



**CHIEF EXECUTIVE OFFICER ATTACHMENTS
ORDINARY MEETING OF COUNCIL
WEDNESDAY 19 JULY 2023**

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
CEO01 - 07/23	<p>Work Health and Safety Statistics Report – Quarter Ending June 2023</p> <p>Attachments</p> <ol style="list-style-type: none"> 1. WHS Statistics Report – Quarter Ending 2023 	1 – 4
CEO03 - 07/23	<p>Register of Policies: Amendments</p> <p>Attachments</p> <ol style="list-style-type: none"> 1. Administration Policy 1.4 – Political Electioneering Posters 2. Administration Policy 1.5 – Record Keeping 3. Administration Policy 1.11 – General Compliance and Enforcement 4. Administration Policy 1.12 – Recording and Access to Recordings of Council Meetings 5. Finance Policy 2.2 - Rating 6. Elected Member Policy 4.2 – Informal Petitions to Council 7. Elected Member Policy 4.8 – Notices of Motion 8. Elected Member Policy 4.9 – Code of Conduct – Behaviour Complaints Management 9. Town Planning 9.6 – Trading in Thoroughfares and Public Places 	5 – 45

COUNCIL KPI'S - QUARTERLY REPORT - WORK, HEALTH AND SAFETY

FOURTH QUARTER - APRIL - JUNE 2023

Reporting Month	Working hours (total workforce and contractors)	Training Hours	Average overtime per person by Department
APRIL			
Technical	3933.25	22.50	2.37
Corporate	1472.00	56.25	0.00
Development	1932.00	132.50	0.00
Office of CEO	1172.50	60.00	0.00
MAY			
Technical	3464.69	19.00	0
Corporate	1319.50	17.00	0
Development	1889.50	10.00	0
Office of CEO	1243.00	24.50	0
JUNE			
Technical	3371.23	689	0.88
Corporate	1320.00	60	0
Development	1731.50	82	0
Office of CEO	1263.50	68.5	0
TOTALS	24112.67	1241.25	3.25

Safety Audits and Inspections	Safety Observations	Toolbox Talks	Equipment Breakdowns
APRIL			
6	1	4	4
MAY			
4	2	4	11
JUNE			
1		4	6
11	3	12	21

COUNCIL KPI'S - MONTHLY REPORT - WORK, HEALTH AND SAFETY
FOURTH QUARTER - APRIL - JUNE 2023

Reporting Month	Drug and Alcohol tests performed	Positive Drug test and BAC Exceedances	Workers Compensation Claims	Current Workers Compensation Claims	Near Misses and Incident	Medically Treated Injuries	Restricted Work Injuries	Lost Time Injuries
APRIL								
	2				4			
MAY								
	1				2			
JUNE								
	1		1	1	4			

WORK HEALTH SAFETY REPORTING JUNE 2023

NEAR MISS, INCIDENT AND DAMAGE REPORT

Incident	Date	Type of Injury	Department and Location	Response
144	16/06/2023	Fainted and felt dizzy and shaky in the library	Office of the CEO, Bindoon	Taking to the doctors for observation
145	15/06/2023	Damage to roof light on vehicle	Technical Services, Bindoon	Light has been replaced
146	19/06/2023	Electric Shock to arm in Visitors centre	Office of the CEO, Bindoon	Removed the fridge and kettle
147	18/05/2023	Wood chip in the Eye while mulching	Technical Services, Bindoon	PPE was used, visited the doctor

TRAINING AND DEVELOPMENT

Date	Training	Training Organisation
07/06/2023	Fire Extinguisher Training - All Staff	Fire and Safety Australia
13/06/2023	Fire Extinguisher Training - All Staff	
20/06/2023	Backhoe Training and VOC completed	Down to Earth Training and Assessing
21/06/2023	Backhoe Training and VOC completed	
23/06/2023	Loader Training and VOC completed	
27/06/2023	Mulcher Training and VOC completed	
28/06/2023	Chainsaw Training and VOC completed	

WORK HEALTH SAFETY REPORTING
APRIL - JUNE 2023

SITE INSPECITONS

Date	Areas
April	5 x Fire Stations and the Bindoon Landfill
May	Muchea Landfill, Shire Administration building, Outdoor Depot, Outdoor Office
June	Rangers Office

SAFETY OBSERVATIONS AS DISCUSSED AT OUR WHS FOCUS GROUP MEETING

Date	Areas
April	The need for a proper Evacuation System. This has been ordered and will be installed in July.
May	The Seat on the Grader needed replacing, this was completed. The High Pressure fitting needed replacing, this was purchased.
June	Nil

1.4 Political Electioneering Posters

Policy Owner:	Development Services
Person Responsible:	Executive Manager Development Services
Date of Approval:	15 April 2009
Amended:	20 March 2019

Objective

To control political advertising within the Shire and ensure that public safety is not compromised.

Policy

During an election period of any government level the Shire will allow Electioneering signage in the public realm providing a permit is obtained by the Shire as detailed in the Shires local law ***Activities on thoroughfares and trading in Thoroughfares and Public Places 2001***. ***Local Government Property and Public Places Local Law 2023***.

The permits are to be issued per political candidate at no cost and must comply with the following conditions to ensure public safety at all times.

- (a) Being erected at least 30m from any intersection;
- (b) Being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) Being placed so as not to obstruct or impede the reasonable use of a public place; such as a thoroughfare, footpath, or public park; or other access to a place by any person;
- (d) Being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) Being maintained in good condition;
- (f) Not being erected until ~~the election to~~ 6 weeks prior to the election to which it relates has been officially announced;
- (g) Being removed with ~~48 hours~~ 72 hours of the close of polls on voting day;
- (h) Not being placed within 100m of any works on the thoroughfare;
- (i) Being securely installed;
- (j) Not being an illuminated sign;
- (k) Not incorporating reflective or fluorescent materials; and
- (l) Not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

Any breach of Council's conditions will result in the enforcement of the Shire's Local law ***Activities on thoroughfares and trading in Thoroughfares and Public Places 2001***. ***Local Government Property and Public Places Local Law 2023*** and the offending sign will be removed. All signs must be removed within ~~48 hours~~ 72 hours after the election has been conducted

1.5 Record Keeping

Policy Owner:	Corporate Services
Distribution:	All Directorates and Elected Members
Person Responsible:	Records Officer
Date of Approval:	18 May 2011
Amended:	17 June 2020

Objective

~~To provide a high quality service to all stakeholders in the Shire of Chittering for all communications regarding Council business.~~

To provide guidance to Councillors, and employees, in regard to their record keeping responsibilities in line with current legislative requirements.

To ensure:-

- that all required correspondence, inward, outward and internal is captured and recorded in accordance with but not limited to the State Records Act 2000, the Local Government Act 1995, the Freedom of Information Act 1992 and the Shire of Chittering requirements.
- accurate and efficient recording and archiving of all relevant documents associated with Shire of Chittering business and to allow for efficient access and retrieval of relevant details associated with Shire of Chittering business.

