



Gisborne District Council

Kaupapa Here Aroturuki me te
Whakamana Whakaū

Compliance Monitoring and Enforcement Policy






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Introduction

Local government in New Zealand is responsible for ensuring compliance with a variety of laws and regulations that are aimed at achieving positive community and environmental outcomes.

Gisborne District Council (Council) has a number of obligations relating to the implementation and enforcement of the legislation and regulations relevant to the Tairāwhiti/Gisborne District.

In carrying out our duties under this legislation Council needs to:

- meet our statutory obligations
- meet the expectations of our community
- work in a way that reflects our corporate values
- further the vision and mission of Council.

Compliance monitoring and enforcement (CME) refers to the activities the council undertakes to ensure compliance with legislation. CME is often interpreted to mean just enforcement. However, enforcement is only a subset of CME and is normally taken when other CME activities such as compliance promotion and monitoring efforts have proved unsuccessful, or a breach of the legislation is significant.

The following definitions are used throughout this policy:

- **Compliance:** adherence to the legislation.
- **Monitoring:** the activities carried out by council to assess compliance with the legislation. This can be proactive (eg, resource consent or permitted activity monitoring) or reactive (eg, investigation of suspected offences).
- **Enforcement:** the actions taken by council to respond to non-compliance with the legislation. Actions can be punitive (for the purpose of deterring or punishing the offender) and/or directive (eg, directing remediation of damage or ensuring compliance).


The Compliance Monitoring and Enforcement Policy provides a clear understanding of Council's management of compliance and enforcement in relation to its statutory obligations and responsibilities. It is intended that the policy will encourage a regional culture of proactive compliance, accountability, consultation, and co-operation.

Purpose

The purpose of this policy is to provide an understanding of the Gisborne District Council's 'principles based' approach to compliance and enforcement in relation to its statutory obligations and responsibilities. The overall aim in applying this policy is to protect and promote the long-term sustainable management of Tairāwhiti/Gisborne's natural and physical resources, and promote strong, safe and healthy communities.

A compliance and enforcement framework is an effective means of managing activities that might otherwise impact negatively on public health, safety and well-being, or cause environmental damage. The framework described below is designed to ensure that specific activities are undertaken within established guidelines and standards.





Measures to guide, encourage and, if necessary, enforce compliance are part of the methods that Council employs to achieve its regulatory objectives. The compliance framework provides guidance to the public on regulatory requirements and encourages observance of those requirements. Where rules and regulations are not voluntarily observed, a range of enforcement approaches may be used to achieve compliance.

This policy will ensure that decisions about compliance and enforcement are in accordance with the legislation and regulations and are equitable and consistent.

The policy also describes what to expect during an investigation. As a Unitary Authority, Council covers both Regional and Territorial Authority responsibilities. It therefore has broad ranging legislative responsibilities, including the statutory obligation to enforce its legal duties and responsibilities under the wide range of legislation it administers.

The policy:

- sets the purpose and principles by which we promote and enforce compliance with the legislation GDC enforces; and
- ensures a consistent and integrated approach to compliance and enforcement of this legislation by Council.

What our compliance teams do

Monitoring and Compliance Team (including Forestry)

The Monitoring and Compliance and Forestry Teams are responsible for promoting and monitoring compliance with:

- The Resource Management Act 1991 (RMA), associated regulations and the Tairāwhiti Regional Management Plan with the aim of ensuring the resources of our land (natural and physical) are used in a sustainable manner that enables people and communities to provide for their social, economic and cultural well-being now and into the future, and avoiding, remedying and mitigating any adverse effects of those activities on the environment (both natural and man-made).
- Gisborne District Council bylaws so that all community members can enjoy Tairāwhiti/Gisborne's services and amenities and ensure public safety in public spaces.
- Other legislation relevant to the protection of the natural environment and community amenities such as the Freedom Camping Act 2011, Reserves Act 1977 and Litter Act 1979.


The team operates a 24/7 on-call response to reports of pollution in the environment.

Animal Control & Parking Team

The Animal Control and Parking Team monitors and enforces compliance with:

- The Dog Control Act 2000 so that the community can live and carry out their business without being distressed or intimidated by animals (coming within our mandate) that are not properly controlled or cared for, and individual community





members can safely and responsibly own animals. This includes an education programme in schools and workplaces and rehoming and reuniting dogs with owners.

- The Traffic and Parking Bylaw 2021 to combat the negative effects of illegal parking and monitor parking to ensure continued turnover.

