

## Group Operational Procedure

### Reactive education and compliance

Corporate Plan reference:	<b>Our service excellence</b> We serve our community by providing this great service [S19, S20]	
Approved by Group Executive:		
Manager responsible for procedure:	Manager Customer Response Manager Development Services	

### Procedure purpose

Council officers regulate a range of legislation within the Sunshine Coast community. The *Compliance and Enforcement Policy 2021* (policy) and the *Compliance strategy and decision making framework* (framework) provide a model for how Council officers seek compliance in instances where people are not complying with legislation.

The purpose of this procedure is to provide guidance in implementing the policy and framework around the application of legislation.

### Procedure objectives

This procedure has been developed to provide guidance in circumstances where a specific Standard Operating Procedure (SOP) for an investigation does not exist. This procedure is designed to provide guidance which ensures officers:

- **engage** with a complainant and the responsible party/s
- conducts a fair **assessment** of the complaint and matter to determine the most appropriate way forward using a risk-based approach
- considers **education and encouragement** prior to more formal options where it is appropriate
- **notifies** the responsible person/s about the possible outcomes and consequences associated with unlawful activity and
- consider the most appropriate tools to **regulate** should it become necessary.

In referring to this SOP in the absence of a specific procedure, consideration should be given to the development of a specific SOP for the matter if it is likely to be a repetitive issue. Consult with your Supervisor to discuss where this is required or appropriate to progress.

### Procedure scope

Council may have specific operating procedures for different investigations to support the training of new officers and to create a consistent approach in decision making. This procedure in

conjunction with relevant policies, frameworks and legislation provides guidance for officers in a case where a specific procedure does not exist.

## Procedure

This procedure should be read and applied in conjunction with the *Compliance and Enforcement Policy 2021* and the *Compliance Strategy and Decision Making Framework*. These documents provide guidance on working through a compliance-based service request. This procedure is in place for circumstances where a specific standard operating procedure does not exist.

Officers in the Customer Engagement and Planning Services (CEPS) Group are expected to employ this procedure, or a specific procedure, along with the policy and framework when addressing compliance-based services requests to ensure a consistent and robust approach.

## Engage

Officers will contact the complainant to gain a full understanding of the issue and their concerns. Officers will take this time to explain the process which will be followed to address the issue, including:

- any requirements from the complainant, such as providing information in writing or further evidence
- any timelines around the actions to be taken
- when the complainant can expect to hear from Council.

Officers will keep the complainant up to date throughout the issue investigation process until the matter is resolved or a decision is made. Appropriate consideration will be given to information which is protected under the *Information Privacy Act 2009* or other relevant legislation.

## Anonymous complaints

In the case of an anonymous complaint the Officer will still undertake an assessment of the complaint to determine if action is able to be taken or is appropriate.

## Vexatious or nuisance complaints

In the case of a vexatious or nuisance complaints an Officer will liaise with their Supervisor on the most appropriate way to move forward.

## Assess

In planning the most appropriate course of action, including the collection of evidence, Officers will consider:

- *Compliance and Enforcement Policy 2020*
- *Compliance Strategy and Decision-Making Framework*
- relevant legislation and internal procedures (e.g. Body Worn Camera usage)
- any practice directions related to managing the issue
- risk management procedures – WHS and Corporate.
- possible solutions or outcomes.

Based on this initial assessment the Officer will determine, using the mechanisms under the relevant legislation, the most appropriate way forward.

There may be times where an officer is unable to take action due to a lack of information or evidence. In this case, the Officer will update the complainant on their decision and the reason for this decision. As per the *CEPS Compliance Strategy and Decision Making Framework*, Officers should document their decisions and deliberation involved in the making of the decision

referencing the core considerations against the policy, framework, and procedures. This includes the decision to take no action.