To train and support all required personnel, including staff, contractors and elected members to create full and accurate records or supply the correspondence to the appropriate officer(s) in the records department or their own departmental administration staff to record in the required manner.

Policy

~~The Shire of Chittering is committed to ensuring fairness and equity and that the community is kept informed on matters before Council, whilst providing a friendly, helpful and respectful and professional service. Effective communication is a key to ensuring that these principles of operation are met. All communication regarding Council business from a member of staff or an Elected Member shall be at all times courteous, clear and professional.~~

~~Correspondence will be managed within the protocol contained within Council's software for Records Management and will comply with the requirements of the **State Records Act 2000** and the **State Records Principles and Standards 2002**.~~

~~The Shire of Chittering will ensure at all times that the Communication Plan 2012 and the Community Engagement Plan 2012 are adhered to when communicating with Councillors and the general public.~~

Inward, outward and internal correspondence will be retained in the required format as per the Shire of Chittering Recordkeeping Plan and under the procedures created for Recordkeeping in the Shire of Chittering and under but not limited to the Local Government Act 1995, the Freedom of information Act 1992, The State Records Act 2000, the Protection of Information (Entry Registration Information Relating to Covid-19 & Other Infectious Diseases) Act 2021 and relevant General Disposal Authorities,

1. Correspondence received

~~All external written correspondence will receive a written response within seven working days of receipt, however an acknowledgement will be provided if, in the view of the appropriate Manager, a full and detailed reply is not possible within that time frame.~~

~~External correspondence that is received marked as a copy and addressed to a third party will not be acknowledged unless, in the opinion of the relevant Manager, a response is appropriate.~~

~~Facsimiles and electronic mail will be treated as written correspondence.~~

~~Managers and the Chief Executive Officer shall determine which items of correspondence will be presented to Council, through the appropriate committee or directorate.~~

The Shire of Chittering will respond to emails with an Acknowledgment of Receipt return email if deemed appropriate and respond in full to all correspondence within legislative time requirements or within 7 days for non-legislative items.

2. Elected Member correspondence – incoming

- 1) All correspondence received by the Shire of Chittering is deemed as Shire of Chittering correspondence, unless:
 - a) it is addressed to an Elected Member's name; and
 - b) it is marked "Private and Confidential"; and
 - c) it has no reference to the Shire of Chittering as part of the address or addressee.
- 2) In all cases where correspondence is described in Item 1 complies with 1(a), (b) and (c), above, it will be left unopened in an Elected Member's correspondence box.
- 3) On all occasions where correspondence bearing an Elected Member's name is received and does not comply with Item 1(a), (b) and (c), it will be opened by administration.
- 4) The above items are conditional upon total compliance with all Telecommunications and Australian Postal Regulations and Laws.
- 5) In cases, when the contents make reference to matters that are deemed as requiring attention by administration, a reference note will be added to the correspondence by an appropriate administration officer, marked for the Elected Member's attention, and

the note will detail the action to be taken by the appropriate department, with particular reference to Item 3 above only.

Stationery

~~The Shire's stationery and equipment, including letterhead and envelopes are not to be used for election purposes.~~

3. Presidential correspondence

~~Presidential correspondence will be issued on Shire of Chittering letterhead. A file copy of presidential correspondence shall be maintained in the appropriate file(s), together with originating correspondence. In instances where the President is providing technical information to correspondents, the appropriate officer will draft the correspondence or that section of correspondence.~~

Presidential correspondence will be issued on Shire of Chittering letterhead in whatever format is suitable and will be captured in the appropriate format as per the current Shire of Chittering Recordkeeping Plan along with the originating correspondence. In instances where the President is providing technical information to correspondents, the appropriate officer will draft the correspondence or that section of correspondence.

Communication between Elected Members and staff

~~In order to facilitate effective use of staff resources, all enquiries and requests from Elected Members shall be directed to the Chief Executive Officer or relevant Executive Manager. Where the request entails the use of Shire resources (human or physical) to an extent which an Executive Manager believes may impact on the effective management of the directorate, the request is to be referred to the Chief Executive Officer for determination. The Chief Executive Officer will discuss such requests with the originating Elected Member to determine the extent of information or action required.~~

~~The Chief Executive Officer may subsequently refer the matter to Council for determination should a resolution not be achieved.~~

~~Communication between Elected Members and staff will in general be governed by the 'Code of Conduct'.~~

Media contact

~~In accordance with the Local Government Act 1995, the spokesperson for the Council is the Shire President, and with the President's authorisation the Chief Executive Officer, either of whom may delegate authority to the appropriate Executive Manager to make a statement on behalf of the Shire.~~

Publications

~~Publications produced by the Shire will be available for residents and ratepayers in the Bindoon Library, the website and from the administration centre.~~

~~The following publications will be advertised in the *Shire of Chittering Facebook Page* and will also be available, on request, in alternative formats:~~

- ~~● Annual report~~
- ~~● Annual financial statements~~
- ~~● Strategic plan~~
- ~~● Local laws~~

Advertising

~~All statutory advertisements requiring local public notice shall also be advertised in Shire of Chittering Facebook Page, unless in the opinion of the Chief Executive Officer, this is not practicable for the purposes of meeting time frames and required deadlines.~~

~~Public notices will also be made available on the Shire's website.~~

4. Meetings / Appointments / Diaries

Booking for meetings (in Outlook) with other staff, and or community members, include a brief description of the "purpose" of the meeting; attendees, what is to be discussed, the decision(s) that may need to be made; within the meeting invite. At the conclusion of the meeting a short synopsis of outcomes should be added.

1.11 General Compliance and Enforcement

Policy Owner:	Governance
Person Responsible:	Executive Manager Development Services; Executive Manager Technical Services
Date of Approval:	18 August 2021
Amended:	

Objective

- Ensure a consistent approach in enforcement and compliance related matters;
- Provide transparency, apply procedural fairness and natural justice for all enforcement and compliance related matters;
- Provide an educational, cooperative and collaborative process towards compliance and enforcement, aimed at encouraging compliance; and
- To guide decision making and actions by the Shire in the consistent use of enforcement options commensurate with the risk.

Scope

To assist the Shire in utilising compliance and enforcement strategies as a method to achieve legislated objectives and encourage compliance by implementing a cooperative and collaborative approach to enforcement action.

1. POLICY

1.1 INTRODUCTION

The scope of this policy is to set out the Shire's approach to compliance and enforcement related matters. The policy provides a range of prescribed compliance and enforcement options for dealing with compliance matters. The policy also aims to ensure consistency in how the Shire makes decisions on enforcement action.

2. LEGISLATION ENFORCED BY SHIRE

This Policy applies to all compliance and enforcement actions where the Shire has a regulatory responsibility under State and Local Laws.

