



CUMBERLAND  
COUNCIL

# Compliance and Enforcement Policy

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	<i>POL-021</i>
<b>Policy Owner</b>	<i>Director Environment &amp; Planning</i>
<b>Date Adopted</b>	<i>1 March 2017</i> <i>(Updated October 2019)</i>
<b>Version No</b>	<i>1</i>
<b>TRIM Number</b>	<i>T042133/2018</i>
<b>Review Date</b>	<i>March 2019</i>

## **PURPOSE**

This policy aims:

- To ensure that Council's regulatory functions are exercised consistently and without bias, in accordance with legislation;
- To assist Council's officers to respond consistently and effectively to complaints of unlawful activity, and undertake proactive investigation of unlawful activity, in accordance with the law;
- To provide information for all stakeholders about Council's position in relation to the enforcement of compliance with legislation.
- To ensure that Council's officers exercise their discretion in relation to unlawful activity in an appropriate manner and that Council's resources to deal with unlawful activity are appropriately allocated and in a manner consistent with the public interest.

This policy applies to the management and investigation of unlawful activity, and any enforcement action required in relation to unlawful activity, within the Cumberland Council local government area for which Council is the appropriate regulatory authority. The unlawful activity to which this policy applies includes, without limitation, unlawful activity in relation to development, pollution, food safety, public health, parking, abandoned articles and companion animals.

## **PRINCIPLES**

Whilst it is intended that the principles in this policy will have general application, there may be cases where the particular circumstances justify departure from these principles. This policy also applies to an internal review where a written application is submitted. Any review of a Direction, Notice and Order will be undertaken by the Compliance Review Panel to ensure openness, transparency, balance and consistency.

All representations in relation to a Penalty Notice issued by Council, must be made directly to the State Debt Recovery Office (SDRO). Where the SDRO refers a Penalty Notice representation to council for direction, the representations will be referred to Council's Compliance Review Panel for review and recommendation back to the SDRO.

Individual Councillors or administrators do not have the right to direct council staff in their day-to-day activities.

The Policy will be supported by a number of guideline documents. Council will delegate to the General Manager, authority to adopt and review guideline documents to ensure best practice in handling reports of unlawful activities.

## **POLICY STATEMENT**

All Council staff who deal with unlawful activities are responsible for implementing this Policy.

All complaints to Council regarding unlawful activity will be reviewed to determine whether the matter requires investigation. Council may also undertake proactive investigation of unlawful activity.

After conducting an investigation and determining that there is sufficient evidence to determine that an offence has occurred, Officers should consider all relevant circumstances of the individual case to determine whether not to take enforcement action or recommend that enforcement action be taken and the level of enforcement action that is appropriate.

Council will endeavour to use the most appropriate action based on the individual circumstances of each case. These may be subject to (amongst other things), the powers provided under the governing legislation.

Decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised council officer. Council officers responsible for the investigation of a matter shall keep a full and complete record of their actions, including reasons for decisions made in relation to an investigation.

Representations shall be made in accordance with the relevant council policy or guideline.

## **RELATED DOCUMENTS AND COUNCIL POLICY**

- Cumberland Council Complaints Management Policy
- Cumberland Council Compliance and Enforcement Guideline

## **RELATED LEGISLATION**

- Boarding Houses Act 2012 & Regulations
- Building Professionals Act 2005 & Regulations
- Companion Animals Act 1998 & Regulations
- Environmental Planning & Assessment Act 1979 & Regulations
- Fines Act 1996 & Regulations
- Food Act 2003 & Regulations
- Graffiti Control Act 2008 & Regulations
- Local Government Act 1993 & Regulations
- Noxious Weeds Act 1993
- Protection of the Environment Operations Act 1997 & Regulations
- Public Health Act 2010 & Regulations
- Roads Act 1993 & Regulations
- Roads Transport Act 2013 & Regulations
- Swimming Pools Act 1992 & Regulations
- Smoke Free Environment Act 2000