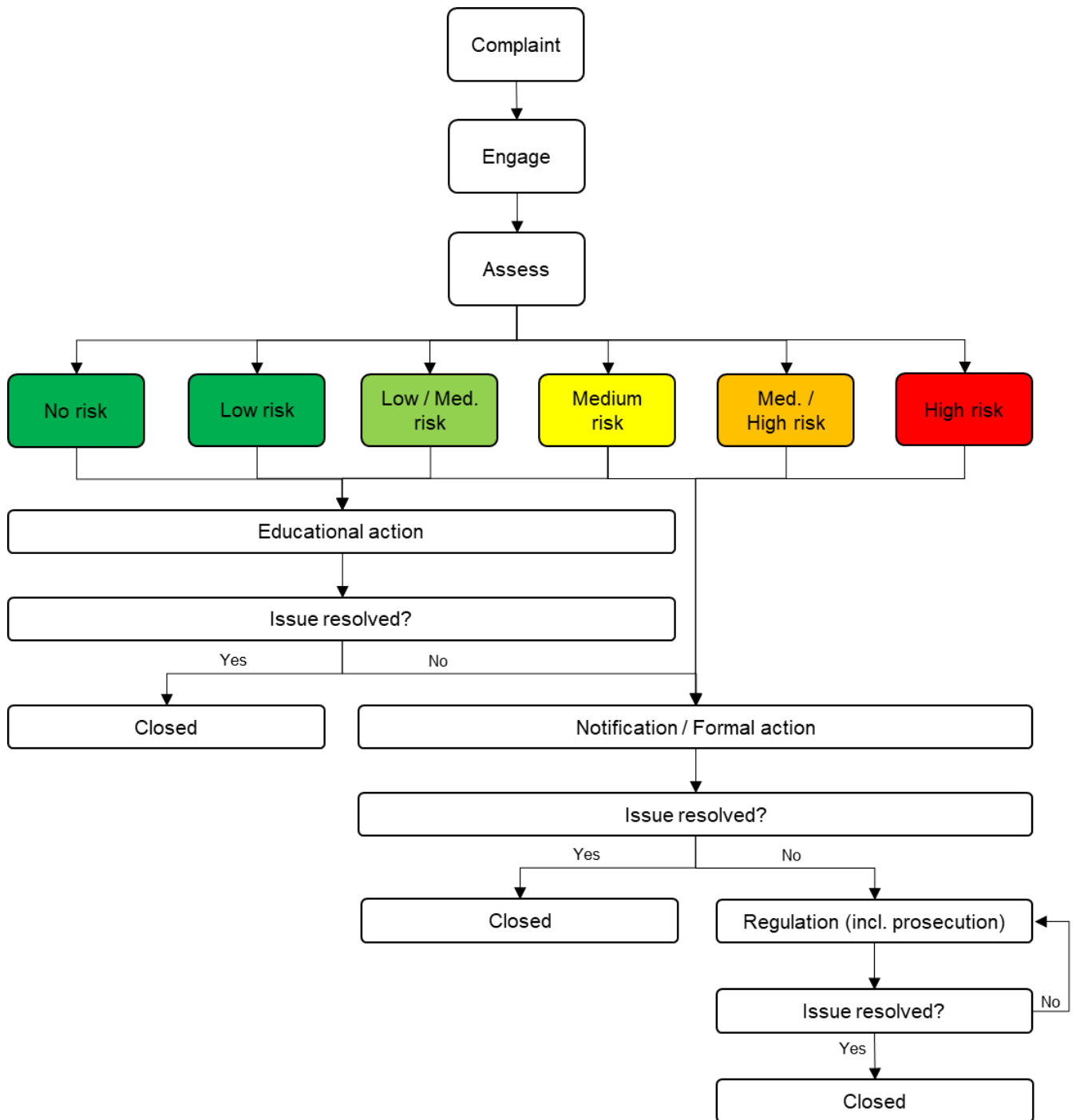
The assessment of the matter may need to be revisited throughout the process as new information becomes available or circumstances change. The *CEPS Compliance Strategy and Decision Making Framework* provides further guidance.

**Table 2 – Risk based response**

Risk	Level of response
Other agency	Officers will refer the complainant to the appropriate agency where the matter falls under another agency’s delegation or responsibility.
No or low risk	Council may consider taking no action at all. Officers will advise the complainant of their decision and the supporting reason/s for the decision. The decision to take no action should be documented with the supporting reasons in the relevant record keeping system e.g. T1 Property, EDDIE.
Low risk or Low to Medium risk	Officers may commence with educational action in the first instance.
Medium risk	Officers may commence with education in the first instance. Officers may consider options for managing any immediate risks associated with the matter to minimise the risk while compliance is achieved.
Medium to High risk	Prior to any action Officers consult with their supervisor to alert them to the risk and the proposed management. The Supervisor may also alert other stakeholders such as the Divisional Councillor, Portfolio Councillor, Communications Branch and Manager/Group Executive. Officers may commence with regulatory action which is designed to minimise and address the risk.
High risk	Prior to any action officers consult with their supervisor to alert them to the risk and the proposed management. The supervisor may also alert other stakeholders such as the Divisional Councillor, Portfolio Councillor, Communications Branch and Manager/Group Executive. Officers may consider what immediate action is required to manage the risk and take regulatory action

