

City Safety Compliance and Enforcement Policy

Strategic Alignment - Our Corporation

Public

Tuesday, 5 November 2024

City Planning, Development and Business Affairs Committee

Program Contact:

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Approving Officer:

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EXECUTIVE SUMMARY

The City of Adelaide has responsibilities for monitoring compliance and ensuring public safety and amenity under various pieces of legislation. This includes responding to requests from community members regarding alleged instances of non-compliant activity.

This report follows findings from an Internal Audit on Community Safety (the Audit) completed in December 2023. The Audit identified opportunities to provide improved documentation regarding the prioritisation of alleged instances of non-compliant activities reported in the public realm.

In response to the Audit, a review has been undertaken encompassing a series of documents that govern Council's approach to compliance and enforcement. As a result, updates or changes to several documents are outlined in the report.

A summary of the updates provided in this report is as follows:

- Order Making Policy – reviewed with very minor changes proposed
- City Safety Compliance and Enforcement Policy – new document outlining the principles of our approach, superseding the Environmental Health Management Policy
- Environmental Health Management Policy – proposed to be rescinded and incorporated into the new City Safety Compliance and Enforcement Policy
- City Safety Compliance and Enforcement Guideline – operational guidelines enhanced to increase information to the community regarding how alleged breaches are prioritised.

The City Safety Compliance and Enforcement Policy provides transparency in how compliance matters are approached and how Council's resources are deployed. The Policy also outlines the roles of the Administration, Council Members, and members of the public during investigations and compliance matters.

The City Safety Compliance and Enforcement Guideline and accompanying Prioritisation Framework are shared for noting and Council awareness. The operational guidelines are based on legislative obligations in addition to a risk assessment of the broad types of compliance issues that can occur within the city. The intent of providing this as a public document is for community transparency in how actions are prioritised. The Framework is a broad guide and does not dictate nor detract from using discretion in responding to context-specific circumstances.

Related to this work, Council's Order Making Policy has undertaken its scheduled review, with minor amendments proposed in line with Section 259 of the *Local Government Act 1999 (SA)*. Given that this policy reflects legislated functions, public consultation is not required.

The review of these documents continues Council's approach of delivering a safe and accessible City for all, while adopting an educational approach to achieve voluntary and informal compliance as a first preference, followed by enforcement and expiation where relevant.

RECOMMENDATION

The following recommendation will be presented to Council on 12 November 2024.

THAT THE CITY PLANNING, DEVELOPMENT AND BUSINESS AFFAIRS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Endorses the City Safety Compliance and Enforcement Policy, as Attachment A to Item 7.6 on the Agenda for the meeting of City Planning, Development and Business Affairs Committee held on 5 November 2024.
 2. Approves the amendments to the Order Making Policy, as Attachment B to Item 7.6 on the Agenda for the meeting of City Planning, Development and Business Affairs Committee held on 5 November 2024.
 3. Approves the rescinding of the Environmental Health Management Policy 2020.
 4. Notes the City Safety Compliance and Enforcement Guideline as Attachment C to Item 7.6 on the Agenda for the meeting of City Planning, Development and Business Affairs Committee held on 5 November 2024.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Corporation – Effective Leadership and Governance. Enable effective governance, risk management, accountability and transparency at all times in decision making.
Policy	<p>The Order Making Policy has been reviewed and the amendments made are minor in nature and remain in line with Section 259 of the <i>Local Government Act 1999 (SA)</i>.</p> <p>The City Safety Compliance and Enforcement Policy will supersede the existing Environmental Health Management Policy.</p> <p>Each of the revised documents reflect current practice and are not intended to alter Council’s approach to these matters.</p>
Consultation	Not as a result of this report
Resource	The Policy assures alignment of current resources to ensure that activities are scheduled to manage the highest risks as a priority.
Risk / Legal / Legislative	Council has legislative responsibilities under various legislation to address safety issues.
Opportunities	To provide increased transparency to the community of Council’s approach to supporting a safe environment and efficient service.
24/25 Budget Allocation	Not as a result of this report
Proposed 25/26 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Ongoing through business-as-usual activities.
24/25 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. The City of Adelaide (CoA) has legislated responsibilities relating to public safety and compliance under various Acts, including but not limited to:
 - 1.1. *The Local Government Act 1999 (SA)*
 - 1.2. *The Local Nuisance and Litter Control Act 2016*
 - 1.3. *The Planning, Development and Infrastructure Act 2016*
 - 1.4. *The Dog and Cat Management Act 1995*
 - 1.5. *The Fire and Emergency Service Act 2005*
 - 1.6. *The Public Health Act 2011*
 - 1.7. City of Adelaide By-laws.
2. An Internal Audit on Community Safety (the Audit) conducted in December 2023 identified the opportunity to provide improved documentation on how alleged instances of non-compliant activities in the public realm are prioritised and actioned within CoA.
3. CoA prides itself on being responsive to customer requests, meeting legislative obligations appropriately and proactively mitigating public safety risks while working with community and stakeholders to create a vibrant city.
4. While noting the large volume of requests received, the Audit identified that determining responses to such matters was documented internally, rather than made transparent publicly.

