



Compliance and Enforcement Policy

Policy Type: Council Policy Policy Owner: Chief Executive Officer	Policy No. CP-114 Last Review Date: 18 November 2025
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Policy Objectives

The primary objectives of the Compliance and Enforcement Policy (the Policy) are as follows:

1. To achieve regulatory compliance and prevent offences through education and incentives, including formal action where necessary, with legislation within the remit of the City of Melville.
2. To ensure the City has access to adequate and reliable information necessary for the effective investigation of concerns.
3. To identify instances of non-compliance in a timely and accurate manner.
4. To facilitate the prompt resolution of non-compliance by bringing all parties into compliance within a reasonable timeframe.
5. To guarantee that procedural fairness is afforded to all affected parties throughout the enforcement process.
6. to ensure that compliance and enforcement actions are proportionate to the scope and severity of the issues being investigated.
7. To maintain transparent communication by keeping affected parties and relevant stakeholders informed throughout the enforcement process.

Policy Scope

The Elected Members, staff and contractors at the City of Melville are committed to contributing to an efficient, effective, systematic, and consistent approach that strives for continuous improvement in the management of compliance and enforcement. This is essential for maintaining public trust, and ensuring that compliance and enforcement activities within the City's legislative jurisdiction adhere to established statutory requirements.

The Compliance and Enforcement framework adopts a risk based, graduated and proportional approach to compliance and enforcement, for matters that are within the remit of the City of Melville. The Policy encapsulates the principles of natural justice and procedural fairness.

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This Policy applies to all compliance and enforcement actions conducted by the City of Melville officers and relevant personnel. It will provide direction to City Officers when undertaking enforcement action and ensures that matters are escalated to the appropriate level of enforcement that is commensurate with the issue.

The City's role is responding primarily to reactive compliance activities, and the resourcing allocated, reflects this position.

The City of Melville will take a risk-based approach to any proactive compliance activities with safety and protection of amenity being key considerations of the City's response.

The Policy references but does not completely describe legislated processes of enforcement in conjunction with the City of Melville Risk Matrix.

This Policy is intended to complement and is not a substitute for the:

- Compliance and Enforcement Guideline for Enforcement Agencies published by the Western Australian Department of Health for compliance and enforcement of the *Food Act 2008*, *Food Regulations 2009* and Australia New Zealand Food Standards Code.
- Compliance and Enforcement Policy published by the Department of Water and Environmental Regulation applicable to the *Environmental Protection Act 1986*, *Litter Act 1979* and related legislation.
- Public Health Act guidance resource for local government authorised officers published by the Western Australian Department of Health for the implementation of the *Public Health Act 2016*.

Definitions / Abbreviations Used In Policy

Amenity has the same meaning as in Local Planning Scheme No 6.

Authorised Officer means an officer who has statutory (including delegated) power or who are otherwise authorised to undertake activities in accordance with legislation.

City means the City of Melville.

Complaint means a formal report of alleged non-compliance with a law.

Compliance means acting in accordance with relevant legislation and lawful directions.

Enforcement relates to the legislative function of responding to non-compliance with the measures provided for in the relevant legislation.

Investigation means the process of establishing and analysing facts and applying fair and reasonable interpretations to determine whether non-compliance or an offence have occurred and the person most likely responsible.

Non-compliance means to do something prohibited by legislation or a lawful direction, or to fail to do something that legislation or a lawful direction requires a person to do.

Offence means a form of non-compliance that is classified as an offence in legislation.

Public health and safety means the welfare and protection of the general public.

Policy Statement

The City is responsible for the local administration of a wide variety of legislation that provides for the safety, health and amenity of the community, environmental protection and the interests of local business, consumers, workers and residents.

The City recognises the importance of the separation of powers between:

- the adoption of Local Laws and Policy by Council, acknowledging that Elected Members have no direct role in the application of compliance or enforcement matters; and
- the investigation function and the application of compliance and enforcement actions, which are the responsibility of Authorised Officers acting under delegated authority, in accordance with applicable legislation and policies.

Compliance and enforcement operations undertaken by the City are often complex and have many facets to them. It is essential that the City provides a consistent approach to compliance and enforcement activities to ensure that transparency and procedural fairness is provided at all times.