Environmental Health Team

The Environmental Health Team keeps the community and environment healthy and safe by monitoring and enforcing compliance with the:

- Food Act 2014 to ensure local food businesses meet food safety standards, so that people can enjoy food prepared, sold, and consumed in Tairāwhiti/Gisborne without a concern about risk to health.
- The Sale and Supply of Liquor Act 2012 to ensure residents enjoy a safe and healthy environment when participating in public events or attending public premises or places, without being confronted by anti-social or illegal activity associated with the consumption of alcohol.
- The Health Act 1956 to ensure other premises and businesses meet the required Health Act standards (e.g. camping grounds, hairdressers) and to respond to nuisances affecting the wider community. This team does this by processing applications, education, administration, monitoring and enforcement, and inspection and verification of premises. It also investigates Requests for Service (RFSs) and operates a 24/7 on-call response to reports of nuisances under the Health Act and RMA that affect the community in the region.

Incorporation of mātauranga Māori

Council's Tairāwhiti Piritahi: Fostering Māori Participation in Council Decision-Making Policy promotes and facilitates Māori participation in Council's decision-making processes, including a framework for building organisational capability and additional opportunities for Māori to contribute to Council's decision-making processes. It provides that the policy framework applies to all the work that Council does.

The Nga Ariki Kaiputahi Hapu/Iwi Management Plan, that establishes a strategic vision for the sustainable management of natural and physical resources within the Mangatu rohe was lodged with Council on 26 April 2012.

In accordance with the policy and agreements, and with section 8 of the RMA, Council will integrate mātauranga Māori into its CME processes and decisions.





Our regulation framework

This part of the Policy sets out the principles underlying our CME function, how we encourage compliance and how we respond to non-compliance.

Compliance Principles

The following principles apply to our compliance and enforcement work:

Transparency

We will provide clear information and explanation to the regulated community about the standards and requirements for compliance. We will help the community to understand what is expected of them, as well as actions taken by us to address non-compliance.

Consistency of process

Our CME processes and actions will be consistent with legislation and within our powers. We will strive for consistency in education and advice we provide, response to non-compliance, our use of powers, and decision making on compliance matters. However, we also recognise that consistency does not simply mean uniformity. Staff will take into account many variables and decisions on compliance are a matter of professional judgement and discretion.

We will ensure our team members have the necessary skills and are appropriately trained, and that there are effective systems and policies in place to support them.

Fair, reasonable and proportionate approach

We will ensure that our regulatory interventions and actions will be appropriate for the situation and proportionate to the risks posed to people and the environment and the seriousness of the non-compliance.

Evidence-based and informed

We will use an evidence-based approach to our decision-making, our decisions will be informed by a range of sources, including sound science, information received from other regulators, members of the community, industry and interest groups.

Collaborative

We will work with and where possible, share information with other regulators and stakeholders to ensure the best compliance outcomes for our region. We will engage with the community and those we regulate, to explain and promote regulatory compliance and achieve better community and environmental outcomes.

Lawful, ethical, impartial, and accountable

We will conduct ourselves lawfully and impartially and in accordance with these principles and relevant policies and guidance. We will document and take responsibility for our regulatory decisions and actions. We will measure and report on our regulatory performance.

Targeted

We will focus on the most important issues and problems to achieve the best environmental or community outcomes. We will target our regulatory intervention at illegal activities and



poor performers that pose the greatest risk to the environment and community. We will apply the right tool for the right problem at the right time.

Responsive and effective

We will consider allegations of non-compliance to determine the necessary interventions and action to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations.



Encouraging compliance

Encouraging compliance through developing understanding and changes of behaviour is an important part of achieving compliance. Council has a “spectrum” approach to encouraging positive behaviour change and ensuring the highest levels of compliance possible through developing understanding and sustained behaviour change. The CME team applies the 4 Es approach¹ (Engage, Educate, Enable and Enforce) in their compliance programmes.

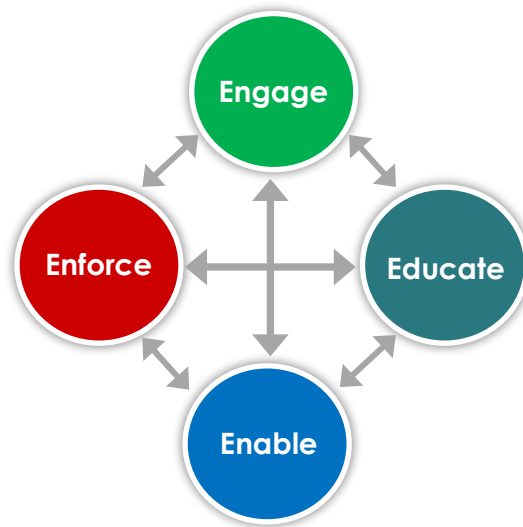


Fig.1 The 4E Model

Council's 4Es approach to ensuring compliance includes:

