delegated to initiate various levels of compliance and enforcement action are set out in the Administration (Signing) Delegation Register.

LEGISLATIONS AND RELATED GUIDELINES

- *Building Act 1975*
- *Environmental Protection Act 1994*
- *Local Government Act 2009*
- *Food Act 2006*
- *Planning Act 2016*
- *Plumbing and Drainage Act 2018*
- *Public Health Act 2005*

REFERENCES

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PECS-PRO-101	Community Education and Compliance Procedure
PECS-MISC-115	Community Education and Compliance Strategy for the Food Act 2006