Compliance Approach

Diagram below provides a visual overview of the manner in which the City recognises the interaction of occurrences of offences, the impact of those offences and the City's response to those. The escalation of enforcement action to achieve compliance is generally a graduated approach but is also dependant on the circumstances of each individual case. These interactions are considered as part of the investigation process undertaken by the City.

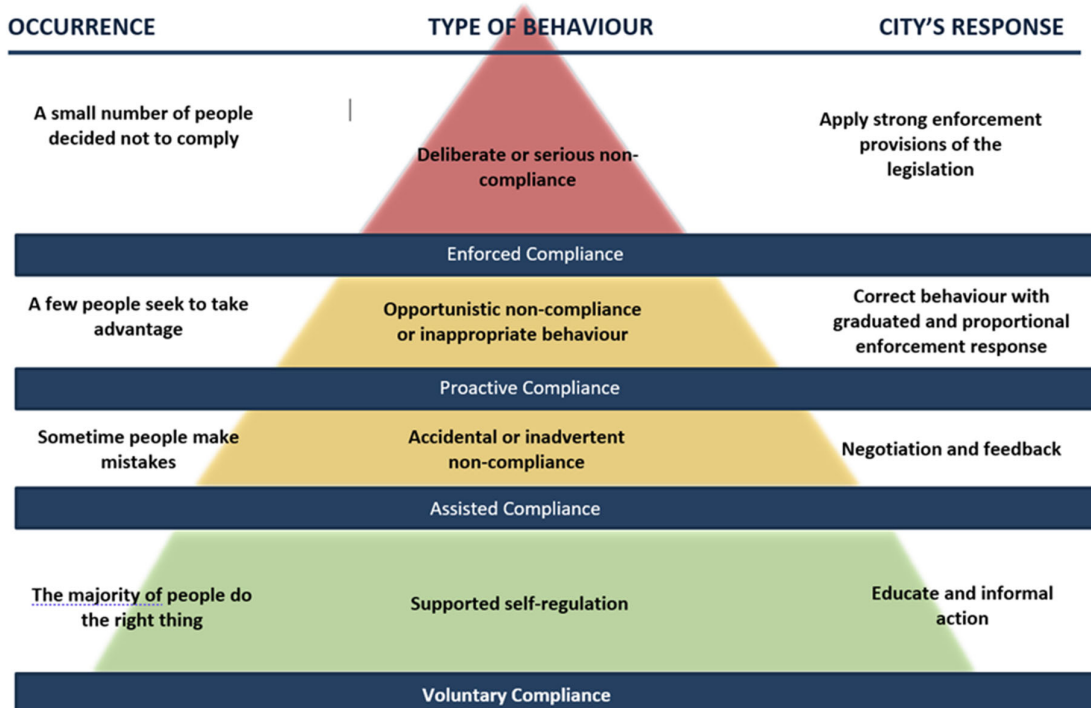


Diagram: City of Melville's Enforcement progression



This policy strives to realise the highest standards of compliance across its operations. The approach is built on via five key pillars:

- **Education & Awareness**
Provide resources to ensure that all employees and stakeholders understand relevant laws, regulations and Policies that are subject to an investigation.
- **Advisory Support**
Offer guidance to assist in navigating regulatory complexities, ensuring informed decision-making and minimising compliance risks.
- **Monitoring & Inspections**
Proactively conduct regular statutory inspections to identify and address potential compliance risks, ensuring consistent adherence to standards.
- **Complaint Investigation**
Committed to investigating all reactive compliance-related concerns. Each complaint is investigated, and corrective actions are implemented to resolve issues, with the aim of preventing recurrence.
- **Informed and Updated**
Customers and stakeholders are kept informed of the progress of the investigation at regular intervals throughout the process.

Guiding Principles

Compliance and Enforcement services provided by the City are driven by the principles described below:

Proportionality and responsiveness

Enforcement action will be responsive, timely and in proportion to risk and potential or actual impact.

Due process and procedural fairness

Enforcement action will be carried out within the powers and processes of the legislation, applying principles of procedural fairness.

Transparency

Enforcement action will be transparent to parties understand what is expected of them.

Accountability

To ensure full accountability, enforcement decision and the conduct of authorised officers will be explained and open to public scrutiny.

Consistency

Enforcement action will be administered fairly, consistently and equitably.