Departments within the Shire which may enforce legislation:

Building Services	<i>Building Act 2011 and Building Regulations 2012 Local Government Act 1995</i>
Planning Services	<i>Local Government Act 1995 and Regulations Planning and Development Act 2005 and Regulations Local Planning Scheme No. 6 Extractive Industries Local Law 2014</i>
Environmental Health Services	<i>Caravan Parks and Camping Grounds Act 1995 and Regulations Environmental Protection Act 1986 (Public Health component only) Environmental Protection (Noise) Regulations 1997 Environmental Protection (Unauthorised Discharge) Regulations 2004 Food Act 2008 and Regulations Health (Miscellaneous Provisions) Act 1911 Local Government Act 1995 and Regulations Public Health Act 2016 and Regulations Health Local Law 2017 Waste Local Law 2018 Activities on Thoroughfares and Trading in Thoroughfares Local Law 2001 Shire of Chittering Local Government Property and Public Places Local Law 2023</i>
Ranger Services	<i>Bushfires Act 1954 and Regulations Cat Act 2011 and Regulations Cat Local Law 2015 & Cats Amendment Local Law 2016 Shire of Chittering Keeping and Control of Cats Local Law 2023 Dog Act 1976 and Regulations Dogs Local Law 2011 Shire of Chittering Dogs Local Law 2023 Litter Act 1979 and Regulations Caravan Parks and Camping Grounds Act 1995 and Regulations Local Government Act 1995 and Regulations Local Government (Miscellaneous Provisions) Act 1960 Cemeteries Local Law 2003 Shire of Chittering Cemeteries Local Law 2023 Activities on Thoroughfares and Trading in Thoroughfares Local Law 2001 Shire of Chittering Local Government Property and Public Places Local Law 2023</i>
Emergency Services	<i>Emergency Management Act 2005 and Regulations Local Government Act 1995 and Regulations Bush Fire Brigades Local Law 2012</i>
Technical Services	<i>Local Government Act 1995 and Regulations Local Government (Miscellaneous Provisions) Act 1960 Shire of Chittering Local Laws (as amended) Cemeteries Local Law 2003 Shire of Chittering Cemeteries Local Law 2023 Activities on Thoroughfares and Trading in Thoroughfares Local Law 2001 Shire of Chittering Local Government Property and Public Places Local Law 2023</i>

3. LODGING A COMPLAINT

Where a complaint relates to a breach in legislation for which the Shire is responsible for administrating, the complaint shall be made in writing and include:

- (a) name and address, telephone number, and email address of the complainant;
- (b) address of the offending property; and
- (c) details of the alleged offence.

The Shire may consider verbal complaints received on a case by case basis and in accordance with the Compliance and Enforcement Matrix (Appendix 1).

The Shire will endeavour to keep complaints confidential, however the Shire notes that Freedom of Information applications may be made in accordance with the *Freedom of Information Act 1992* and will be assessed based on their individual merits.

4. PRINCIPLES OF COMPLIANCE AND ENFORCEMENT ACTION

The Shire is required to administer its statutory responsibilities under the applicable legislation in a transparent and fair manner in the interest of public health, safety, and amenity. Each compliance investigation undertaken by the Shire will be assessed on a case-by-case basis, and actioned according to the Compliance and Enforcement Matrix (included as an appendix) for each business unit area.

The Compliance and Enforcement Matrix is used as a guide only and an offence category can be reviewed during the investigation process.

5. COMMUNITY ENGAGEMENT

- Compliance matters will generally not be publically communicated.
- Where applicable, the Shire will work with residents, ratepayers, stakeholders and businesses to encourage compliance with relevant laws, regulations and policies.

6. PROCESS OF INVESTIGATION

- Review internal and external databases for any historical information pertaining to the complaint;
- Conduct site visits to ascertain if and what issues may be occurring;
- If a compliance matter exists, Shire staff will contact the accused to request information on matter, and provide time frames to achieve compliance; and either
- Provide extensions to time frames to achieve compliance where reasonably required; and
- Request applications for, and Notice of Determination approval and refusal audits for planning applications received; or
- Seek legal advice on pursuing the matter through formal warnings regarding prosecution; and if not resolved
- Issue prosecution notice (through legal solicitation).

7. ENFORCEMENT OPTIONS

- (a) No enforcement action taken;
- (b) Referral to an external agency or relevant authority;
- (c) Requests for retrospective development approvals (if applicable) or removal of unauthorised developments in accordance with relevant legislation and Local Planning Scheme No.6;
- (d) Infringement notices issued under relevant legislation;
- (e) Direction notices;
- (f) Orders and notices issued under relevant legislation; or
- (g) Prosecution action; or
- (h) A combination of the above.

8. OFFENCE CATEGORIES / DEFINITIONS

Where an investigation is undertaken and it is considered that there is sufficient evidence, the Shire will take the appropriate enforcement action based on the specific circumstances of each individual case, as defined within the following offence categories:

Minor: A minor offence is a breach of legislation, which has a minimal impact on the community, a person or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, life, critical infrastructure, property, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with an infringement, directions notice or order under relevant legislation.

Major: A major offence is a breach of legislation that significantly affects or risks the health and safety of the community, life, critical infrastructure, property, or the environment. It may also be

a case where the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate in order to achieve compliance and which may lead to a prosecution action.

The offence category is subject to review during the investigation process.

The Shire further notes that the enforcement actions contained in the above definitions are not exhaustive to each particular definition.

9. COMPLIANCE INVESTIGATIONS

9.1 INVESTIGATION OF COMPLAINTS (REACTIVE COMPLIANCE)

Complaints will be prioritised for investigation based upon the offence category set out in clause 8 of this policy.

Decisions on enforcement action may have regard to any or all of the following considerations:

- (a) whether there has been a failure to comply with any request, direction or notice given by the Shire;
- (b) recommendations made at the Development Assessment Unit;
- (c) whether the breach or offence was committed wilfully or unknowingly;
- (d) any mitigating or aggravating circumstances (including vexatious complainants);
- (e) any demonstrated history of non-compliance;
- (f) the length of time since the incident (including statutory time frames);
- (g) the potential short and long-term consequences of non-compliance; and
- (h) legal precedents.

The Shire may take no enforcement action after an investigation where:

- (a) having considered the nature of the non-compliance, an educative approach to preventing the matter from continuing or reoccurring is considered most appropriate;
- (b) there is insufficient evidence to prove non-compliance after reasonable attempts have been made by the Shire to investigate the matter;
- (c) the individual or entity has discontinued or removed the unauthorised development or has obtained the relevant approval(s);
- (d) having regard for the capacity of the owner or occupier of the land, it is determined that an alternative approach to achieving compliance is more appropriate; and
- (e) the matter is considered trivial in nature, or would be an unreasonable use of the Shire's resources.

The Shire understands that some complaints received in relation to compliance issues may be the result of neighbourhood disputes. The Shire may discontinue an investigation of a complaint where it can be reasonably ascertained that the complaint is unsubstantiated or pertains to a civil matter. The Shire will not provide advice in relation to civil matters.

9.2 AUDITS, PATROLS, AND CHECKS (PROACTIVE COMPLIANCE)

The Shire may carry out proactive compliance in the following manner:

- (a) carry out audits upon development approvals and refusals;
- (b) carry out yearly audits of extractive industry licencing and conditions;
- (c) investigate compliance issues observed by Shire officers during the course of daily work related activities; and
- (d) conduct proactive compliance through an annual work program.