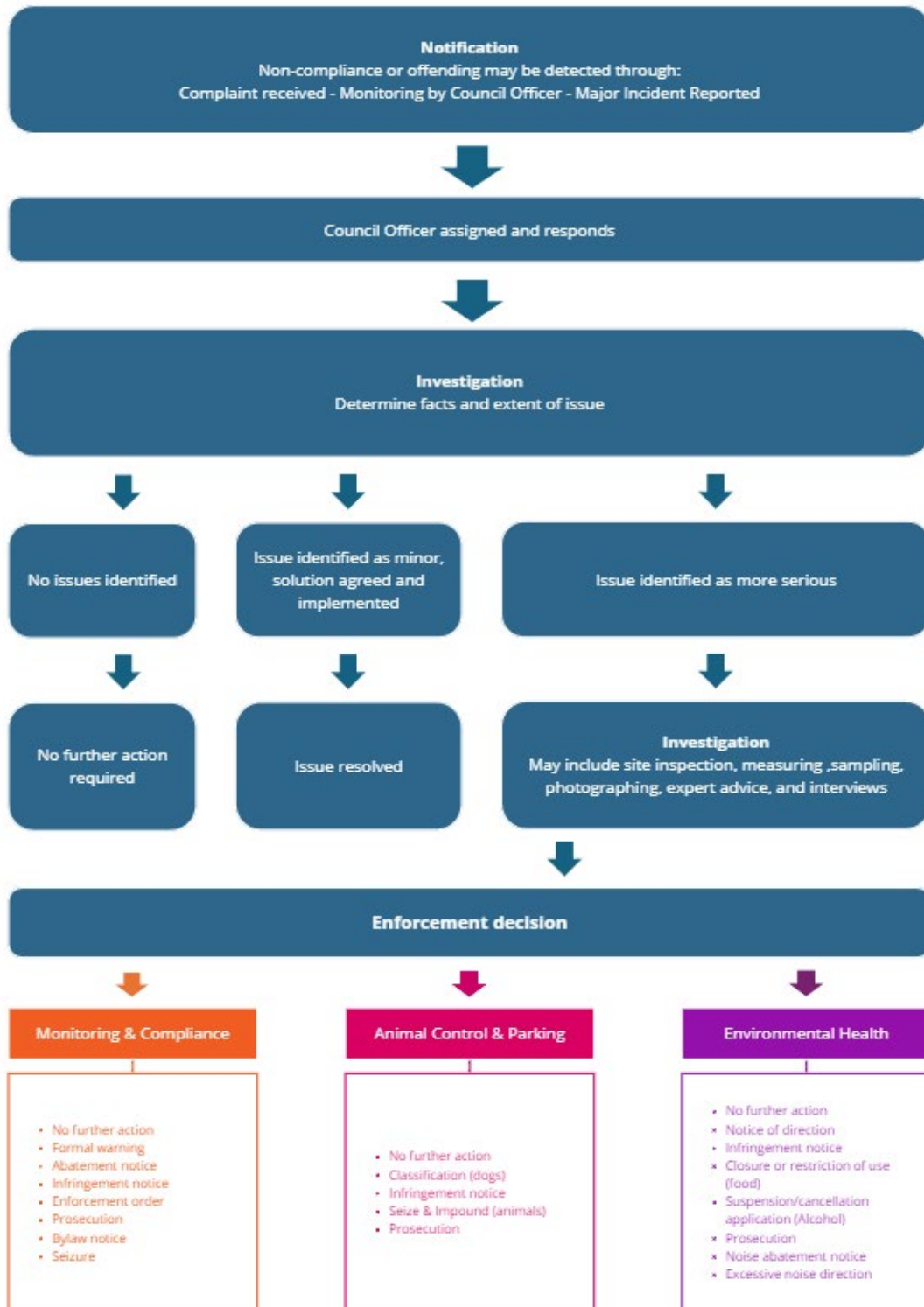
- **Engage** - consulting with regulated parties, stakeholders and the community on matters that may affect them. Recognition and reward for those who lead best practice and are seen as exemplars, going above and beyond mere regulation.
- **Educate** - education for those who are unaware of rules or need reminding of their obligations and the reasons for their obligations so they will better understand what is compliant and what is not.
- **Enable** - supporting regulated parties to develop best practice, to encourage compliance, or better, by their peers and within their industry.
- **Enforce** - enforcement for those who breach regulations. The legislation enforced by Council provides a number of enforcement tools that can be applied to people who have committed breaches.