Cost-effectiveness

Enforcement action will be implemented to produce the desired outcome with costs effective use of public resources.

A risk-based approach

Effort will be focused on those activities that have the potential to cause the greatest harm.

Policy compatibility

Enforcement will be carried out within the context of wider local government policies and other relevant statutory requirements.



Identification and Powers of Entry

In enforcing compliance, Authorised Officers must carry and present a Certificate of Authority. This certification validates their legal authorisation and ensures that entry and enforcement actions align with the law. Below are the essential guidelines detailing the required credentials and legal frameworks that govern their powers, supporting the City's commitment to a risk-based and lawful enforcement approach

Certificate of Authority

All Authorised Officers or Inspectors must possess and have available for viewing an Authorisation Identification Card or other relevant document.

The requirements of an Authorisation Identification Card are set out in relevant legislative documents.

Powers of Entry

There are several pieces of legislation that provide the City with powers to enter private property with lawful authority. The City views the power to enter private property very seriously and the City's Delegated Authority and appointment of Authorised Officers enables those Officers to legally enter property to undertake specific functions or actions.

Investigations

The City is committed to conducting thorough investigations to ascertain facts regarding alleged non-compliance with laws and regulations. The investigative process begins with receiving information about potential non-compliance, assessing the validity of this information, and employing a risk-based approach. This leads to informed compliance and enforcement actions throughout the investigation.

This crucial step ensures that all enforcement actions are well-founded and tailored to the nature and severity of the violation, thereby upholding community standards and legislative requirements.

Discovery of Non-compliance

The City may become aware of an alleged non-compliance or a legislative breach, within the District through either a site inspection, aerial photography or a complaint.

Anonymous complaints may not be accepted or actioned by the City due to difficulties in undertaking enforcement action. However, there may be circumstances where the nature of the complaint is considered to be of a high public health or community safety risk worthy of an immediate City response.

Where complaints have been received by the City and are found to have insufficient evidence, the complainant will be advised of this and the complaint will be closed unless more information can be found.

Every effort will be made to ensure the confidentiality of the complainant where appropriate. All complainants must agree to provide evidence in court upon request by the City. If a complainant refuses to do so, and the complaint cannot be substantiated, the City will not proceed with further action.



If the complaint involves multiple issues that relate to various City Departments, the matter will be coordinated to ensure a joint investigation by City Officers, reducing inconvenience and confusion to owners and occupiers.

Risk Assessment Process

The Risk Assessment Process is a critical component of the City's compliance approach. Officers use the City of Melville Risk Matrix to systematically evaluate and manage potential risks associated with non-compliance issues.

The process for a risk-based assessment is as follows:

Initial Assessment

Upon receiving a complaint or initiating an investigation, officers are required to perform an initial risk assessment to identify potential safety, legal, environmental, and reputational risks associated with the case.

Consider factors such as the severity of the violation, the sensitivity of the location, and potential impacts on the community and environment.

Dynamic Assessment

Officers are expected to continuously assess risks throughout the investigation. As new information surfaces, reassess and adjust the risk management strategies accordingly.

Engage with other departments as necessary to gather expertise and share critical information that may influence the risk assessment.

Documentation

Document all risk assessments and updates in the investigation file in a format and to a standard and detail which will be suitable for use in any legal proceedings. This documentation should include details of the assessed risks, the rationale for the risk level determination, and any mitigation measures adopted.

Ensure that documentation is accessible for review and audits to support transparency and accountability in enforcement actions.

Risk Mitigation Strategies

Based on the risk assessment, implement appropriate mitigation strategies. These may include but are not limited to, seeking additional resources, legal advice, adjusting enforcement tactics, or involving Senior Officers or Subject Matter Experts for guidance.

Regularly review and update mitigation strategies to respond to new risks or changes in the situation.

Training and Support

Provide ongoing support for all officers on risk assessment techniques and the latest compliance and enforcement challenges. The City will encourage a culture of safety and risk awareness, where officers feel equipped and supported to make informed decisions during their enforcement duties.

Jurisdiction

Any compliance issue falling outside the jurisdiction of the City will be referred to the relevant authority for action, and the complainant will be advised accordingly. No further action will be able to be taken by the City in these circumstances.