9.3 CONCLUSION OF AN INVESTIGATION

At the conclusion of an investigation, Shire officers shall use the most appropriate action based on this policy in conjunction with the Compliance and Enforcement Matrix.

Complainants will be advised in writing of the outcome of the investigation (subject to confidentiality requirements) and the compliance matter closed.

10. ACTING ON DEFAULT OF NOTICES OR ORDERS

The Shire may undertake works as specified in the notice or order to restore the land as nearly as practicable to its condition immediately before the development started or execute that work as it directed that person. The Shire may be entitled to recover its expenses in a court of competent jurisdiction.

11. PROSECUTION ACTIONS

11.1 INITIATION OF PROCEEDINGS

The Shire may determine to instigate prosecution proceedings under an Act, Regulation or Local Law where the Shire considers that the offence warrants such action.

The Shire may consider the following when determining whether to initiate prosecution proceedings:

- (a) the seriousness and nature of the offence;
- (b) legal advice received by the Shire;
- (c) any evidence of contempt or disregard for the law;
- (d) any public health or safety impacts resulting from the offence; and
- (e) whether the prosecution is in the public interest.

11.2 WITHDRAWAL OF PROSECUTION PROCEEDINGS

The Shire may consider the following when determining whether to withdraw from prosecution proceedings:

- (a) legal advice received by the Shire; or
- (b) in the opinion of the Chief Executive Officer, an appropriate level of compliance has been achieved; or
- (c) an error of law or fact; or
- (d) the owner or occupier of the land is deceased or cannot be located.

11.3 APPEAL OF INFRINGEMENTS, NOTICES OR ORDERS

In the event that an infringement, notice or order is appealed in accordance with the relevant legislation, the Shire may be required to substantiate its actions to a court or tribunal. This may result in the infringement, notice or order being overturned, amended or subject to mediation.

12. DELEGATIONS

Refer to Register of Delegations and Sub-delegations (as amended).

Appendix 1

Environmental Health Services

The aim of the Environmental Health Services directorate is to continually improve the health, safety, welfare and quality of life of people who live in, work in or visit the Shire of Chittering. To achieve this, the Shire uses a variety of statutory powers and duties, which are enforced in an equitable, practical and consistent manner. Care is taken to help businesses and others meet their legal obligations without unnecessary expense, whilst taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. The list of general compliance actions within the directorate is extensive and offences are often categorised as major, however will vary at the Officers' discretion.

The Environmental Health Department contributes to the protection of public health and safety and provides a wide range of services aimed at safeguarding the environment and improving health, safety and well-being of our community. The main areas of work covered by this enforcement policy are:

- (a) Food Safety: inspection of food businesses, investigation of complaints about food and food premises, food sampling, advice and training.
- (b) Public Health: investigating food poisoning outbreaks and control of communicable disease, promoting public health initiatives, dealing with squalor and hoarder premises, private water supplies sampling.
- (c) Pollution Control: investigating complaints of statutory nuisance, dealing with contaminated land, tackling poor air quality, investigating complaints of wastewater systems.
- (d) Private Sector Housing: tackling unsatisfactory housing conditions in private rented accommodation, inspection and licensing of houses in multiple occupation, licensing of caravan parks, housing assistance towards repair and adapting homes; investigating complaints about inhabitable dwellings.
- (e) Licensing: determining and regulating various licensing and registration functions such as public buildings, alcohol, entertainment, gambling, skin penetration and hair dressers, scrap metal, roadside trading, charitable collections, lotteries, and pest control advice and treatment.

Compliance Matrix – Building Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Building Compliance				
Unauthorised swimming pool or spa	Building Act s9			X
Authorised swimming pool or spa – no security barrier	Building Regs r50			X
Non-compliant pool barrier – hinges, windows	Building Regs r50	X		
Non-compliant pool barrier – non-compliant barrier (height, gates swinging in wrong direction, openings too large)	Building Regs r50			X
Unauthorised building work	Building Act s9,		X	
Unauthorised Demolition	Building Act s10			X
No Notice of Completion	Building Act s33	X		
Non-compliance applicable Building Standards – After completion	Building Act s37		X	
Non-compliance applicable Building Standards – Demolition	Building Act s38		X	
Occupying a building without Occupancy Permit	Building Act s41		X	
Non-Display or non-notification of Occupancy Permit	Building Act s42	X		
Occupation use to comply with Occupancy permit	Building Act s43		X	
Occupancy permit – General Compliance	Building Act s44		X	
Encroachments outside of works land	Building Act s76			X
Adverse impact to other land without consent	Building Act s77			X
No protection Structure on or over land without consent	Building Act s78		X	
Work not to affect party wall without consent	Building Act s79		X	

Compliance Matrix – Technical Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Local Government Act 1995				
Unauthorised works within road reserve/POS	Schedule 9.1 (8)		X	
Damage public Infrastructure	Schedule 9.1 (8)		X	
Discharge stormwater into public land/Road	Schedule 9.1 (10)		X	
Wind erosion or sand drift	Schedule 9.1 (12)		X	
Cemeteries Local Law 2023				
Excessive Speed	Clause 5.4		X	
Unauthorised use – driving of vehicles	Clause 5.4	X		
Placing of rubbish and surplus materials	Clause 7.3	X		
Leaving uncompleted works in an untidy or unsafe condition	Clause 7.7	X		
Animal at large	Clause 8.1		X	
Dumping of rubbish	Clause 8.5	X		
Unauthorised advertising and or trading	Clause 8.6	X		
Disobeying sign or lawful direction	Clause 8.7	X		

Compliance Matrix – Planning Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Development Compliance				
Unauthorised Land Use	LPS6		X	
Unauthorised Development – Structures	LPS6		X	
Unauthorised Development – Sea Containers	LPS6		X	
Unauthorised Commercial Vehicles	LPS6	X		
Unauthorised Fill/Excavation	LPS6		X	
Unauthorised Home Business / Occupation	LPS6	X		
Breach Development Approval Conditions			X	
Unauthorised Signage		X		
Extractive Industries:				
<ul style="list-style-type: none"> No Approval 	Extractive Industries Local Law			X
<ul style="list-style-type: none"> Breach of conditions minor 	Extractive Industries Local Law		X	
<ul style="list-style-type: none"> Breach of conditions major 	Extractive Industries Local Law			X
Unauthorised land use – stocking rates	LPS6	X		