¹ Adapted from: The Compliance and Enforcement Special Interest Group. Regional Sector Strategic Compliance Framework 2016-18



Responding to non-compliance


The process of responding to and investigating non-compliance and enforcement decision-making is set out in the following diagram.



Receiving complaints about a potential breach

Complaints can be made to Council via a number of methods, including phone, email, and Council's Fixit App. It helps to provide as many details as possible. These include the





identity and address of the complainant, the address at which the alleged breach has taken place, a description of the unauthorised activity, and the harm that is believed to be caused. Complainants may also be encouraged to send in dated photographs of the alleged breach.

Council will ensure that:

- All valid complaints are properly recorded and investigated.
- The personal details of the complainant are held in the strictest confidence.
- In cases involving serious and/or irreversible harm, the complaint is investigated as a matter of priority, usually within 24 hours of receipt.
- The complainant is updated on any subsequent action that may result as soon as reasonably practicable.

Council does not take sides in a dispute. It will, however, judge what action is appropriate according to the evidence, particular circumstances, impact on people, impact on the built or natural environment, relevant policies, and legislation. Council uses a risk-based process to identify and assess the likelihood and potential impact of adverse effects resulting from these activities and to prioritise responses accordingly. Significant adverse effects will require an immediate response prior to any other action. Examples include:

- A prevention response in relation to inadequate sediment control (for RMA) on a building site. This may include an abatement notice, or an enforcement order to prevent further serious environmental damage from starting or continuing.
- An immediate interruption of food premises operations in the case of a serious threat to public health and safety.
- The seizure or euthanasia of an offending animal in the case of a dog attack.

Gathering the information (Investigation)

If a breach, or potential breach, of legislation occurs, information must be gathered about how and why the breach occurred. This information gathering, or investigation, should be welcomed by all parties as its purpose is to establish the truth of what has occurred and enable informed decisions to be made.

The depth and scope of the investigation will be dependent on the seriousness of the incident.

Investigation activities may include:

- Visiting property, including private property, to collect information or potential evidence such as samples, photographs, measurements, or ecological assessments.
- Arranging for expert inspection such as engineers, building practitioners, fire service, and survey consultants to attend and assist in gathering information.
- Talking to people about what they know about the incident. People interviewed may be witnesses to an incident or potentially liable parties. These conversations will be recorded in writing or by electronic means.
- For serious matters interviews of potentially liable parties are conducted under caution to ensure their rights are understood.

The Gisborne District Council's Chief Executive has the authority to issue staff with warrants of authority which provide them with certain powers. A warranted enforcement officer



under the RMA, for example, has the ability to enter private property (excluding a dwelling) for the purpose of assessing compliance with environmental regulation. This can be completed without prior notice to the occupier or landowner. However, if the officer already has reasonable grounds to believe that a breach of the RMA has been carried out on the property, they may not be able to enter the property without a search warrant. The High Court has given very clear direction as to when an officer can rely upon their warrant of authority and when they need to have informed consent or a search warrant.

At the end of an investigation all of the evidence gathered is assessed and analysed, and a decision is made as to further action required, if any.

Staff must attend specific training and be familiar with all of their statutory obligations before carrying out any enforcement functions.



Selecting an enforcement response

Deciding on the appropriate enforcement response is often complicated by a range of factors. In order to make a sound and justifiable decision, it is essential that all relevant issues surrounding the matter are carefully considered prior to any enforcement action being taken. Council uses a graduated response to non-compliance. The initial response may involve starting with the least serious tool, such as education or a formal warning, working through the range of options that may extend up to and include court action for those serious or persistent offenders or where there is a high risk of harm.

The 'compliance pyramid' is a widely used model for achieving positive behaviour change. At the bottom of the pyramid are those who are willing to comply – at the top are those who resist compliance. The pyramid is designed to create downward pressure – that is, to move non-compliant individuals or organisations down the pyramid to full compliance and to where lower-level and less costly interventions can be utilised.