Where a compliance issue falls partly within the jurisdiction of the City and partly within the jurisdiction of another authority, that part falling within City's jurisdiction will be dealt with in accordance with this policy, and that part falling outside the City's jurisdiction will be referred to the relevant authority for action, and the complainant will be advised accordingly.

Compliance Options

To effectively manage non-compliance matters, the City of Melville employs a comprehensive range of compliance options. These options are designed to address various levels of non-compliance through a structured and gradual approach that ranges from educational measures to enforcement actions. Below is an overview of the key compliance strategies utilised by the City.

- **No Action**
Appropriate when the issue is outside of Council's area of operation or jurisdiction; is trivial in nature, pursuit is not in the public interest or where there is no breach of the relevant legislation.

Voluntary Compliance

- **Education**
Used as a tool to enhance compliance by informing businesses and the public about their legislative and other requirements, and the community impacts of their behaviour.
- **Informal Action**
Informal verbal or written advice or warning may be used when the offender's history suggests that informal action may be effective or when the consequences of non-compliance will not pose a significant risk to public health or nuisance to the community.

Proactive & Assisted Compliance

- **Negotiation**
Negotiations may foster relationships, build trust and demonstrate reasonableness to the community. Negotiation can often be the least time-consuming approach in achieving an acceptable outcome, however, it is dependent upon the seriousness of the breach and willingness of the offender to comply. Negotiation cannot always be relied upon to achieve the desired outcome.
- **Mediation**
Mediation may be used in accordance with the Neighbour Dispute Mediation Policy. The City may choose to suspend compliance action or defer decision making on a matter where the relevant parties have agreed to attempt mediation
- **Regulatory Assistance**
Where a breach relates to use or works or activity undertaken without approval, the City may guide and assist the party to submit an application where such a development or activity is capable of approval, subject to a merits-based assessment.

The City may allow the minor offence to continue (subject to ongoing cooperation) until the appropriate application is determined, dependent on the scale and impact.



Enforced Compliance

Enforcement tools are more formal in nature and generally impose a penalty for non-compliance. These options are designed to ensure compliance are statutory based tools, where their use is restricted to Authorised Officers and a prescribed process. All enforcement options that are available to the City will be utilised in accordance with the severity and consequences of the alleged offence and will be applied in a graduated manner.

The enforcement tools available to the City include:

Formal Letters

The City uses formal letters as an essential compliance tool to provide clear communication regarding alleged non-compliance, required actions, and potential enforcement consequences.

Formal letters may include, but are not limited to:

- Warning Letters – Issued where a minor or first-time offence has been identified, advising the recipient of the non-compliance and requesting voluntary rectification within a specified timeframe.
- Request for Information Letters – Sent to obtain clarification or supporting documentation from property owners, occupiers, or businesses regarding suspected breaches of legislation.
- Notice of Investigation – Advises the recipient that the City is investigating a compliance matter and outlines the process and possible outcomes.
- Final Compliance Notices – Issued where initial warnings have not been adhered to, setting a strict deadline for compliance before escalation to statutory enforcement measures such as infringement notices, orders, or prosecution.

Where necessary, follow-up inspections or further communication will be undertaken to verify compliance and determine if additional enforcement action is required.

Statutory Notices

Relevant Statutory Notices will be used where there is a duty to do so in order to protect public health, community safety or to enforce legislation where the use of a Statutory Notice is applicable.

Notices require the recipient to comply with the terms of the Notice (such as work to be undertaken or the modification of activities) within the specified timeframe. In most cases the person receiving the Notice has a right of appeal to the State Administrative Tribunal (SAT).

Action in Default

The City will consider the use of this option (where provided for by legislation) to secure compliance with the requirements of Notices where the necessary works have not been carried out in accordance with the Notice. This action will be taken in consultation with the Chief Executive Officer and may require a court conviction and/or a decision of Council.



Orders and Directions

The City will consider the following options individually or collectively with other enforcement action as particular circumstances warrant. These Orders will generally apply where there has been a history of non-compliance by the recipient or there is a risk to the health or safety of the person or other members of the community.

Examples include:

- Prohibition Orders,
- Directions,
- Building Order and Emergency Building Order
- Enforcement Orders
- Prohibition Orders and Directions
- Works Order (Fire Control Order)
- Noise Abatement Orders; and
- Declaration of a Dangerous Dog.

This action will be taken in consultation with the Chief Executive Officer where appropriate or with the appropriate Delegation.