Compliance Matrix – Ranger Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Ranger Services				
Unregistered Dog	Dog Act S7(1)	X		
Unregistered Cat	Cat Act S5(1)	X		
Wandering Dogs – Private Property (Dog in a place without Consent)	Dog Act S33A(3)		X	
Wandering Dogs – Public (Dog not held or tethered in public place)	Dog Act S31(3)		X	
Dog Attack - Causing Physical Injury	Dog Act S33D(1)			X
Dog Attack - Causing No Physical Injury	Dog Act S33D(2A)		X	
Restricted Breed or Declared Dangerous Dog Offences	Dog Act S33E			X
Dog Causing a Nuisance by Barking	Dog Act S38(5)		X	
Collection of Stray Dogs - Community	Dog Act S29	X		
Collection of Stray Cats - Community	Cat Act S27	X		
Livestock – Wandering at Large	LG Miscellaneous Provisions Act & Local Law			X
Livestock - Trespassing	LG Miscellaneous Provisions Act		X	
Abandoned Vehicles - General	Local Government Act	X		
Abandoned Vehicles - Obstructing	Local Government Act		X	
Litter – Building Development Sites	Litter Act		X	
Litter – Illegal Dumping	Litter Act		X	
Litter – Household Rubbish	Litter Act	X		
Signage – Nuisance signs	Litter Act	X		
Unightly Properties	Local Law	X		
Illegal Camping	Local Government Act	X		
Registration Enquiries	Dog & Cat Acts	X		
Pound Transfer	Local Government Act, Dog Act, Cat Act	X		
Breach of fire safety	Bush Fire Act 1954		X	

1.12 Recording and Access to Recordings of Council Meetings

Policy Owner:	Governance
Person Responsible:	Executive Assistant
Date of Approval:	20 November 2019
Amended:	18 May 2022; 20 July 2022

OBJECTIVE

- To ensure that there is a process in place to outline access to the recorded proceedings of Council including Elected Member voting on Council Resolutions.
- To emphasise that the reason for the recording of Council Meetings and Elected Member voting is to ensure the accuracy of Council Minutes and transparency on how elected members are voting to represent the community's interest and that any reproduction is for the sole purpose of Council business.

POLICY

Recording of Proceedings

1. Proceedings for meetings of the Council, Electors, and Public Question Time during Council meetings shall be recorded by the Shire on sound recording equipment, except in the case of meetings of the Council where the Council closes the meeting to the public.
2. Notwithstanding clause 1, proceedings of a meeting of the Council which is closed to the public shall be recorded where the Council resolves to do so.
3. No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without approval as per ~~Local Government (Council Meetings) Local Law 2014, c6.15~~ [Shire of Chittering Standing Orders Local Law 2023](#).
4. A table of Elected Member Voting to be published following every Ordinary or Special Council Meeting in the Northern Valley News and on the Shire website and Facebook page.

Access to Recordings

5. The record of proceedings from the Agenda Forum is to be circulated to Council before the issuance of the Ordinary Council Meeting Agenda to the public.
6. The record of proceedings of Council and Electors meetings is to be loaded on to the Shire's website once the minutes have been made available.

Retention of Recordings

7. Recordings pertaining to the proceedings of Council Meetings shall be retained in accordance with the *State Records Act 2000*.

Disclosure of Policy

8. An excerpt of this Policy shall be printed within the agenda of all Council, Special Council, Electors and Special Electors meetings to advise the public that the proceedings of the meeting are recorded.
9. Signage and a verbal notice via the Presiding Member shall be provided to ensure that attendees to Council meetings are aware of the recording practice of Council.

Responsibility of Implementation

Office of the Chief Executive Officer

References:

- ~~Local Government (Council Meetings) Local Law 2014~~
- Shire of Chittering Standing Orders Local Law 2023

2.2 Rating

Policy Owner:	Corporate Services
Person Responsible:	Executive Manager Corporate Services Rates Officer
Date of Approval:	19 August 2009
Amended:	

Objective

To provide guidelines for the collection of rates and to authorise the Chief Executive Officer to apply alternative instalment options, to appoint debt collection agencies and to comply with all other requirements of the *Local Government Act 1995*.

Policy

1. Rates Collection

A copy of the rate assessment marked "Final Notice" shall be issued ~~approximately~~ **forty-two** days after issue of the original assessment, allowing fourteen days for payment of the account.

If payment is not received after this time, the debt ~~will~~ **may** be forwarded to the debt collection agency and a letter advising of impending legal action for recovery of outstanding rates and service charges shall be issued ~~sixty-three~~ **fifty nine (59)** days after issue of the original assessment, allowing ~~six~~ **five (5)** ~~business~~ days for payment.

Outstanding rate accounts for which satisfactory arrangements to pay have not been made within ~~seventy~~ **sixty** days after issue of the original assessment, the debt collection agency appointed by the Chief Executive Officer will be advised to proceed with legal action.

Legal action to recover overdue rates is also subject to the Magistrates Court of WA legislation and procedures.

~~In cases where the owner of a leased or rented property on which Municipal Rates are outstanding cannot be located or refuses to settle rates owed, notices may be served on the lessee or tenant under the provisions of Section 6.60 of the *Local Government Act 1995*, requiring the lessee or tenant to pay to the Council the rent due under the lease/tenancy agreement as it becomes due, until the amount in arrears had been paid.~~

Exemption Policy

~~That the Chief Executive Officer be given delegated authority to grant rating exemptions that are clearly defined in accordance with Section 6.26 of the *Local Government Act 1995* and determined according to this Policy.~~

~~When the Chief Executive Officer has granted rating exemptions details on the Organisation, property and sub-Section of Section 6.26 are to be reported to Council on an information basis.~~

~~That an exemption be granted from 1 July of the financial year in which application is received or from the relevant date, e.g. settlement or lease where applicable; exemptions shall not be backdated into prior financial years.~~

~~That exemptions granted in accordance with Section 6.26 are to be reviewed every two years where practicable and the list be submitted to Council on an information basis.~~

Back Rating of Properties

~~That on provision of a valuation from the Valuer General's Office indicating that a previously incorrect valuation has been applied, (either under-valued or over-valued) the Chief Executive Officer shall forward a refund or adjusted assessment calculated to the date the valuation was effective, within the limitation of the **Local Government Act 1995**.~~

~~That where a property settlement has occurred, back rates raised shall only be backdated to the date of settlement, thus not affecting the previous owners.~~

~~That ratepayers subject to back rates be given the option to pay the same by alternative instalments over an extended period, other than the standard instalment option.~~

Instalment Options for Payment of Rates and Charges

~~Rate payers have the option of paying rates by four instalments. The first instalment must be made by the due date on the original notice.~~

~~Failure to pay the rates in full or the first instalment option by the due date will may deem rates to be outstanding and if not paid in full will be subject to legal action.~~

~~After 35 days from the issue of the original rate notice, ratepayers may forfeit the right to undertake the instalment option provided.~~

2. Alternative payment arrangements

The Shire of Chittering encourages ratepayers to contact the Rates Department if they are not able to pay their rates in full, or in instalments as set out on their original rate notice, in order to negotiate an acceptable payment arrangement.

Ratepayers can apply to the Shire for a payment arrangement. An **application form** is to be completed. The outstanding balance can be paid by making regular payments weekly, fortnight or monthly.

In order for the Shire to accept this arrangement, the regular payments must cover the amount of the rates and service charges levied for the year, including rates arrears by 31 May of the rating year. Other conditions may apply

Payment arrangements are subject to a “special arrangement fee”, plus late payment interest, as set by Council in its Annual Financial Budget; which will accrue over the arrangement period until paid in full.

