

CITY SAFETY COMPLIANCE AND ENFORCEMENT POLICY

November 2024

non-legislative

PURPOSE

This policy outlines Council's approach to delivering community safety compliance and enforcement activities in a fair, balanced and consistent manner. The policy complements Council's Order Making Policy in administering a range of legislation, regulations and by-laws that enable a safe, healthy, welcoming and vibrant environment for all.

The policy encompasses both proactive monitoring and undertaking investigations into concerns raised by members of the public.

The policy supports the Council's Authorised Officers to exercise judgement and act in accordance with the legislation, taking into account their professional expertise and the unique circumstances of each case. The scope covers community safety functions across a wide range of legislative obligations, including but not limited to Council's role in administering the:

- *Planning Development Infrastructure Act 2016*
- *Local Government Act 1999 (SA)*
- *Local Nuisance & Litter Control Act 2016 (SA)*
- *Public Health Act 2011*
- *Food Act 2001*
- National Construction Code
- Council By-laws, Policies and Guidelines.

The policy does not address Council's approach to enforcing offences relating to on-street parking.

PRINCIPLES

The intent of Council's approach to compliance and enforcement is to undertake our legislated and regulatory obligations with due diligence – and in doing so to keep the city safe, clean and accessible for all.

The City of Adelaide is committed to the following principles in all compliance and enforcement activities:

- Acting in accordance with the principles of natural justice and the rule of law.
- Deploying a **risk-based prioritisation** to the allocation of compliance and enforcement resources.
- Delivering a **proportionate response** to compliance matters, scaling our actions to the seriousness of a breach.

The City of Adelaide acknowledges the Kaurna people as the Traditional Owners of the Country where the city of Adelaide is situated, and pays its respect to Elders past, present and emerging.

- Seeking voluntary compliance and using **education first**, undertaking formal action only when necessary and appropriate to do.
- Collecting, using and storing all investigative information and **data sensitively and appropriately**.
- Seeking **inter-agency cooperation** with other compliance and enforcement agencies at a Local, State and Federal level to achieve community outcomes.

**APPLICATION OF
POLICY
PRINCIPLES**

Risk-based Prioritisation

City of Adelaide will undertake proactive compliance monitoring activities and respond to reports of alleged breaches ensuring we:

- assess each matter on its individual circumstances
- prioritise activities according to the seriousness of the issue and the degree of community benefit as a result of successful resolution
- deliver regulatory services and the response to concerns raised in a financially responsible manner, considering the appropriate use of limited resources.

Risk assessment categories include considerations regarding:

- public safety and wellbeing
- environment and amenity
- Council's liability and legislative compliance
- Council's assets and capacity to deliver services
- Council's reputation.

While each case is determined on its merits, the City Safety Compliance and Enforcement Guideline includes a 'Prioritisation Framework', providing transparency to the community in how certain breaches and activities are considered.

A Proportionate Response, Focused on Education

There are a range of enforcement actions available to address non-compliance, ranging from informal to formal.

A proportionate response requires enforcement action and investigations to be scaled to the nature of a breach, generally escalating if breaches are not corrected once raised.

Most community members do not deliberately seek to breach the law. Compliance can often be achieved by educating and providing an opportunity to correct concerns raised. Unless breaches are significant, pose a high risk to public safety, or are deliberate, City of Adelaide adopts an 'education first' approach.

Notwithstanding the above, City of Adelaide will take immediate and firm action against those who flagrantly and/or repeatedly breach the law when circumstances warrant it, and risks to public safety are evident.

A proportionate approach means breaches of lower impact/lower risk or first-time offences are likely to result in less intense forms of enforcement action. In contrast,

higher risk or repeated/serious breaches are likely to result in more intense enforcement action. An example of this approach is summarised in the table below.

Table 1 – Example of a proportionate approach to enforcement action

	Enforcement Action	Seriousness of Breach		
		Low	Medium	High
Level of Enforcement Action	Prosecution		X	X
	Expiation		X	X
	Statutory Notice or Order	X	X	X
	Warning	X	X	X
	Informal action	X		
	No Action	X		

**The table is a broad guide only. Unique circumstances exist in all scenarios, with enforcement action for specific breaches potentially differing to the above guide.*

Data Privacy and Inter-Agency Cooperation

Outside of the requirements of relevant legislation, the City of Adelaide aims not to provide specific details of investigations or enforcement action to members of the public, unless approval from the alleged offender is given.

