

Community and Compliance Enforcement Policy



Directorate:	Infrastructure, Assets and Planning
Responsible Manager:	Manager Statutory Services
Review Due:	October 2022
Adoption:	Council
Date Adopted:	28 Sept 2021..

Acknowledgement

Central Goldfields Shire Council acknowledges that we are situated on the traditional lands of the Dja Dja Wurrung people, and we offer our respects to their elders past, present and emerging.

1. Purpose

Local government is required to provide a system under which Councils perform their functions and exercise their powers conferred by or under the Local Government Act 2020, and any other related Acts for the peace, order and good governance of their municipal districts. Council shares its responsibility for protecting the rights and wellbeing of the Community with other authorities.

The Community has the responsibility to understand and abide to the standards set by legislation. Council must endeavour to assist the Community to understand these responsibilities by methods including education and encouragement.

This policy provides a rationale and framework for an equitable, transparent and consistent approach to compliance and enforcement activities undertaken by the Central Goldfields Shire Council so the Community can be assured that standards are met.

2. Application and Scope

This policy applies to all employees undertaking compliance activities on behalf of the Central Goldfields Shire Council.

3. Definitions

Authorised Officer: means a person who is authorised by Council or the Chief Executive Officer under delegation to carry out specific functions under this and other relevant policies.

Community: means residents, rate payers, business owners, visitors and or property owners within the Central Goldfields Shire Council municipality.

4. General Provisions

Our Compliance Principles

All compliance activities undertaken by the Central Goldfields Shire Council will be undertaken in accordance with the following principles:

- Outcomes based (i.e. understand and fix the problem):

Our compliance and enforcement approach is driven by clear outcomes which are articulated and measured to ensure that we are making a difference to the community.

- Risk-based:

Our effort is focused on addressing the most significant risks to the community and the environment in order to maximise the outcomes achieved. This approach accepts that risks or non-compliance should be treated according to their significance and therefore, should not all be treated in the same way.

- Informed and evidence based;

We gather knowledge and evidence, including information provided by the community, and we use it to inform risk assessments and apply 'just in time' education or, where necessary, targeted and proportionate regulatory interventions..

- Proportionate and graduated:

We give appropriate consideration to factors such as whether breaches of the law were intentional, reckless or repeated, and the impact of the breach in our decision making. This means that our approach will be tailored and proportionate to the circumstances, from providing information and advice about how to comply with the law through to imposing fines, cancelling licences and permits or prosecuting for serious offences. These considerations are highlighted in Figure 1, Compliance Risk Matrix.

- Collaborative:

We collaborate with, our community, First Nations Australians, stakeholders and with other regulators, providing opportunities to shape our approach to achieving suitable compliance outcomes.

- Transparent:

We are committed to transparency in the application and delivery of our compliance policies, priorities, actions and outcomes. We believe that being transparent works to hold Central Goldfields Shire Council accountable to the community and encourages compliance with the law including local laws and regulations. Officers operate in accordance with the Central Goldfields Shire Public Transparency Policy and Privacy Policy.

- Safe:

We will ensure that our compliance activities are undertaken in a manner that is safe for our staff and the community.

Figure 1: Compliance Risk Matrix

		Consequence			
Likelihood	No impact to community or environment.	May have a minor impact wider community or environment. Harm abated and some remedial works required.	Has a moderate impact on community or environment. Non-compliance for a short duration. Harm abated and remedied.	Has a major impact on the community or environment.	
Intentional, or repeated non-compliance. Past enforcement activity or breaches of related law and no remedial works undertaken.	High	High	Extreme	Extreme	
Reckless ignorance of law, previous enforcement activity or breaches of related law.	Medium	High	High	Extreme	
Possible Non-compliance of medium duration (months). Harm abated and some remedial works undertaken.	Low	Medium	High	Extreme	
No history of non-compliance and a genuine lack of awareness or understanding of obligations existed. Non-compliance of short duration (days). Harm abated and remedied.	Low	Low	Medium	High	

Principles of Enforcement Hierarchy

Council’s principles of enforcement are underpinned by a three phased approach to compliance:

1. Ask
2. Require
3. Enforce

These three phases are outlined below:

Phase 1 - Ask

Central Goldfields Shire Council will provide the community with appropriate information in relation to compliance and take steps to guide the community to compliance within reasonable timeframes. Departmental procedures are prepared with the knowledge that reasonable timeframes will be provided based on the specific issue being investigated.

