

Whangarei District Council

***Investigation,
Compliance and
Enforcement Policy***

***Policy
226***

Investigation, Compliance and Enforcement Policy			
Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

Contents

1) Introduction.....	3
2) Legislative Requirements.....	3
3) Principles of Compliance	3
4) How do we investigate non-compliance?	4
1) Initial Screening.....	4
2) Case Triage & Site Visit	4
3) Further Assessment	4
4) Enforcement Options.....	5
5) Examples of issues we can investigate	5

Investigation, Compliance and Enforcement Policy			
Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

1) Introduction

This policy has been established for the following reasons:

- To set out how Whangarei District Council (Council) investigates breaches of legislation and rules across its regulatory function.
- To provide an understanding of the Council's approach to investigation, compliance and enforcement.
- To protect and promote the long-term sustainable management of Whangarei's natural and physical resources; quality-built environments; health and wellbeing; and to improve the quality of life and civic pride amongst our community.

2) Legislative Requirements

Council has regulatory responsibility for ensuring compliance with a variety of legislation, including, but not limited to, the following Acts:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Sale and Supply of Alcohol Act 2012
- Food Act 2014
- Dog Control Act 1996
- Impounding Act 1955

Council is responsible for ensuring activities and development in the District fulfil various regulatory requirements under these Acts. While legislation provides enforcement tools, it does not necessarily prescribe how Council should carry out its enforcement function. Council therefore has some discretion to determine how best to achieve regulatory compliance in the District.

At Council, we use compliance promotion such as education, guidance, on-site directions and awareness raising, as the preferred method for encouraging compliance. However, when necessary, formal enforcement action will be taken to discourage and address non-compliance and direct remediation of the 'damage' resulting from non-compliant activities.

3) Principles of Compliance

Council aims to treat all members of the community fairly and in consistent manner and will deal with all cases where non-compliance is discovered in an open and transparent way. Where a breach of the rules has occurred, Council will be guided by the following principles:

Principles	Council's Commitment
Fair, reasonable, and proportionate approach	To communicate clearly to the responsible person by explaining what steps are required to resolve the breach and the potential consequences of not complying. In the event that those steps are not taken, to exercise discretion to enforce justifiably and ensure all decisions are appropriate and proportionate to the circumstances.

Investigation, Compliance and Enforcement Policy			
Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

Consistency of process	To assess every breach on its merits and on an individual basis. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances.
Targeted	To focus on the most important issues and problems through a triaging system to achieve the required legislative outcomes.
Responsive and effective	To assess all alleged breaches and determine the necessary interventions and actions to minimise impacts on the environment and the community and to maximise deterrence. When required, take formal compliance action if attempts to negotiate a remedy fail. To respond in an effective and timely manner in accordance with legislative and organisational obligations.
Lawful, ethical and impartial	To carry out all investigations lawfully and impartially in accordance with the principles of compliance, relevant policies, and guidance.
Transparency	To provide clear information and explanations to the community about the standards and requirements for compliance and enforcement.
Evidence based information	To make evidence based decisions informed by a range of sources, including but not limited to experts, other regulators, members of the community, industry and interest groups.

4) How do we investigate non-compliance?

1) Initial Screening

When a complaint of non-compliance is received by Council, it is subject to initial screening. In line with government guidance and subject to relevant legislation, Council will only take action when it is considered fair and reasonable to do so and the response is proportionate to any harm caused. In some cases, when the non-compliance is minor, it may not be appropriate to pursue formal enforcement action, but rather compliance will be addressed by providing education and guidance.

2) Case Triage & Site Visit

Individual issues or complaints are assigned to one of the three priority levels in the requests system, depending on the potential risk or harm arising from the alleged breach, including harm to the natural environment and residential amenity.