Improvement Notices

Improvement Notices may be appropriate for repeated minor breaches of legislation or broad non-compliances. The following circumstances are likely to warrant an Improvement Notice:

- A failure to correct an identified problem after having been given reasonable opportunity to do so,
- Low confidence in the individual/organisation's performance; or
- A warning has been given for a similar offence.

Infringement Notice

Infringement Notices may be appropriate for continued minor breaches of legislation or failure to comply with an Improvement Notice or Caution Notice. Infringement Notices may also be issued for minor or common offences.

Seizure, Impounding and Destruction

Local governments have the authority to seize, impound and destroy items for the purposes of evidence collection and the protection of the public. This power is conferred within numerous legislation, including the *Dog Act 1976*, the *Public Health Act 2016*, *Tobacco Products Control Act 2006*, *Local Government Act 1995* and the *Environmental Protection Act 1986*. Seizure can only occur under certain circumstances as prescribed within the legislation and be undertaken by Authorised Officers and where applicable with the assistance of WA Police.

Warrants

The City recognises that certain enforcement actions may require obtaining a warrant to ensure lawful entry and compliance with due process. Where an Authorised Officer does not have immediate statutory authority to enter premises, a warrant will be sought in accordance with the applicable legislation.



A warrant may be required under the following circumstances:

- To enter private property where consent has been refused or is impracticable to obtain, and entry is necessary to investigate or enforce compliance.
- To seize equipment, or other materials that are relevant to an investigation.
- To undertake enforcement actions such as removing unlawful structures, dangerous goods, or hazardous materials that pose a risk to public safety.

Where a warrant is required, the City will apply to the appropriate authority, such as a Magistrate or Justice of the Peace, in accordance with the relevant legislative provisions. All applications for warrants must be supported by sufficient evidence demonstrating the necessity and proportionality of the action.

The City is committed to ensuring that any warrant execution is conducted lawfully, with due regard to procedural fairness, privacy, and minimal disruption to affected persons. Where necessary, the City may seek assistance from law enforcement agencies to execute a warrant safely and effectively.

Prosecution

A decision to prosecute must be in the public interest and approved according to delegation provisions. Any of the following circumstances are likely to warrant a prosecution:

- A flagrant breach of the law such that health, safety and welfare have been put at risk,
- A failure to correct an identified serious problem after having been given reasonable opportunity to do so,
- An activity or action that has significant impact or permanent impact,
- An activity or action that may result in a commercial benefit to the alleged offender
- A failure to comply with the requirements of a Statutory Notice; or
- A history of similar offences.

Where circumstances warrant a prosecution, available evidence and information must be considered to enable a consistent, fair and objective decision to be made.

A prosecution may be discontinued where:

- In the opinion of the Delegated Officer, the appropriate level of compliance has been achieved, and/or it is no longer in the public interest to continue the prosecution of the offence,
- Where external guidance indicates that the discontinuation of a prosecution would be an appropriate pathway forward and in the interests of the City based on information available.
- The prosecution complaint is incorrect at law or there is an error in the charges,
- The prosecution involves an error of fact,
- The alleged offender is deceased or cannot be located; or
- In consultation with or following comments or recommendations made by the Court.



The below diagram illustrates the structured approach used by the City of Melville to manage and respond to reports of non-compliance, detailing the decision-making process from initial assessment through to potential enforcement actions.