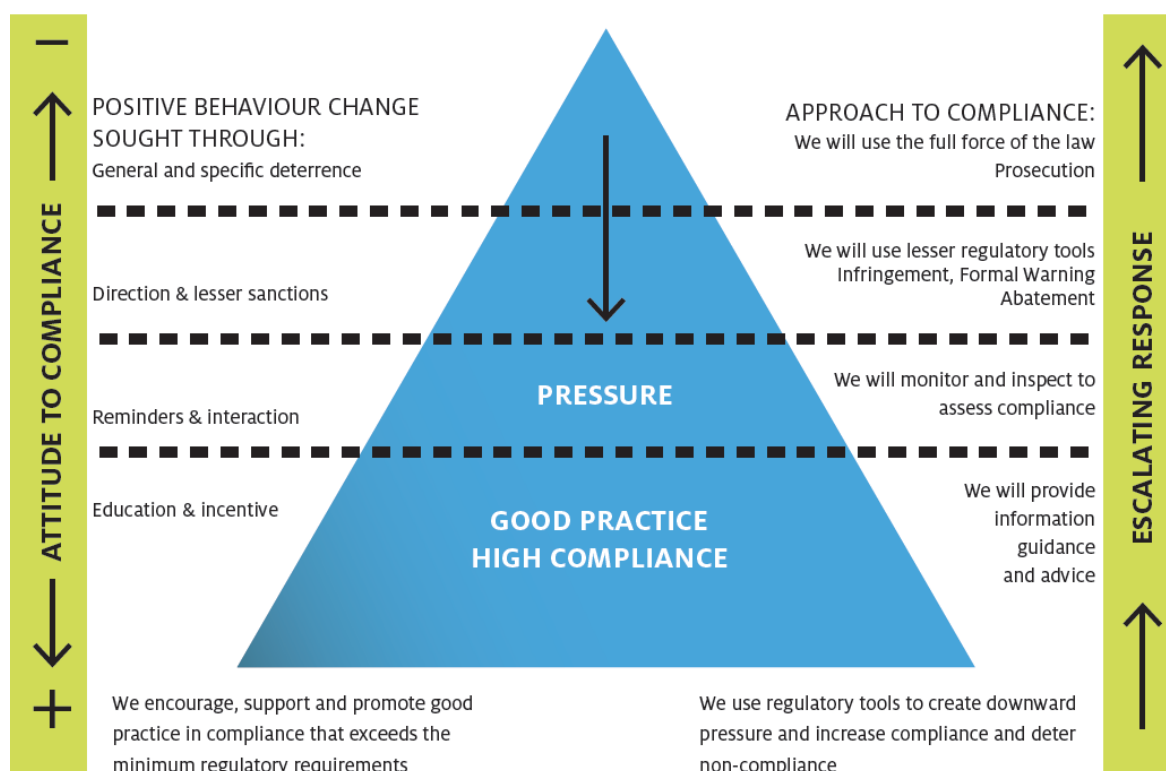


Fig2. Adapted from Ian Ayres & John Braithwaite (1992), *Responsive Regulation: Transcending the deregulation debate*, Oxford University Press, New York





Enforcement decision-making

Enforcement of legislation can be complex. The different Acts provide potentially large penalties for those who breach. However, they do not always offer any guidance as to determining what is serious and what is less so. The courts have provided helpful guidelines as to what factors are appropriate to consider, for example, in RMA cases to determine the seriousness of a breach. It is widely accepted across the CME sector that these are the appropriate factors to consider in RMA enforcement decision-making, and they are also of assistance with enforcement decision-making under other legislation. They have the further advantage of assisting in consistency in the decision-making.

Factors to consider when considering enforcement action:

- What were, or are, the actual or potential adverse effects on the environment or the community and what is the value or sensitivity of the receiving environment or area affected?
- Was the breach as a result of deliberate, negligent, or careless action?
- What degree of due care was taken and how foreseeable was the incident?
- What efforts were made to remedy or mitigate the adverse effects?
- How effective were those efforts?
- Was any profit or benefit gained by alleged offender(s)?
- Is this a repeat non-compliance or has there been previous enforcement action taken against the alleged offender(s)?
- Was there a failure to act on prior instructions, advice or notice?
- The degree of deterrence required.

Not every factor will be relevant every time. On occasion one single factor may be sufficiently aggravating, or mitigating, that it may influence the ultimate decision. Each case is unique, and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome. The discretion to take enforcement action, or not, sits solely with those delegated to make decisions in the Council.

Prosecutions

Two further factors must be taken into account when deciding whether to commence a prosecution under any legislation – whether there is sufficient evidence and whether a prosecution would be in the public interest.

The evidential test

The evidential test requires a legal assessment of whether:

- The evidence relates to an identifiable person (whether natural or legal).
- The evidence is credible.
- The Council can produce the evidence before the Court, and it is likely it will be admitted by the Court.
- The evidence can reasonably be expected to satisfy an impartial jury (or judge), beyond a reasonable doubt, that the individual has committed a criminal offence.
- The individual has given any explanations and, if so, whether the Court is likely to find the explanations credible in the light of the evidence as a whole.
- There is any other evidence the Council should seek out which may support or detract from the case.