Missed or late payments will result in this payment arrangement being cancelled, and further debt recovery action may be taken.

~~Should a ratepayer be experiencing difficulty in paying their rates by the due date or find the instalment method not suitable, application can be made to Council in writing specifying clearly the amount that can be paid and any reasons that would assist their application. This matter will then be referred to the Chief Executive Officer for determination. Council’s Special Payment Arrangement Fee is applicable on all alternative payment arrangements.~~

3. Where rates or service charges remain unpaid

Where rates remain ~~unpaid for a period in excess of one year~~ outstanding, ~~then~~ a caveat may be lodged to preclude dealings in respect of the land to protect Council’s interests.

Where previous actions to collect outstanding rates and service charges have not been successful and the rates and/or service charges remain unpaid for at least three years, Council in accordance with S6.64 of the Local Government Act 1995 **may** take possession of the land and hold the land as against a person having an estate or interest in the land and:

- a) from time to time lease the land; or
- b) sell the land; or
- c) cause the land to be transferred to the Crown; or
- d) cause the land to be transferred to the Shire of Chittering.

Early Payment

~~Should a ratepayer choose to undertake instalments and then clear their account within two weeks of the original due date, then the administration and interest costs will be reversed. Penalty interest will be applied to the payment made after the due date of the original rate notice. Should full payment be received after this date, no adjustment will be made to the costs.~~

4. Pensioners and Seniors

Persons registered to receive a pensioner or senior rebate under the *Rate sand Charges (Rebates and Deferrals) Act 1992* have until 30 June of the current financial and rating year to make payment.

Pensioners who hold only a partial ownership of their property or who hold only the WA Seniors card are not eligible to defer their rates and ESL.

Debt collection may commence where there is another ratepayer on the account who is not an eligible Pensioner or Senior and the account remains unpaid after the end of the financial year.

Debt collection may commence against eligible Pensioners and Seniors if the rubbish and any other fees and charges remain unpaid for a period of two (2) years or more.

5. **Rates Incentive Scheme – Terms & Conditions**

- 5.1. Payment in full to be made by mail or electronic format (date of receipt at the Council Office is the date of payment), or in person at the Shire Offices, 6177 Great Northern Highway, Bindoon.
- 5.2. Payment in full is to be receipted at Council's office on the due date stated on the front of the original rate notice.
- 5.3. No responsibility will be accepted for late service of any rate notice.
- 5.4. Only one entry per rate notice.
- 5.5. The winner will be determined by random selection ~~and announced at the next practical ordinary meeting of Council after the due date.~~
- 5.6. The winner will be notified ~~by post~~ and published in the Northern Valleys News, Chatter, eChatter, Shire of Chittering Website and Facebook.
- 5.7. Decision of the Council is final and no correspondence will be entered into.
- 5.8. ~~Once the prize has been collected by the winner, the Shire of Chittering accepts no responsibility for any costs or associated administration with the prize, including warranty.~~
- 5.9. ~~All other costs and expenses and expenses associated with the prize, beyond the specified prize, will be the responsibility of the winner. The winner is not entitled to any compensation if they are unable to use all or any part of the prize for whatever reason.~~
- 5.10. ~~If the prize, or any part of the prize, becomes available due to circumstances beyond the Shire of Chittering's control, then the Shire of Chittering may – at its absolute discretion – substitute a different prize in place of any prize as they see fit.~~

4.2 Informal Petitions to Council

Policy Owner:	Chief Executive Officer
Distributed to:	All Elected Members
Person Responsible:	All Executive Managers
Date of Approval:	17 February 2010
Amended:	16 September 2020

Where a petition does not conform to the Shire of Chittering's ~~Local Government (Council Meetings) Local Law 2014~~ *Standing Orders Local Law 2023* it may be treated as an "informal" petition, and the Chief Executive Officer may at his/her discretion forward the petition to a committee or to Council accompanied by an officer report.

Once received, a petition will be presented to the next Ordinary Council Meeting for acceptance and then forwarded to Administration for investigation and action.

A follow up report will be presented to an Ordinary Council Meeting as soon as is practical on a recommended course of action.

The submitter (the person who lodges the petition and to whom correspondence in respect of the petition may be served) will be advised of Council's resolution.

A petition will not be accepted if it is defamatory or any action it proposes is unlawful.

References:	<i>Local Government Act 1995</i> <i>Local Government (Constitution) Regulations 1996</i> <i>Shire of Chittering's Standing Orders Local Law 2023</i>
-------------	--

4.8 Notices of Motion

Policy Owner:	Office of the CEO
Distribution:	All Elected Members and Staff
Person Responsible:	All Elected Members
Date of Approval:	15 August 2020
Amended:	

Objective

To ensure the Elected Members are provided with an appropriate period for consideration of Notices of Motion; and to also provide a consistent approach to publishing the “Notices of Motion” in the Council ‘Draft’ Agenda Briefing papers, for Council’s consideration at the Council Agenda Forum.

To ensure the published Ordinary Council Meeting papers provide sufficient detail for the community to understand the rationale for the proposed motion.

Scope

Elected Members require Notices of Motion be included in Agenda Forum Briefing Papers, for consideration at the subsequent Ordinary Council Meeting. This is to provide Elected Members with an opportunity to consider and ask questions regarding proposed Notices of Motion, at the Agenda Forum meeting, prior to formal debate on the Notices of Motion at the Ordinary Council Meeting.

Clause 5.3 of Shire of Chittering’s ~~Local Government (Council Meetings) Local Law 2014~~ *Standing Orders Local Law 2023* provides that Notices of Motion must be given at least seven (7) days, before the Council meeting at which the Notices of Motion is to be moved. However; in order to be included in the ‘Draft’ Agenda for discussion at the preceding Agenda Forum an additional 7 (seven) days’ notice is required.

While every encouragement is made for Elected Members to conform to this Policy, it is acknowledged that it is the right of the Elected Member to refrain from adhering to these procedures, owing to its sub-ordinance of the process stipulated in the Shire of Chittering’s ~~Local Government (Council Meetings) Local Law 2014~~ *Standing Orders Local Law 2023*.

To assist Elected Members with adherence to Outcome 5 ‘Strong Leadership’ (*Strategic Community Plan 2017-2027 2022 - 2032*), allowing the Motions to be included in the Agenda ensures good governance that supports efficient and effective service delivery.

1. Drafting a Notice of Motion

Originating Members should refer to the Department of Local Government and Communities “A Guide to Meetings – Clause 8.3”, and “Operational Guideline No 7 – Clarity on Council Motions”.

<https://www.dlgsc.wa.gov.au/department/publications/publication/A-guide-to-council-and-committee-meetings>

Furthermore, originating Members are encouraged to seek the advice of the Shire’s Chief Executive Officer and/or Executive Managers in the formation of a Notice of Motion.

In the first instance consideration should be given, in discussion with the Chief Executive Officer, to determine if the matter can be dealt with through the normal course of business. This requires the Chief Executive Officer to agree to progress the Elected Member’s request for action through the normal course of business. This may be the most efficient process for dealing with the issue or matter.