Phase 2 - Require

Central Goldfields Shire Council will use a range of appropriate compliance and enforcement tools in order to encourage voluntary compliance to relevant law including local laws and regulations. In the event that the support provided above does not resolve the matter, Authorised Officers will clearly articulate what action is to be undertaken, by when and by whom to achieve compliance. This may include advice concerning potential outcomes if compliance is not achieved.

Phase 3 - Enforce

Where a party involved is unwilling to provide a satisfactory resolution voluntarily and compliance is not achieved within an appropriate time frame, Authorised Officers of Central Goldfields Shire Council will consider litigation as the most appropriate way to achieve its enforcement and compliance objectives.

These three phases of compliance are underpinned by our principles of enforcement:

Principle 1 – Communication

Principle 2 – Effective and Efficient Response

Principle 3 – Proactive Approach

Principle One – Communication

Council will:

- Actively inform the community of significant changes to laws and regulations. Community engagement processes are valued mechanisms by which we involve, inform and educate the community on the development of new Local Laws.
- Communicate with the community about their compliance responsibilities through various mediums including advertising campaigns, Council's website and social media.

Principle Two – Effective and Efficient Response

In support of its commitment to being a responsive regulator, the level of compliance and enforcement action undertaken by Council will reflect the level of risk to the community or environment. The level of risk may be determined against Council's Compliance Risk Matrix (Appendix 1). In the event that extreme risk is identified, Council may need to immediately escalate to prosecution and or third party independent tribunal (Victorian Civil and Administrative Tribunal - VCAT) or take action itself to reduce those risks.

Within the context of available resources, Authorised Officers will ensure that all reasonable actions are considered and undertaken to resolve compliance issues and mitigate risk to an acceptable.

Where relevant, Council will make available appropriate appeal mechanisms that offer an independent review of decisions made in compliance and enforcement proceedings. The appeal process will be structured to ensure the principles of natural justice and procedural fairness are upheld.

In certain cases the appeal body may be an external entity (VCAT, Appeals Board, or Magistrate Court), or an internal committee or Senior Officer as deemed appropriate by the Chief Executive Officer. Subject to legislative requirements, parties involved in compliance and enforcement action will be kept appropriately informed of the status and outcome of investigations, within the limitations of Council's Privacy Policy, Freedom of Information Act 1982 and the Information Privacy Act 2000.

When a conflict of interest exists or may exist regarding the Council Officer and the matter being investigated, the matter must be referred to the Officer's supervisor immediately for assessment and advice, in accordance with Council's Managing Conflicts of Interest Policy. Further, the Officer must complete a Declaration of Conflict of Interest in the prescribed form.

Principle Three – Proactive Approach

Enforcement and compliance activities are often reactive in nature, reflective of the broad nature of matters that Council responds to. Within the context of available resources, Authorised Officers will strive to:

- Take a proactive approach to enforcement that is informed and evidence based. Focus will be on areas where information indicates there may be an emerging issue or potential risk requiring supportive intervention.
- Utilise proactive and supportive approaches that provide just in time education and, where possible, enable community members to achieve cooperative compliance.

5. Roles and Responsibilities

Person/s Responsible	Accountability
Authorised Officers	<ul style="list-style-type: none"> Comply with procedures developed to achieve compliance with this this and other relevant policies.
Coordinator/Manager	<ul style="list-style-type: none"> Comply with procedures developed to achieve compliance with this policy. Ensure and support staff to comply with this policy and associated procedures. Provide and maintain appropriate resources for the execution of the procedures.
General Manager	<ul style="list-style-type: none"> Conduct period reviews of compliance actions to ensure the policy and associated procedures are being followed. Ensure staff have resources to undertake compliance tasks.
Chief Executive Officer	<ul style="list-style-type: none"> Overall responsibility for compliance with this policy.
Council	<ul style="list-style-type: none"> Responsibility for the decision to approve this Policy by Council Resolution.

6. Review

This Policy must be reviewed annually.

7. Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006). Central Goldfields Shire Council is committed to consultation and cooperation between management and employees.

8. Gender Equality Act, 2020

It is considered that this policy does not impact negatively on any rights identified in the Charter of Gender Equality Act (2006). Central Goldfields Shire Council is committed to consultation and cooperation between management and employees.

9. Relevant Legislation and Council Policies

- Local Government Act 2020

COMMUNITY AND COMPLIANCE ENFORCEMENT POLICY

- Charter of Human Rights and Responsibilities Act 2006
- [Central Goldfields Shire Managing Conflicts of Interest Policy](#)
- [Central Goldfields Shire Privacy Policy](#)
- [Central Goldfields Shire Risk Management Policy](#)
- [Central Goldfields Shire Service Charter Policy](#)
- [Central Goldfields Shire Public Transparency Policy](#)