Following the initial action, where the responsible person/s does not comply with legislation the Officer may then progress through other stages of formal action or prosecution (Figure 1).

Figure 1 – Risk based compliance action matrix



## Education and encouragement

Council understands that most community members are happy to comply with the laws which support safety and harmony in our community, and as such officers will offer community members the opportunity to do the right thing before taking formal action.

Where appropriate Officers may utilise education in the first instance to assist the responsible person/s in understanding their responsibilities and to provide an opportunity for voluntary self-compliance.

Officers must ensure that the selected methods of education are consistent with the relevant legislation, matter being investigated and the level of risk. The education steps should also be designed to ensure they do not compromise formal action in the future if it becomes required.

Education may include, but is not limited to:

- discussions with the responsible person/s
- provision of supporting fact sheets, brochures, or other relevant information
- written caution or verbal caution
- advisory letter to confirm the action required to achieve compliance and
- written request for remedial action.

Education messages should be clear and outline:

- the relevant legislation in easy-to-understand terms, as much as possible
- why Council responds to or addresses these types of matters
- the possible outcomes or consequences in the event of non-compliance and
- the relevant timelines for voluntary compliance.

## Formal action

Formal action would most often be used in circumstances where:

- previous action has not resolved an issue
- there is a need for urgent action to achieve compliance
- there is an increased risk to the community's health, safety, amenity, or the environment
- other education or guidance is in place to alert the community to how they must comply with legislation (e.g. parking signs and lines)
- similar issues have been addressed with the responsible person/s in the past or
- formal action is required by legislation (e.g. to address an overgrown property)

Any formal action should be planned in line with the relevant legislation and should also occur in stages which allow appropriate escalation and consider the relevant risks (refer Table 2 – Risk based response). For example, an Officer may commence with a verbal direction, then follow this with a compliance notice if action is not taken.

It may be useful for the Officer to develop a compliance management plan to map the possible actions to ensure they align with the relevant legislation, *Compliance and Enforcement Policy* and the *CEPS Compliance Strategy and Decision Making Framework* with the outcome in mind. Once again where a matter is considered medium-high risk or above, the officer should develop a management plan in consultation with their Supervisor.

Where formal action is taken, the Officer will provide information about any rights of review or appeal against formal enforcement.

## Prosecution

In considering prosecution as part of the developed compliance management plan, officers should refer to the *Compliance and Enforcement Policy 2021* to ensure the decision to proceed to prosecution aligns with Council's overall position on this matter.

## Key messages

For any matter that is moving to the stage of formal action or is likely to attract further complaint or media attention, Officers should consider the key messages that relate to the matter and may be utilised in responding to complaints or enquiries for the action e.g. senior management updates, Ombudsman or media enquiries.

### For example

*Council has received a report of a dog attack at Smith Street Park. While the matter is under investigation it would not be appropriate for Council to comment further on this matter.*

*Council takes reports of dog attacks very seriously. The possible outcomes from a dog attack investigation include:*

- *the dog owner is prosecuted through the Magistrate's Court*
- *the dog is declared as a menacing or dangerous dog which means it is required to be kept in accordance with strict conditions to manage the community's safety.*

## Workplace Health and Safety

Council is committed to providing a safe and healthy working environment for all. The [Workplace Safety Management system](#) provides the necessary tools and information to support employees to undertake their roles with a focus on the importance of working safely.

All staff are to be familiar with any Safe Work Method Statements associated with this procedure and their duties when undertaking their responsibilities.

The following procedures to support officers may be referred to in the management of incidents related to compliance and enforcement duties.

- Correct use of voice recorders procedure
- Body worn cameras procedure
- Post incident debrief procedure
- Managing and responding to threats and aggressive behaviour procedure
- Any other relevant procedures

## Review

This procedure is scheduled for review in November 2022.