Notices of Motion are to be submitted in writing and should as a minimum, include:

- Notice of Motion wording.
- Introduction.
- Background.
- Reason.

The Shire of Chittering’s “Notice of Motion” form ([Attachment 1](#)) is a pro-forma template which may be used for this purpose.

2. Notice of Motion Submission

The Chief Executive Officer will give consideration to the form of the Notice of Motion, in accordance with Clause 5.3 of Shire of Chittering’s ~~Local Government (Council Meetings) Local Law 2014~~ *Standing Orders Local Law 2023*.

Clause 5.3 of Shire of Shire of Chittering’s ~~Local Government (Council Meetings) Local Law 2014~~ *Standing Orders Local Law 2023* requires that Notices of Motion must be given at least seven (7) days before the meeting at which the Notices of Motion is to be moved. However, a timescale has been established which provides for the Notices of Motion to be included in the Agenda Forum Briefing papers and also allows for an Officer’s Comment to be prepared and included.

Accordingly, for the purpose of this policy Notices of Motion should be submitted to Chief Executive Officer seven (7) calendar days, prior to the Agenda Forum Meeting being held.

A Notices of Motion which may breach legislation will, with the concurrence of the President, be excluded.

3. Officer Comment

When the Chief Executive Officer has granted consideration to the form of the Notices of Motion, Officers with relevant subject matter expertise, will prepare a response for inclusion in the Agenda Forum Briefing papers.

The Officer's Comment may include material facts and circumstance, matters of policy, budget and law. As a guide the Officer's Comment may include:

- a) Relevance to Strategic Community Plan / Corporate Business Plan.
- b) Policy implications.
- c) Statutory requirements.
- d) Consultation requirements.
- e) Financial impact including budgetary impacts.
- f) Resource requirements.
- g) Alternative options.

4. Publication of 'Draft' Agenda Briefing Papers

Council 'Draft' Agenda Forum Briefing papers are ~~published and~~ issued to Councillors and Shire Executive Managers five (5) calendar days prior to the Agenda Forum meeting.

[A list of items included in the Agenda Forum Briefing papers will be published on the Shire website.](#)

Only approved Notices of Motion will be published in the 'Draft' Agenda Forum Briefing papers.

References:

- Department of Local Government and Communities "A Guide to Meetings – Clause 8.3
- Operational Guideline No 7 – Clarity on Council Motions

4.9 Code of Conduct – Behaviour Complaints Management

Policy Owner:	Governance
Distribution:	All Elected Members and Staff
Person Responsible:	All Executive Managers
Date of Approval:	16 June 2021
Amended	

Objective

To establish, in accordance with Clause ~~15~~ 17(2) of the Local Government (Model Code of Conduct) Regulations 2021 and Shire of Chittering Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Shire of Chittering's Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Shire of Chittering's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

Policy Scope

This Policy applies to complaints made in accordance with Clause ~~11~~ 13 of the Shire of Chittering Elected Member Policy 4.1 - Code of Conduct for Council Members, Committee Members and Candidates [policy](#).

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

Definitions

Act means the *Local Government Act 1995*.

Behaviour Complaints Committee means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

Behaviour Complaints Officer means a person authorised in writing [*by Council resolution or by the CEO exercising delegated authority*] under clause ~~11~~ 13(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

Breach means a breach of Division 3 of the Shire of Chittering Code of Conduct for Council Members, Committee Members and Candidates.

Candidate means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct means the Shire of Chittering Code of Conduct for Council Members, Committee Members and Candidates.

Committee means a committee of Council, established in accordance with s.5.8 of the Act.

Committee Member means a Council Member, employee of the Shire of Chittering or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

Complaint means a complaint submitted under Clause ~~11~~ 13 of the Code of Conduct.

Complainant means a person who has submitted a Complaint in accordance with this Policy.

Complaint Assessor means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

Complaint Documents means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form means the form approved under clause ~~11~~ 13(2)(a) of in the Code of Conduct [*by Council resolution or by the CEO exercising delegated authority*].

Council means the Council of the Shire of Chittering.

Council or Committee Meeting means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

Council Member means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

Finding means a finding made in accordance with under clause ~~11~~ 13(2)(a) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan means a Plan that may be prepared and implemented under clause ~~12~~ 14(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

Response Documents means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

Policy Statement

1. Principles

1.1 *Procedural fairness*

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
- the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
- any findings made will be based on proper and genuine consideration of the evidence.

1.2 *Consistency*

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

1.3 *Confidentiality*

The Shire of Chittering will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

1.4 *Accessibility*

The Shire of Chittering will ensure that information on how to make a complaint, including this Policy, is available at the Shire of Chittering's Administration Building and on the Shire of Chittering's website. The Shire of Chittering will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

2. *Roles*

2.1 *Behaviour Complaints Officer*

The Behaviour Complaints Officer is authorised in accordance with clause ~~11~~ 13(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with the Chief Executive Officer, to receive administrative support, including the appointment of a Complaints Assessor, where the Behaviour Complaints Officer determines that it is necessary to do so.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

2.2 *Complaint Assessor*

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 3.8 of this Policy.

The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

2.3 Behaviour Complaints Committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.

The Behaviour Complaints Committee is a Committee of Council Members only. The membership and purpose of the Behaviour Complaints Committee is outlined in "Committee Handbook - Behaviour Complaints Committee Terms of Reference".

3. Procedure

3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct [clause ~~11~~ 13(1) of the Code of Conduct].

A Complaint must be made within one (1) month after the alleged Breach [clause ~~11~~ 13(2)(c) of the Code of Conduct].

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made [clause ~~11~~ 13(2)(c) of the Code of Conduct].

3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and

To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with [clause ~~15~~ 17(1) of the Code of Conduct].

3.3 *Withdrawing a Complaint*

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint [clause ~~14~~ 16 of the Code of Conduct].

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

3.4 *Notice to Complainant*

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

3.5 *Notice to Respondent*

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- includes a copy of the Complaint Documents;

- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

3.6 *Alternative Dispute Resolution*

The Shire of Chittering recognises that Alternative Dispute Resolution may support both parties reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