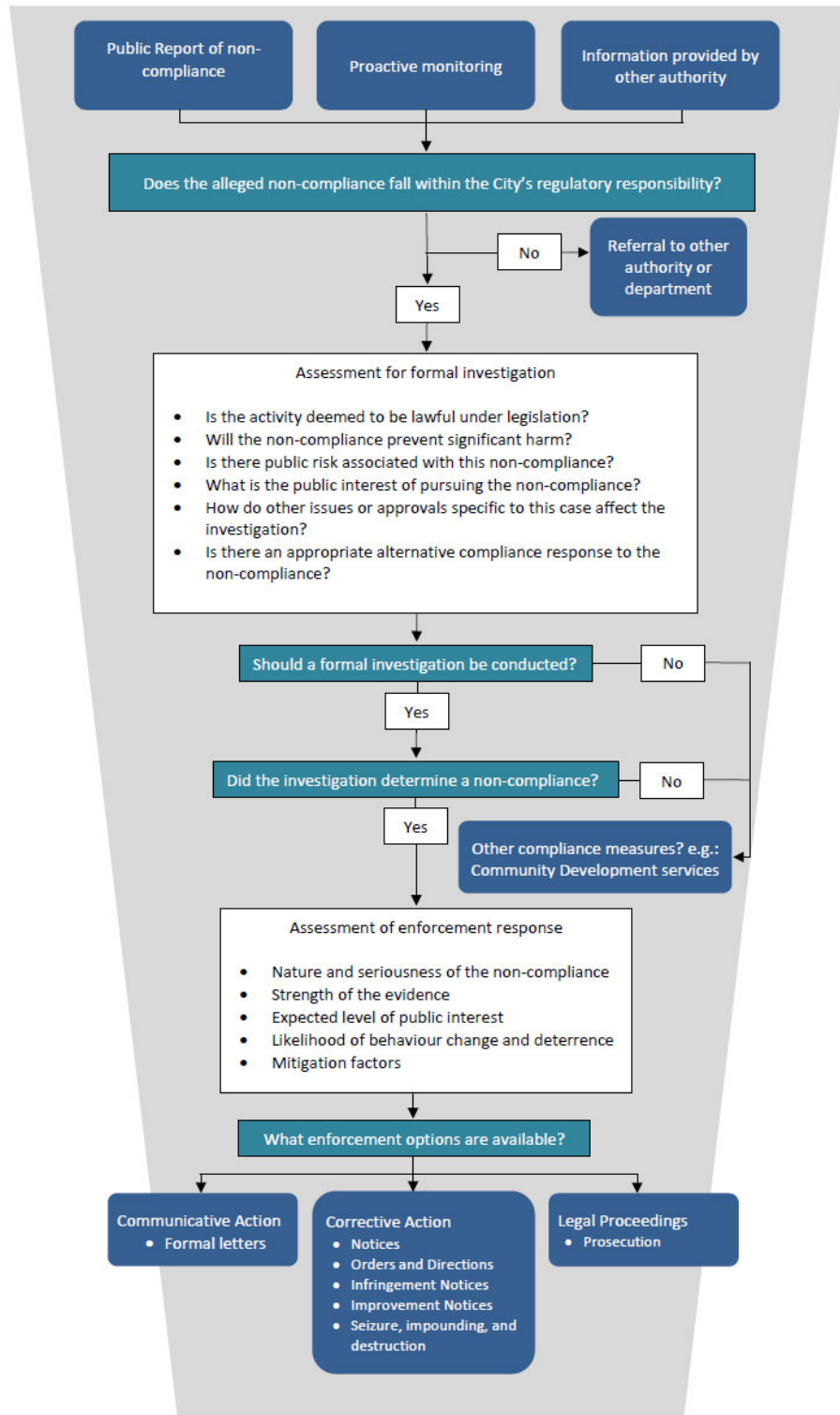


Diagram: City of Melville Compliance & Enforcement Approach



References that may be applicable to this Policy

Legislative Requirements:

Local Government Act 1995
Local Government (Miscellaneous Provisions) Act 1960
Building Act 2011
Bush Fires Act 1954
Caravan Parks and Camping Grounds Act 1995
Cat Act 2011
Control of Vehicles (Off-road Areas) Act 1978
Criminal Procedure Act 2004
Dog Act 1976
Environmental Protection Act 1986
Fines, Penalties and Infringement Notices Enforcement Act 1994
Food Act 2008
Graffiti Vandalism Act 2016
Health (Miscellaneous Provisions) Act 1911
Litter Act 1979
Planning and Development Act 2005
Public Health Act 2016 and
subsidiary legislation including local laws

Other Plans, Frameworks, Documents Applicable to Policy:

City of Melville Risk Matrix
CP-125 Neighbour Dispute Mediation Policy
City of Melville Codes of Conduct
Customer Service Charter
OP-42 Managing Unreasonable Behaviour Policy

Delegated Authority No:

CREATION/ REVISION AUTHORITY

Ordinary Meeting of Council

21 July 2020

Item No.

M20/5754

Reviews

Ordinary Meeting of Council

21 June 2022

M22/5916

Ordinary Meeting of Council

18 November 2025

UP25/90