Actioning the Audit Findings

5. The City Safety Compliance and Enforcement Policy (the Policy), **Attachment A**, has been developed in response to these findings and is submitted to Council for endorsement. This policy supersedes the current Environmental Health Management Policy ([Link 1](#)), providing increased transparency and consistency to our community.
6. The City Safety Compliance and Enforcement Guideline (the Guideline) has been updated, which is attached for noting as **Attachment C**.
7. Council's Order Making Policy has also been reviewed, with the revised version provided in **Attachment B**.
8. The Order Making Policy is a required document under Section 259 of the *Local Government Act 1999 (SA)*.
9. The review found this policy remains appropriate, and as such only minimal changes have been made to reflect current legislation and organisational structure. Track changes are highlighted in the revised draft document in [Link 2](#).

Community Safety Compliance Facts and Figures

10. The scope of the documents encompass compliance across community safety, environmental health, development and building functions. They do not reflect our response to On-Street Parking Compliance, which is covered in other documents.
11. For context of the volume and breadth of scope, in 2023/24:
 - 11.1. CoA's Community Safety team received over 4,000 requests from the community relating to concerns or potential non-compliant activities in the public realm. These requests related to:
 - 11.1.1. 16% - Local Nuisance (general, noise, dust, smoke, odour)
 - 11.1.2. 14% - Dog Management (barking, harassment, attacks, wandering, registrations)
 - 11.1.3. 13% - Hard Rubbish/Illegal Dumping
 - 11.1.4. 11% - Reporting a hazard (no damage/injury)
 - 11.1.5. 11% - Rough sleeping
 - 11.1.6. 5% - Accidents (injury or property damage)
 - 11.1.7. 30% - Miscellaneous.
 - 11.2. CoA's Environmental Health Officers conducted in excess of 1350 inspections and requests:
 - 11.2.1. 800 scheduled food inspections

- 11.2.2. 450 scheduled cooling tower inspections
- 11.2.3. 130 responses to community requests, mainly concerning food businesses.
- 11.3. CoA's Development Compliance Officers, dealt with over 800 matters including:
 - 11.3.1. Conducting 245 scheduled building inspections
 - 11.3.2. Responding to 600 community requests relating to building matters.
- 12. In the delivery of each of these core local government services, Administration continually monitors response times, resolutions, and our inspection frequency rates in comparison to other jurisdictions to ensure we maintain an appropriate level of service for the community.

Purpose of the City Safety Compliance and Enforcement Policy

- 13. CoA's Strategic Plan 2024-2028 (the Plan) sets out our vision as a capital city and a local government. To deliver on the Plan's aspirations for Our Community, Our Economy, Our Environment and Our Places, CoA ensures our legislated and regulatory obligations are undertaken to keep the city safe, clean and accessible.
- 14. The Policy and operational guidelines provide a framework for approaching compliance and enforcement activities in a fair, balanced and consistent manner.
- 15. The Policy's intent is to clarify, rather than limit, the approach for Authorised Officers to act appropriately under legislation, using their professional expertise in assessing responses to the unique circumstances of each case.
- 16. The Policy guides Council's response and distribution of resources to manage the highest risks to safety as a priority. It sets out the following principles for managing regulatory compliance matters:
 - 16.1. acting in accordance with the principles of natural justice and the rule of law.
 - 16.2. deploying a risk-based prioritisation to the allocation of compliance and enforcement resources.
 - 16.3. delivering a proportionate response to compliance matters, scaling our actions to the seriousness of a breach.
 - 16.4. seeking voluntary compliance and using education first, undertaking formal action only when necessary and appropriate to do so.
 - 16.5. collecting, using and storing all investigative information appropriately.
 - 16.6. seeking inter-agency cooperation with other compliance and enforcement agencies at a Local, State and Federal level to achieve compliance outcomes.
- 17. The Policy defines the roles of other parties in the process, such as the community and Council Members.
- 18. In support of the Policy, the accompanying Guideline has been updated and now includes a public-facing 'Prioritisation Framework', that:
 - 18.1. has been developed from legislated obligations and a risk assessment on the inherent risk to public safety of various activities or offences.
 - 18.2. is developed to provide improved community awareness and transparency of how legislated activities are prioritised as per the Internal Audit recommendation.
 - 18.3. acts as a broad guide and does not encompass all possible requests.
 - 18.4. does not dictate nor detract from the approaches taken by Authorised Officers in responding to context-specific circumstances.
 - 18.5. contemporises, rationalises and formalises former policies and Administration's approach in a public document.
- 19. If endorsed, the Policy will supersede Council's Environmental Health Management Policy, providing transparency and consistency for our community.
- 20. The Policy and Guideline formalise the currently adopted approach and practice. No changes proposed in this report materially alter CoA's current approach to compliance and enforcement activities.

DATA AND SUPPORTING INFORMATION

Link 1 – Environmental Health Management Policy

Link 2 – Draft Order Making Policy with tracked changes

ATTACHMENTS

Attachment A – City Safety Compliance and Enforcement Policy

Attachment B – Order Making Policy

Attachment C – City Safety Compliance and Enforcement Guideline

- END OF REPORT -