- Priority 1 – Health and Safety/Very Urgent - 24 hours for cases of significant risk
- Priority 2 – Medium - 10 working days for cases of medium risk
- Priority 3 – Low – 17 working days for cases of low risk

Please note that different regulatory departments may have different priority response timeframes.

3) Further Assessment

Depending on the type of alleged breach and the priority level assigned to it, a site visit may be required. Alternatively, an initial desktop assessment may be sufficient. If no breach is detected or the risk posed by the breach is determined to be low the case may simply be closed. Where the

Investigation, Compliance and Enforcement Policy			
Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

breach or risk is minor, it may not be appropriate to pursue formal enforcement action. Any decision in this respect is at the discretion of Council.

If a serious breach has occurred and sufficient evidence to support enforcement action exists, it should be pursued. The relevant party will be advised by Council of the action that will be required to remedy the breach and given a deadline to complete this.

4) Enforcement Options

If no action is taken to remedy the breach, after the expiry of the deadline given, Council will generally undertake a second assessment of the issue before determining whether to take further enforcement action.

If further enforcement action is considered necessary, there are a number of enforcement options open to Council including:

- Formal Warnings
- Infringement Notices
- Abatement Notices
- Enforcement Orders or notices
- Suspending or cancelling a Licence
- Formal Prosecution

****NOTE** in some cases involving a serious regulatory breach, such as an attack by a dog, Council may proceed straight to formal prosecution. Providing an opportunity to remedy the breach prior to filing charges is unlikely to be appropriate.

5) Examples of issues we can investigate

The following are some examples of the issues our Regulatory Departments can investigate:

Examples	
Resource Management issues	<ul style="list-style-type: none"> • Commercial activities operating without a resource consent • Non-compliance with conditions attached to a resource consent • Unauthorised works to, or removal of, protected trees • Secondary self-contained dwellings that do not have required resource consent • Unauthorised display of advertisements • Non-compliance with a consent notice • Earthworks that exceed the permitted limits in the District Plan <p><i>We will generally not investigate issues relating to:</i></p> <ul style="list-style-type: none"> • Boundary wall and land ownership disputes • Devaluation of property • Graffiti and anti-social behaviour • Private covenants

Investigation, Compliance and Enforcement Policy

Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

Building issues	<ul style="list-style-type: none"> • Failing to obtain a Building Consent prior to undertaking building work • Building work which does not comply with the Consent granted. • Channelling or directing stormwater onto a neighbouring property • Changing the use of a building without correct notification • Assessment of potentially dangerous or insanitary buildings eg where affected by slipping/ flooding etc • Fencing of swimming pools. • Buildings requiring a Building Warrant of Fitness • Earthquake prone buildings <p><i>We will generally not investigate issues relating to:</i></p> <ul style="list-style-type: none"> • Neighbour disputes regarding fencing • “Natural servitude” or stormwater overland flow path issues • Poor building workmanship or practises by licensed building practitioners • Asbestos removal
Environmental Health issues	<ul style="list-style-type: none"> • Unlicensed sale of food • Providing unsafe food • Offences under the Health Act, Foods Act and Sale and Supply of Alcohol Act. • Operating an unregistered business without Council permission • Investigation of non-complying conditions <p><i>We will generally not investigate issues relating to:</i></p> <ul style="list-style-type: none"> • Air pollution • Sale of cigarettes and vape products • Unlicensed sale of alcohol
Bylaw Enforcement issues	<ul style="list-style-type: none"> • Offences under the Dog Control Act • Offences under the Impounding Act • Excessive and unreasonable noise (day & night) • Bylaw compliance • Parking and traffic enforcement

<i>Investigation, Compliance and Enforcement Policy</i>			
Audience (Primary)	External	Business Owner (Dept)	RMA Consents
Policy Author	Team Leader of RMA Approvals and Compliance	Review date	November 2026

Policy approval

The Policy was approved via the Kete approval process.

Created by the Team Leader of RMA Approvals and Compliance and approved by Counsel on 25th November 2021.