

• Policy statement

Frankston City Council places the highest priority on the safety and wellbeing of the community and its natural and built environment. Accordingly, compliance and enforcement plays a key role in minimising non-compliance by managing and maintaining the General Local Law and relevant Acts under which Council Officers are authorised for the purposes of ensuring a safe and healthy environment.

This policy provides the framework for the consistent monitoring and management of unlawful activity through education, compliance and enforcement.

The policy and its related procedures ensure Compliance and Enforcement activities support Council objectives and law enforcement through:

- A fair, consistent, transparent and predictable approach
- Monitoring the intent and application of the Local Laws to prevent them from being undermined
- Reducing conflict in dealing with contravention of the Local Laws and other relevant acts

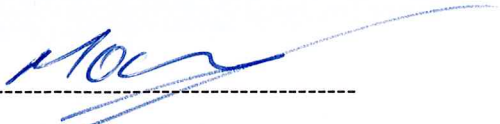
• Policy scope

This policy applies to Frankston City Council Councillors and Staff in relation to compliance and enforcement actions including but not limited to:


- Control of animals
- Local laws
- Public Health and Safety issues
- Food Safety and hygiene
- Litter
- Fire Safety
- Tree removal and land clearing, vegetation vandalism
- Infrastructure
- Parking Management
- Building enforcement
- Lease Management
- Closed Circuit Television (CCTV)
- Prosecution

Authorisation

This Policy is managed by the Manager Community Safety and once approved by Council delegated to the Mayor and CEO to authorise and be managed by the Manager Community Safety on a day by day basis.



Mayor, Frankston City



CEO, Frankston City Council

in accordance with Frankston City Council resolution at its Ordinary Council meeting of 18 February 2019.

Revision date

This Policy will be reviewed and presented to Council no later than June 2022 or earlier as deemed necessary by Council, and thereafter within each subsequent Council term.

Policy Principles

Council seeks to instil community confidence in Council's compliance and enforcement through:

- Natural Justice/Equality and fairness
- Good Governance including:
 - Transparency
 - Risk management
 - Accountability
 - Consistency
- Ethical practice including compliance with:
 - Legislation
 - Regulations
 - Policies
 - Procedures
 - Separation of Powers and undue influence
 - Conflict of interest safeguards
 - Enforcement or prosecution against children measures

Roles and responsibilities

Council

- To endorse Council's Local Laws
- To ensure appropriate allocation of resources and ethical practices
- To ensure that the Councillors' Code of Conduct acknowledges that operational issues (including individual infringements) are managed by Council's administration, and that Councillors cannot improperly influence (or seek to influence) a member of staff or direct (or seek to direct) a member of staff in the performance of their functions
- To ensure that Council enforcement procedures are fair and just

Chief Executive Officer (CEO)/Executive Management Team (EMT)

- To implement the Local Laws and authorise Officers under the Local Government Act
- To ensure that the Codes of Conduct encompasses the requirements of Councillors and officers in the undertaking of enforcement
- To ensure accurate and reliable information is applied to decision-making
- To ensure no undue influence is applied to decision making
- To ensure implementation of compliance and enforcement functions are fair, consistent, without bias and in accordance with Legislation
- To alert the Audit and Risk Committee to any major problem or injustice with Council processes of enforcement
- To ensure Councillors are aware of their legal obligations

Community Safety Department

- To ensure Officers are duly qualified and authorised
- To respond to enquiries and complaints promptly, consistently and effectively
- To review complaints to Council without fear, favour or bias
- To give priority to complaints where there is an imminent threat to health, life or property
- To issue and serve Infringement notices for offences in accordance with legislation
- To use discretion wisely with regard to how an investigation and enforcement action will be undertaken and give consideration to the level of risk to the community
- To encourage higher levels of compliance through education and advice to discourage future breaches
- To progress enforcement in accordance with individual Procedures and Guidelines
- To administer and regularly review existing practices, procedures and systems
- To ensure that Council Officers demonstrate the requirements of Frankston City Council Policies and Procedures and the Code of Conduct in the undertaking of enforcement and infringement duties
- To advise the Community of the approach that Council will take in investigating, enforcing and infringing complaints made to the Council

- To prosecute where there is a reasonable prospect that an offence can be proved beyond reasonable doubt. There must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the offence
- To monitor and manage the conduct of Council Officers and contractors
- To manage enforcement contracts effectively
- To alert the CEO about the practice or procedures relevant to enforcement about which repeated complaints are being received or problems being experienced

Policy non-compliance

Non-compliance with this Policy has the potential to see:

- A decline in social order and amenity
- A decline in perceptions of safety
- A reduction in economic activity
- An increase in maintenance and security costs
- Harm to the reputation of the municipality

Failure to comply with this Policy by Councillors or Council staff will result in disciplinary action under the Councillor or Council Staff Code of Conduct. A breach of this policy by a Contractor will result in actions within the provisions of their contract.

• Related documents

- Associated Regulations and guidelines
- Authorised Officer Fact Sheet A3124391
- Building Act 1993
- Building Amendment Act 2017
- Building and Works Code of Practice
- Charter of Human Rights
- Community Safety - Compliance and Enforcement Guideline - April 2018 - A3591389
- Community Safety - Enforcement Guideline - Parking on Nature Strips AXXX
- Community Safety Procedures QA310404
- Community Safety - Prosecution Guidelines A3591189
- Council policies, procedures, systems and work practices
- Councillor and Staff Interaction Policy
- Country Fire Authority Act 1958
- Domestic Animal Act 1994
- Environment Protection Act 1970
- Food Act 1984
- Frankston City Council General Local Law 2016 No.8
- Impounding of Livestock Act 1994
- Infringements Act 2006
- Infringements Internal Review A3476270
- Infringements issued in error A3406207
- Local Government Act 1989
- Occupational Health and Safety Act 2004

- Planning and Environment Act 1987
- Public Health and Wellbeing Act 2008
- Residential Tenancies Act 1997
- Road Management Act 2004
- Road Safety Act 1986
- Road Safety Road Rules 2017
- Summary Offences Act 1966

• Implementation of the Policy

This Policy (in conjunction with other Related Documents) will be implemented and monitored following adoption of this Policy, Procedures and Guidelines.

• Definitions

Term:

Authorised Person means a person who is authorised by Council under an Act, regulation or local law to exercise appropriate powers under an Act, regulation or local law.

Child means a person under the age of 18.

Complaint means a customer request to action.

Compliance refers to an agency, corporation, or person meeting or taking steps to comply with relevant laws and regulations.

Council means Frankston City Council.

Enforcement means a range of procedures and actions taken by Council to ensure that a person or organisation complies with their statutory obligations.

Natural Justice means acting fairly and without bias by, among other things, affording a party the opportunity to adequately state their case.

Offence means an act, default or conduct prejudicial to the community, the commission of which by law renders the person responsible liable to punishment by fine or imprisonment.

Prosecution means the institution and conduct of legal proceedings against a person, organisation or corporation for an alleged offence(s).

Recidivist offender means a repeat offender.

Summary offence means is a criminal act in some common law jurisdictions that can be proceeded with summarily, without the right to a jury trial and/or indictment (required for an indictable offence).