City of Adelaide acknowledges that those lodging a report will seek to be informed of the outcome, however respects the right to privacy of any person under investigation or who has been the subject of enforcement action.

At all times Council aims not to disclose the identity of a complainant during an investigation. If information is to be shared with an individual alleged to be in breach, personal identifying information will be redacted.

Information relating to alleged offences and investigations may be shared with other government agencies, when deemed appropriate and within legislation. Information will only be shared with the intent to deliver effective community safety and compliance outcomes, noting responsibility for enforcing offences can cross different levels of government. Example agencies that may be involved include, but are not limited to, SAPOL, Consumer and Business Services, the Environment Protection Agency and Safework SA.

TYPES OF ENFORCEMENT ACTION

Enforcement means a combination of advice together with possible actions that can be taken after a breach has been identified. Enforcement action may follow the investigation of a concern raised by the public or from proactive monitoring activities undertaken by City of Adelaide.

While not an exhaustive list, types of enforcement action can include: No Action, Informal Warnings/Advice, Formal Warnings, Expiations, Statutory Enforcement Notices or Orders, or Prosecution.

Council's City Safety Compliance and Enforcement Guideline describes each of these actions, and the situations in which they may be appropriate to be used, in more detail.

When determining appropriate means of enforcement, City of Adelaide will consider, amongst other relevant factors:

- the seriousness of the offence
- the consequences of continued non-compliance
- the degree of wilfulness involved
- the offender's history
- individual circumstances (facts of the matter)
- the likely effectiveness of the various enforcement options
- consistency of approach to similar breaches/offences.

Factors not to be considered include:

- the alleged person's ethnicity, nationality, political association, age, religion, appearance, gender, physical or mental ability, sexuality or beliefs
- personal or professional associations with the alleged offender or any other person involved.

THE ROLE OF OTHER PARTIES

Community Members Lodging Reports

City of Adelaide will assess all reports relating to alleged non-compliant activities and determine whether an investigation is to be commenced.

If it is determined not to investigate a request, the person lodging the report will be notified along with the reasons for the decision. If persistent and continued requests are made in relation to a matter that has been previously determined or not warranting further action, Council may cease further communication about the issue in line with Council's Complaint Handling Guidelines.

Council may seek the continued cooperation of a complainant during an investigation process. This may involve access to a complainants' property or the request for further information including the provision of admissible evidence.

While cooperation during an investigation may not always be necessary, failure to cooperate may result in the investigation being unable to proceed and closed.

Any person not satisfied with Council's response to reports of non-compliant activities may refer the matter for review.

Council Members

Council Members have a role in reinforcing the City Safety Compliance and Enforcement Policy.

It is acknowledged that members of the public may choose to report non-compliant activities observed in the public realm directly to a Council Member.

Non-compliant activities referred to individual Council Members are to be referred to the CEO or their delegate via the approved process, for investigation and appropriate action.

Once referred, Council Members can seek status updates, but remain responsible for acting in line with the Council Member Policies, Procedures and Guidelines.

Individual Council Members are not able to exert pressure, influence or interfere with the investigation, prioritisation or enforcement in relation to an alleged non-compliant activity.

Decision-making in relation to individual investigations, prioritisation and enforcement action for any alleged non-compliant activity remains at all times the responsibility of the CEO, the relevant Authorised Officer, or Council itself.

Council Members can assist the community by satisfying themselves that Council's City Safety Compliance and Enforcement Policy is appropriate and being adhered to.

OTHER USEFUL DOCUMENTS**Related documents**

- City Safety Compliance and Enforcement Guideline
- Corporate Complaint Handling Operating Guideline
- Order Making Policy
- Council By-Laws
- Council Member Behavioural Support Policy
- Council Member Staff Interaction Policy

Relevant legislation

- *Planning Development Infrastructure Act 2016*
 - *Local Government Act 1999 (SA)*
 - *Local Nuisance & Litter Control Act 2016 (SA)*
 - *Public Health Act 2011*
 - *Food Act 2001*
 - *National Construction Code*
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GLOSSARY

Throughout this document, the below terms have been used and are defined as:

Authorised Officer: a person appointed by a council as an authorised person.

natural justice: basic or fundamental judicial rights extended to a person involved in a dispute. Proceedings should be unbiased and undertaken in good faith, and each party should have equal access and should be aware of the facts.

ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every **3** years unless legislative or operational change occurs beforehand. The next review is required in **2027**.

Review history:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2024/122297	Council	12 November 2024	Initial Policy created to provide clarity in relation to compliance and enforcement approach

Contact:

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