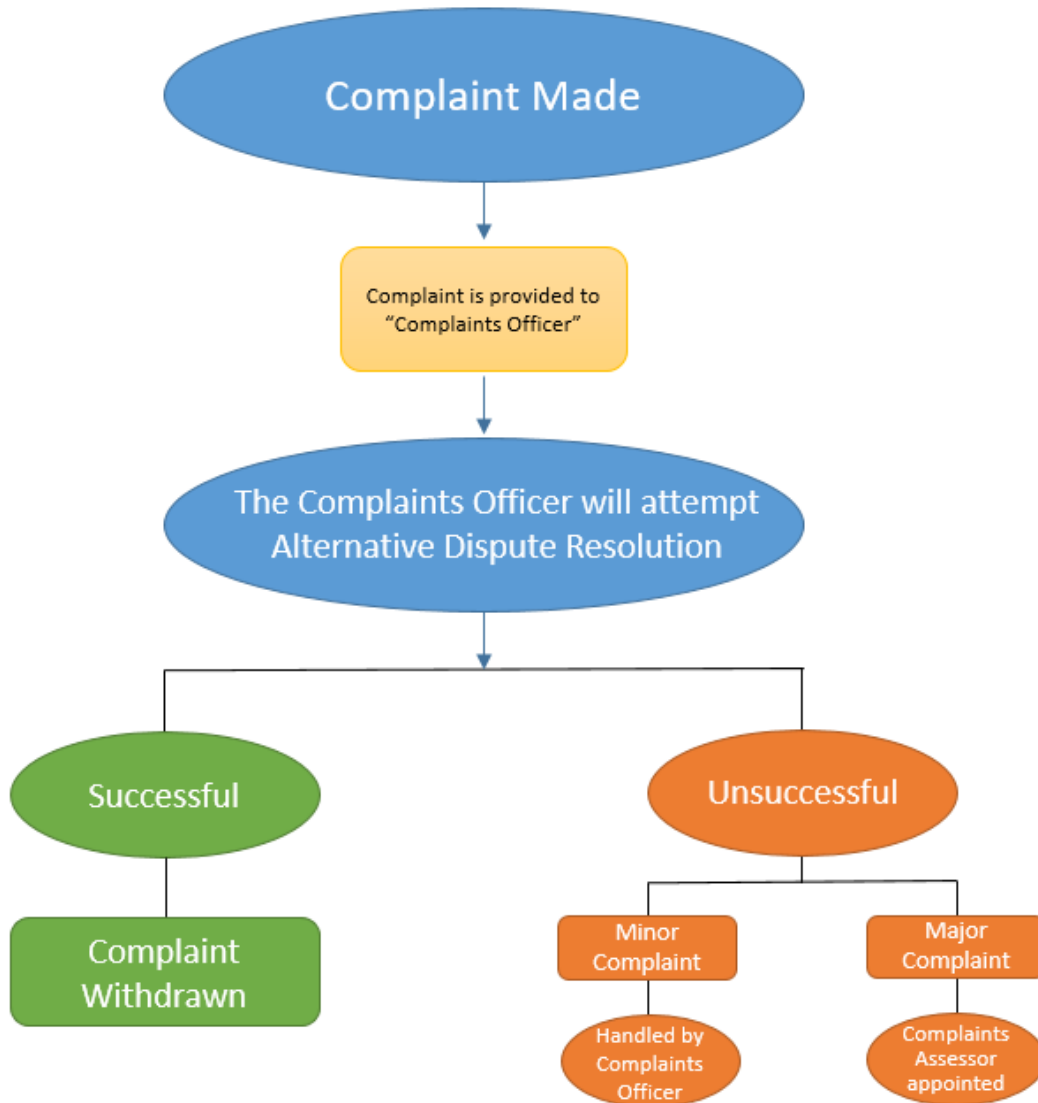
If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

3.7 *Order of Complaints*

Complaints will normally be dealt with in the order in which they are received.

If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

3.8 Appointment of Complaints Assessor



If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint the Complaints Officer can elect to follow the formal process internally or appoints a Behaviour Complaints Officer.

For “major” breaches the Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

3.9 Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Shire of Chittering's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

- the behaviour occurred at a Council or Committee Meeting,
- the behaviour was dealt with by the person presiding at the meeting, and/or
- the Respondent has taken remedial action in accordance with the Shire of Chittering ~~Local Government Council Meetings Local Law 2014~~ [Standing Orders Local Law 2023](#)

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

3.10 Assessment of the Complaint

The Complaints Officer or Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

3.11 Complaint Report

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- include recommendations on each decision that may be made by the Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause ~~12~~ [14](#)(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report

with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

3.12 Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the Local Government (Administration) Regulations 1996, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with Clause ~~13~~ 15 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause ~~13~~ 15(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause ~~12~~ 14 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach did not occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause ~~12~~ 14(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee finds that the alleged breach did occur, the Committee will decide whether to take no further action in accordance with clause ~~12~~ 14(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause ~~12~~ 14(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause ~~12~~ 14(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause ~~12~~ 14(5) of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

3.13 Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause ~~23~~ 25 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

4. Decision Making

4.1 Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

4.2 Dismissal

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause ~~13-15~~(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- a) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the Respondent has taken remedial action in accordance with the Shire of Chittering [Local Government Council Meetings 2014 Standing Orders Local Law 2023](#) .

4.3 Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [clause ~~12~~ 14(3) of the Code of Conduct].

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

4.4 Action

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct;
- personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

4.5 *Plan Requirements*

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Complaints Committee considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

References:

Local Government Act 1995
Local Government (Model Code of Conduct) Regulations 2021
Shire of Chittering Standing Orders Local Law 2023

9.6 Trading in ~~Thoroughfares and Public Places~~

Policy Owner:	Executive Manager Development Services
Person Responsible:	Principal Environmental Health Officer
Date of Approval:	12 December 2018
Amended:	20 April 2022

Objective

The Shire of Chittering '~~Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law~~' *Local Government Property and Public Places Local Law 2023* (the local law) includes in ~~Part 6 – Division 1~~, *Part 12* laws relating to stallholders and traders.

The objective of this Policy is to provide conditions subject to which an application for a Trader's Permit may be approved under ~~Section 7.2 (1)~~ *Part 12* of the local law. The local law will prevail if there is any conflict with any conditions of this Policy.

Policy

1. All applications for Trader's Permits must be made on the approved application form and provide all the necessary details to enable the application to be properly assessed.
2. Trader's Permits will only be issued for operation in approved locations which are determined by the Principal Environmental Health Officer (PEHO) in collaboration with the Executive Manager Technical Services.
3. The hours of operation shall be generally restricted to 7am to 9pm however times may be varied subject to individual application and assessment.
4. Trader's Permits will only be issued for a 12 month period following receipt of payment of the Shire's annual fee after which time an application for renewal must be made.
5. Any issues/complaints arising from the operations of permit holders will be assessed by the PEHO and, if not resolved, the Chief Executive Officer may revoke a permit upon recommendation of the PEHO.
6. Permit holders do not have exclusive right to any approved location and must be considerate of other users.
7. The PEHO will keep a register of permit holders and approved locations to avoid overuse of sites or excessive competition arising from the sale of similar products.
8. Nothing in this policy restricts registered food businesses from operating as temporary food businesses at public events subject to the approval of the PEHO and authorisation of the event coordinator.
9. **Traders Permits - Bindoon**

-
- 9.1 Traders permits for food vehicles/stalls will be issued for venues within the Bindoon townsite, Muchea town site or other locations of commercial sensitivity if they meet the requirements of the ~~Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law (Local Law)~~ Shire of Chittering Local Government Property and Public Places Local Law 2023;
- 9.2 Trader's permits for Clune Park will only be issued for 5pm – 9pm trading on any given day.

References:

Shire of Chittering Local Government Property and Public Places Local Law 2023