The procedure may also be reviewed at any time following:

- the debrief of an investigation, incident, success, or issue which highlights an improvement opportunity or
- as required.

## Roles and responsibilities

Sunshine Coast Council is committed to undertaking our duties in ways which align with our legislation, policy, and values.

**CEPS Group Executive** is responsible for the approval of this procedure.

**Branch Managers** are responsible for ensuring implementation of this procedure across their respective branches. Managers will consult and collaborate for any reviews where appropriate.

**Supervisors/Coordinators** are responsible for:

- providing training, guidance, and support on the implementation of this procedure
- providing feedback on officer's decision making and work in line with this procedure.

**All CEPS employees** are responsible for:

implementing the agreed procedure consistently.

## Definitions

The following table is a definition of terms relevant to the procedure to help provide context when reading the document.

**Table 1 - Definitions**

Term	Definition
Complainant	A person who has requested Council take action on the relevant matter.
Compliance	Compliance refers to an agency, corporation or person meeting or taking steps to comply with relevant laws and regulations.
Council	Council means the Sunshine Coast Regional Council.
Councillor	Councillor means a duly elected person of the Sunshine Coast Regional Council.
Enforcement	Enforcement means a range or procedures and actions taken by Council to ensure that a person or organisation complies with their statutory obligations.
Environmental harm	Environmental harm means an adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration, or frequency) on an environmental value including environmental nuisance.
Officer	Officer refers to an appropriately delegated officer to address the complaint or matter.
Person	Person has the definition provided in the Acts Interpretations Act 1954.
Practice direction	A practice direction is an internal direction provided by a Manager, Group Executive or CEO on how a particular issue is addressed or managed.
Public interest	Public interest means that the interests of the community, or a group within the community or individuals.
Reviewable decision	Reviewable decision means a decision that is capable of being the subject of judicial review.
Risk	Risk means the possibility, chance or likelihood of harm, hazard or loss to people or the environment.
Service request	A report or complaint lodged through any of Council's customer channels.

Term	Definition
Statutory obligation	Statutory obligations mean an obligation created under legislation.
Supervisor	Supervisor refers to an officer's next level Supervisor, Team Leader, Coordinator or Manager.
Unlawful activity	<p>Unlawful activity means any activity or work that has been or is being carried out –</p> <ul style="list-style-type: none"> <li>• contrary to the terms or conditions of a licence, permit, registration, notice, approval, permission, or other written authorisation from Council or</li> <li>• without a licence, permit, registration, notice, approval, permission, or other written authorisation from Council</li> <li>• contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land or</li> <li>• contrary to a legislative provision</li> </ul>

## Related documents, references, and legislation

This procedure should be considered in conjunction with the below documents and procedures. The list is not exhaustive and officers should ensure they consider all relevant procedures, policies or documents:

- [Administrative Action Compliance Management Process Policy](#)
- *All other relevant State or Federal Legislation which officers are delegated to act under*
- [Anti-Discrimination Act 1991](#)
- Body worn cameras procedure
- CEPS – Correct use of voice recorders procedure
- CEPS – Managing and responding to threats and aggressive behaviour procedure
- CEPS – Post incident debrief procedure
- Compliance strategy and decision making framework
- [Councillors Code of Conduct](#)
- [Employee Code of Conduct](#)
- [Environment and Liveability Strategy](#)
- [Human Rights Act 2019](#)
- [Information Privacy Act 2009](#)
- [Judicial Review Act 1991](#)
- [Local Government Act 2009](#)
- [Public Records Act 2002](#)
- [Public Sector Ethics Act 1994](#)
- [Queensland Ombudsman Tip and Traps for Regulators \(Second Edition\) 2009](#)
- Sunshine Coast Council Compliance and Enforcement Policy 2021
- [Sunshine Coast Council Local Laws](#)



- [Work Health and Safety Act 2011](#)
- [Work Health and Safety Regulation 2011](#)

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
0.1	New		Manager Customer Response (Acting)	20/07/2020
0.2	Review and update	Y	Manager Customer Response (Acting) Senior Project Officer, Customer Response	27/07/2020
0.3	Review and update	Y	Manager Customer Response	08/03/2020
1.0	Approved for Policy adoption	Y	Manager Customer Response	29/09/2021