



POLICY STATEMENT NO. 77

REGULATORY FUNCTION COMPLAINTS

1. OBJECTIVE

To establish a process that will ensure that each regulatory complaint received by the Department of Environment and Conservation (DEC) is appropriately recorded, assessed and prioritised and that the complainant receives timely notification of the outcome of their complaint.

2. SCOPE

This policy is designed to provide guidance and direction to DEC staff regarding the receipt, interpretation, processing, recording and management of regulatory complaints received from external sources and the associated resolution process. This process is in addition to the requirements to record and act on potential breaches of legislation that are identified through DEC's own business activities.

A **regulatory complaint** is the provision of information, in any form to any DEC staff member, concerning a potential breach of the legislation administered by DEC or information that identifies poor environmental or conservation practices.

The scope of this policy includes potential breaches of all legislation administered by DEC, including:

- *Conservation and Land Management Act 1984;*
- *Contaminated Sites Act 2003;*
- *Environmental Protection Act 1986;*
- *Litter Act 1979;*
- *Sandalwood Act 1929;*
- *Waste Avoidance and Resource Recovery Act 2007; and*
- *Wildlife Conservation Act 1950*

A reference to DEC or department in this policy includes a reference to the Keep Australia Beautiful Council.

This policy applies to the Department's regulatory function only and does not apply to complaints about goods and services provided by DEC such as publications, visitor activities, fire management, visitor risk management, and other statutory functions.

The nature of some information received by DEC is not actionable and the level of available resources impacts upon the capacity to conduct investigations in response to complaints. Therefore it should not be construed that this policy directs that every complaint will be fully and immediately investigated.

This policy applies to all departmental staff.

3. CONTEXT

The mission of the Department of Environment and Conservation is:

“Working with the community, we will ensure that Western Australia’s environment is valued, protected and conserved, for its intrinsic value, and for the appreciation and benefit of present and future generations.”

The Department has responsibility for protecting and conserving the State’s environment on behalf of the people of Western Australia. Some of the specific key responsibilities include managing protected areas such as national parks, marine parks and nature reserves, conserving biodiversity, and regulating the use of the State’s natural resources.

This regulatory responsibility is most effective when working in partnership with the community who provide information identifying potential breaches of legislation. The reporting of such information in the context of this policy is known as a complaint.

4. POLICY

4.1 DEC has an obligation to deal with reports of alleged breaches of legislation in an efficient and professional manner. Effective complaint resolution requires the application of due process, equity, consistency, objectivity and impartiality.

4.2 Effective resolution also requires certainty – certainty of outcome, since, each complaint will be dealt with on its own merits, but that a defined process will be triggered by discovery of alleged non-compliance. The response to complaints will involve information gathering followed by assessment and a decision as to the course of action to be followed.

4.3 DEC undertakes upon receiving a complaint to:

- record and document the details of the complaint in a consistent and accountable manner;
- afford the matter appropriate confidentiality;
- verify, where possible, that the complaint is genuine and that the substance of the reported matter is factual;
- make an assessment to determine if the information contained in the complaint requires immediate attendance by DEC to prevent imminent or continuing harm to the environment or impact on a conservation value, visitor amenity or DEC infrastructure;

- when the complaint involves an incident which does not warrant immediate attendance, the complaint will be recorded and allocated to the respective business area where it will be prioritised and acted upon;
- effectively manage and coordinate subsequent investigations;
- administer and manage appropriate timeframes in accordance with the business area requirements;
- inform the complainant of the outcome of their complaint as soon as practicable;
- document decisions; and
- utilise established complaint management systems and instruments – see attached schedule.

5. POLICY IMPLEMENTATION STRATEGIES

- 5.1 DEC will implement the procedures that are outlined in the schedule and will utilise the instruments that are tailored to the business areas involved in (or responsible for) regulatory complaint receipt, resolution, incident identification, subsequent investigation and advice of outcome.
- 5.2 Managers and officers are responsible for ensuring that outcomes are met in accordance with approved business instruments.
- 5.3 These instruments which include clear directions, timeframes and guidelines to DEC officers, appear in the schedule. The instruments may only be altered, updated or amended by authority of the Director in charge of the respective business areas to which the instrument relates and with express agreement of the Director General.
- 5.4 The content of this policy is to be covered in any DEC induction and regulatory function training. It is the responsibility of managers and supervising staff to ensure that DEC officers are made aware of the responsibilities outlined by this policy.

6. CUSTODIAN

The Manager of Nature Protection Branch and the Director of the Environmental Enforcement Unit are joint custodians of this policy.

7. REVIEW

This policy will be reviewed no later than 31 January 2017.

8. KEY WORDS

Regulatory function; complaints; legislation breaches; breach reports; non-compliance; investigation.

9. DIRECTOR GENERAL APPROVAL

Approved by



Keiran McNamara
DIRECTOR GENERAL

Effective date 22 February 2012

DEC REGULATORY FUNCTION COMPLAINTS POLICY
IMPLEMENTATION SCHEDULE

Instrument	Legislation	Business Custodian
<p>Investigation and Breach Information System (IBIS)</p> <p>Record and case manage complaints and incidents</p>	<p><i>Conservation and Land Management Act 1984</i> <i>Sandalwood Act 1929</i> <i>Wildlife Conservation Act 1950</i></p>	Nature Protection Branch
<p>Incident and Complaint Management System (ICMS)</p> <p>Record and case manage complaints and incidents</p>	<p><i>Contaminated Sites Act 2003</i> <i>Environmental Protection Act 1986</i> <i>Litter Act 1979</i> <i>Waste Avoidance and Resource Recovery Act 2007</i></p>	Environmental Enforcement Unit
<p>Local Environmental Enforcement Group (LEEG) Guidelines.</p> <p>Regional or Branch case review panel responsible for the coordination and management of environmental complaints and investigations.</p>	<p><i>Contaminated Sites Act 2003</i> <i>Environmental Protection Act 1986</i> <i>Litter Act 1979</i> <i>Waste Avoidance and Resource Recovery Act 2007</i></p>	Environmental Enforcement Unit
<p>Investigations Manual</p> <p>Establishes investigative methodology and recommended target timeframes.</p>	<p><i>Conservation and Land Management Act 1984</i> <i>Contaminated Sites Act 2003</i> <i>Environmental Protection Act 1986</i> <i>Litter Act 1979</i> <i>Sandalwood Act 1929</i> <i>Waste Avoidance and Resource Recovery Act 2007</i> <i>Wildlife Conservation Act 1950</i></p>	Nature Protection Branch and Environmental Enforcement Unit (joint custodians)
<p>DEC Enforcement and Prosecution Policy</p> <p>Complementary DEC policy providing a guide to Department officers when considering enforcement and prosecution.</p>	<p><i>Conservation and Land Management Act 1984</i> <i>Contaminated Sites Act 2003</i> <i>Environmental Protection Act 1986</i> <i>Litter Act 1979</i> <i>Sandalwood Act 1929</i> <i>Waste Avoidance and Resource Recovery Act 2007</i> <i>Wildlife Conservation Act 1950</i></p>	Nature Protection Branch and Environmental Enforcement Unit (joint custodians)

Instrument	Legislation	Business Custodian
Keep Australia Beautiful Council Litter Reporting Scheme - Ranger system	<i>Litter Act 1979 (infringements)</i>	Keep Australia Beautiful Council
Pollution / Hazard Response To assist in the prioritisation and specific response requirements for Industry Regulation(In development).	<i>Contaminated Sites Act 2003</i> <i>Environmental Protection Act 1986</i> <i>Waste Avoidance and Resource Recovery Act 2007</i>	Environmental Regulation Division