The public interest test

The second part of the test for prosecution is the public interest test, which consists of deciding whether the public interest requires prosecution. It is not the rule that all offences for which there is sufficient evidence must be prosecuted. Prosecutors must exercise their discretion as to whether a prosecution is required in the public interest, taking into account various factors set out in the Solicitor-General's Prosecution Guidelines.

Who can make the decision?

Any kind of enforcement action can have a profound impact on the subject of the action and cannot be taken lightly. Decisions on enforcement action must be based on reliable and correctly obtained information.

A warranted officer does not make an enforcement decision in isolation. Lower levels of enforcement are discussed with the officer's Team Leader. If a matter is complex, has a high public profile, requires specific guidance, or there is no precedent, an Enforcement Decision Group (EDG) can be formed to consider the matter and authorise an action. The EDG is comprised of delegated managers within the Internal Partnerships and Protection Hub.

If the matter is being considered for prosecution, then it must be recommended by the EDG. This panel recommendation must then be authorised by the Director Internal Partnerships and Protection or Chief Executive. Even then, the authority is conditional on the matter being subjected to independent legal review.





Enforcement options

Gisborne District Council enforcement officers have a broad range of enforcement options available to them to address matters of non-compliance. Enforcement tools can be categorised into three main types:

- Informal actions are focused on providing education and incentive-based responses to allow the person to become better informed and develop their own means to improved compliance.
- Directive actions are about looking forward, giving direction and 'righting the wrong'.
- Punitive actions are about looking back and holding people accountable for what they have done.

The following tables set out and describe the enforcement options available under the legislation enforced by Council.



Informal actions

Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Education and enforcement	To prevent further breaches or to remedy or mitigate the effects of non-compliance, Council can provide information or guidance around rules and regulations or provide assistance to enable parties to achieve compliance.	This is a non-formal process and as such has no legal implication.	Education and other incentive-based interactions are reserved for dealing with cooperative parties, who are motivated to do the right thing but lack the knowledge or skills necessary to achieve and maintain compliance.

Directive actions

Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Abatement notice (RMA & Dog Control Act))	An abatement notice is a formal, written directive. It is drafted and served by Council instructing an individual or company to cease an activity, prohibit them from commencing an activity or requiring them to do something. The form, content and scope of an abatement notice are prescribed in statute.	A direction given through an abatement notice is legally enforceable. To breach an abatement notice is to commit an offence against the RMA, or the Dog Control Act and make liable parties open to punitive actions.	An abatement notice may be appropriate any time that there is a risk of further breaches of environmental regulation, or remediation or mitigation is required as a result of non-compliance. An abatement notice may be issued under the Dog Control Act for excessive barking.
Excessive Noise Direction (RMA)	An Excessive Noise Direction is a formal written directive instructing an individual or company to cease breaching noise standards.	An Excessive Noise Direction is legally enforceable. To breach an Excessive Noise Direction is an offence against the Resource Management Act.	An Excessive Noise Direction may be appropriate any time there is a breach of noise standards under the RMA.





Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Enforcement order (RMA)	Like an abatement notice, an enforcement order can direct a party to take particular action. However, an application for an enforcement order must be made to the Environment Court but can also be made during the course of an RMA prosecution.	A direction given through an enforcement order is legally enforceable. To breach an enforcement order is to commit an offence against the RMA and make liable parties open to punitive actions.	An application for an enforcement order may be appropriate any time there is a risk of further breaches of environmental regulation, or remediation or mitigation is required as a result of non-compliance.
Classification (Dog Control)	A classification is a written directive issued by Council that classifies a dog as 'dangerous' or 'menacing' under the Dog Control Act, depending on several factors. Dogs of certain breeds must also be classified as 'menacing' as per Schedule 4 of the Dog Control Act.	A direction given by means of a classification is legally enforceable and may lead to prosecution and destruction of the dog if the dog owner does not meet certain requirements in respect of the dog.	A classification may be issued when: <ul style="list-style-type: none"> - the dog owner has been convicted of an offence in relation to the dog under s57A(2) of the Dog Control Act; or - the Council has reasonable grounds to believe the dog constitutes a threat to any person or certain animals; or - the dog owner admits the dog constitutes a threat to any person or certain animals.
Improvement Notice (Food Act)	A Notice issued to the owner of a food operation requiring them to take certain actions to reach compliance with the Food Act	It is an offence to fail to comply with an Improvement Notice.	An Improvement Notice may be issued when a food safety officer reasonably believes that a person is failing or has failed to comply with the Food Act
Compliance Order (Food Act, Health Act)	Council can apply to the District Court for an order to a person: <ul style="list-style-type: none"> • prohibiting them from starting or doing something that breaches the Food and the Health Acts, or • do something to avoid, remedy, or mitigate any actual or likely adverse effect of anything that the person is doing or is likely to do 	It is an offence to fail to comply with a Compliance Order.	The District Court may issue a Compliance Order when a person or someone acting on their behalf has breached the Food Act or the Health Act.





Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Notice of Direction (Food Act)	<p>Council may give a direction to</p> <ul style="list-style-type: none"> • a person who operates under a risk-based measure • an exporter of food or food-related accessories • an importer of food or food-related accessories or a person in control of, or reasonably appearing to be in control of, food, a food-related accessory, or anything that may become food <p>requiring them to take various actions including preventative or corrective action in respect of food or food related accessories, recall food or food-related accessory, manage food or a food-related accessory,</p>	It is an offence to fail to comply with a Direction	Council may give a direction if the chief executive believes it is necessary to ensure compliance with the Food Act.
Cleansing Order (Health Act)	If the council is of the opinion that the cleansing of any premises is necessary for preventing danger to health or for rendering the premises fit for occupation, it can issue a cleansing order to the owner or occupier of the premises.	<p>The order requires the owner or occupier to clean the premises in a specified manner and within a certain time.</p> <p>It is an offence to comply with the order.</p>	A cleansing order is generally applied for when the condition of a premises is likely to be a health and safety risk to the community.





Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Health Act Court Orders	Council may apply to the District Court for an order to abate a nuisance on a premises.	The order may (a) require the owner and the occupier to abate the nuisance effectively: (b) prohibit the recurrence of the nuisance: (c) both require the abatement and prohibit the recurrence of the nuisance: (d) specify the works to be done in order to abate the nuisance or prevent its recurrence, and the time within which they shall be done. It is an offence to fail to comply with an order.	An order will be issued where the court is satisfied that a nuisance exists on the premises, or that, though abated, it is likely to recur.

It is important to note that for every directive action, where a breach has been established, that Council may also elect to take punitive action.



Punitive actions

Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Formal warning	A formal warning is documented by way of a letter to a culpable party informing them that an offence against the RMA has been committed, and that they are liable.	No further action will be taken in respect of that breach. However, the warning forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.	A formal warning may be given when: <ul style="list-style-type: none"> • An administrative, minor, or technical breach has occurred; and • the environmental effect or potential effect, is minor or trivial in nature; and • the subject does not have a history of non-compliance; and • the matter is one which can be quickly and simply put right; and • a written warning would be appropriate in the circumstances.
Infringement notice (RMA, Health Act, Food Act, Sale and Supply of Alcohol Act, Parking, Bylaws)	An infringement notice is a written notice which requires the payment of a fine. The amount of the fine is set in law and depends on the legislation under which the notice is issued.	No further action will be taken in respect of that breach. However, the infringement notice forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.	An infringement notice may be issued when: <ul style="list-style-type: none"> • There is prima facie (on the face of it) evidence of a legislative breach; and • a one-off or isolated legislative breach had occurred which is of minor impact, and which can be remedied easily; and • where an infringement notice is considered to be a sufficient deterrent.





Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Suspension/Cancellation Application (Sale and Supply of Alcohol Act))	An application can be made to the Alcohol Licensing and Regulatory Authority (ARLA) for the suspension and/or cancellation of a liquor licence or manager certificate where breaches of the Sale and Supply of Alcohol Act 2012 (SSAA) are identified	<p>An order made by ARLA for suspension and/or cancellation is legally enforceable.</p> <p>The suspension and/or cancellation of a liquor licence or manager certificate can result in the suspension or loss of business and/or employment.</p> <p>The order forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	A suspension and/or cancellation application may be appropriate any time there is a relevant and sufficiently serious breach of the Sale and Supply of Alcohol Act.
Suspension/Cancellation of registration (Food Act)	Council can suspend all or any of the operations of a food business and cancel the registration of a food business and record the cancellation on the relevant public register and remove the food business from the relevant public register.	A suspension stops a business operating for the period of the cancellation whereas cancellation means the business must cease operations.	<p>Suspension of operations of a food business can occur where the food traded by the food business does not meet, or no longer meets, the applicable requirements of this Act; or the food traded by the food business may pose a risk to human life or public health; or there is or has been a serious failure of operations or there are or have been other matters (including non-compliance with the conditions of registration) under the national programme that cast doubt on the safety and suitability of food traded by the food business.</p> <p>The registration can be cancelled if the operator has failed to attend to matters that led to suspension or for repeated suspensions.</p>





Action	Description of action	Potential impacts on the liable party	When might this action be appropriate?
Revocation of registration (Health Act)	Council can revoke registration of businesses such as hairdressers, camping grounds, funeral directors and offensive trades if they do not comply with the Health Act and/or relevant Regulations.	A revocation means the business must cease operations.	A registration will be revoked if the business is not being carried on in accordance with the Health Act and/or the relevant regulations and has failed to comply with a notice issued by Council.
Seizure and impounding of property	Property involved in the commission of an offence under some bylaws can be seized and impounded in accordance with sections 164 and 165 of the Local Government Act 2002. The council will return or dispose of the property in accordance with sections 167 and 168 of the Local Government Act.	The person who committed the breach may request Council to return the property but will have to pay Council the full costs of removal and impounding of the property.	If the property is materially involved in the commission of an offence, it is reasonable in the circumstances to seize the property, and Council has directed the person to stop the offence and they do not stop committing the offence.
Prosecution	A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the Court will impose sanctions. RMA matters are heard by a District Court Judge with an Environmental Court warrant. All criminal evidential rules and standards must be met in an RMA prosecution.	A successful prosecution will generally result in a conviction, a penalty imposed and a possible award of costs. A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.	A prosecution may be considered appropriate when the factors (listed in the enforcement decision-making section) indicate that the matter is sufficiently serious to warrant the intervention of the criminal law.



Media

Public scrutiny is beneficial to the administration of justice and the community has a right to accurate information. However, it is of primary importance that public statements do not prejudice an individual's right to a fair trial. This is explicitly provided for under section 6(a) of the Local Government Official Information and Meetings Act 1987.

Until an enforcement outcome is reached, such as a notice issued or prosecution commenced, any publicity about enforcement matters will generally be restricted to the fact that Council is investigating an alleged breach. Similarly, where a matter is before the Court, Council will not provide any statements to members of the public or the media.

Council will generally publicise the outcome of a prosecution at the conclusion of the Court proceedings, where appropriate (unless publicity is not in the public interest or not allowed by law) for the following purposes:

- Education and deterrence
- Encouraging and reinforcing compliant behaviour
- Maintaining the community's perception of the integrity of our regulatory work

Staff are expected to respond to media requests in accordance with Council's policy and procedures.

Conflict of Interest

Council will carry out all its regulatory compliance monitoring and enforcement functions in accordance with the Council's conflict of interest policy.

The purpose of this policy is to:

- Create a framework around decision-making that avoids actual or perceived conflict of interest
- Minimise the risks where a conflict of interest exists
- Ensure staff are free from any personal, commercial, financial, political, or other pressures that might affect their actual or perceived ability to make independent decisions.

This policy provides guidance for staff as to where a conflict of interest may arise (and therefore how to avoid a conflict of interest) and a mechanism for ensuring that any actual or potential conflict of interest is disclosed and managed appropriately. All staff are expected to be vigilant about how any conflicts of interests (real or perceived) may impact their ability to carry out their responsibilities and identify this as soon as a conflict arises.

Monitoring Compliance of GDC

Council will monitor its own compliance with the legislation it enforces in the same way and using the same processes as it monitors compliance of any other regulated party.



Reporting and evaluation

As required by the Local Government Act 2002, Council reports on its activities, which includes its CME functions.

Council also keeps a register of all enforcement activities that result in a conviction or court order under the RMA and must keep a summary for five years of all written complaints they receive concerning alleged breaches of the Act or a plan, and information on how each of these complaints was dealt with.

Council also reports on its administration of its dog control policy and practices, in accordance with the Dog Control Act 1996 and there are various reporting requirements under the Food Act, the Sale and Supply of Alcohol Act, the Health Act and the Search and Surveillance Act 2012.

Funding of CME

Council's CME function is funded by:

- Compliance monitoring fees
- Licensing fees
- Registration fees
- Infringement fines
- A portion of fines resulting from convictions resulting from prosecutions instituted by Council, as provided for by the legislation.
- Rates

Council endeavours to make all reasonable efforts to ensure that the cost of compliance is met by the person or company responsible for the non-compliance and not by Gisborne's ratepayers.

Review of Policy

To ensure this policy remains effective and consistently delivers the outcomes sought, the content, use and application will be reviewed every five years or as circumstances such as changing legislative requirements, case law and/or the desire to improve upon existing systems and processes necessitate change.

