

COMPLIANCE REPORT ASSESSMENT

1st Compliance Report

Edward River Council

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Performance improvement order dated: Friday 19 July 2024

Period for compliance with order:

First compliance report due 27 August 2024

Date of first compliance report: 26 August 2024

Date of assessment: 27 August 2024

Second compliance report due 24 September 2024

Date of second compliance report:

Date of assessment:

Final compliance report due 28 February 2025

Date of second compliance report:

Date of assessment:

Terms of the order:

1. Improve council behaviours within ERC meetings and workshops to reflect community standards and ensure compliance of council's code of meeting practice.
2. Complete councillor training workshops as requested by the Deputy Secretary, Local Government.
3. Identify actions required to be taken to ensure compliance by the councillors with the staff interaction policy. These actions will be informed by the Temporary Advisor.

4. Identify actions that the governing body and councillors need to undertake to ensure compliance with its legislative obligations including Financial Reporting and Integrated Planning and Reporting (End of Term report).
5. Identify actions and strategies to ensure ERC is complying with its obligations under Safe Work NSW, specifically around Councillor / Councillor and Councillor / Staff interactions.
6. Identify actions and strategies to ensure councillors are correctly briefed on the effective operations of ERC and relevant activities.
7. Identify actions to deliver and evaluate councillor induction training, including how to respect the principles of political discourse within and outside council meetings.

Progress report on action required

1. **Improve council behaviours within ERC meetings and workshops to reflect community standards and ensure compliance of council's code of meeting practice.**

At an extraordinary meeting held on 25 June 2024, Council made a number of resolutions pertaining to the proposed PIO, which included accepting the PIO in full and providing any assistance needed to the Temporary Advisor. -

Council advised that in January 2022 they adopted the latest version of its Code of Meeting Practice, which was based on the model code. They further advised that they held refresher training on the Code of Conduct in November 2022.

They also advised that at meetings since, the Code of Meeting Practice has been referenced on many occasions to assist councillors with adhering to the requirements of the Code, including acting with appropriate respect and formality.

Council have undertaken to address matters pertaining to compliance with its Code of Meeting Practice as part of induction and training following the elections on 14 September 2024. They further advised that council officers, with input from the temporary adviser Mark Ferguson, have been developing an induction program (attached) to address this, and other actions.

2. Complete councillor training workshops as requested by the Deputy Secretary, Local Government.

The Council advised that they will arrange councillor attendance at councillor training workshops as requested

3. Identify actions required to be taken to ensure compliance by the councillors with the staff interaction policy. These actions will be informed by the Temporary Advisor.

Council advised that they have been developing an induction program to address this point, and other actions. In addition to the induction program and training, Council advised that their Interim CEO will implement any actions required that are identified by council's temporary adviser

4. Identify actions required to be taken to ensure compliance by the councillors with the staff interaction policy. These actions will be informed by the Temporary Advisor.

Council advised that as part of the induction program for councillors following the September election there will be specific training addressing this matter. They further advised that they will implement any actions required that are identified by council's temporary adviser Mr Ferguson.

5. Identify actions and strategies to ensure ERC is complying with its obligations under Safe Work NSW, specifically around Councillor / Councillor and Councillor / Staff interactions.

Council acknowledged its role as a Person Conducting a Business or Undertaking (PCBU) under the Work Health and Safety Act 2011 which includes the behaviours and actions of councillors.

They advised that the requirements and expectations relating to the Work Health and Safety Act 2011 and Code of Conduct have been discussed with councillors, including relevant training in this matter.

Council advised that they adopted the latest version of its Code of Conduct in May 2022 and refresher training was held regarding the Code of Conduct in November 2022.

Council further advised that they will address this matter as part of induction and training following the September elections and will also implement any actions required that are identified by council's temporary adviser Mr Ferguson.

6. Identify actions and strategies to ensure councillors are correctly briefed on the effective operations of ERC and relevant activities.

Council advised that the Interim CEO will implement any actions required that are identified by council's temporary adviser Mr Ferguson.

7. Identify actions to deliver and evaluate councillor induction training, including how to respect the principles of political discourse within and outside council meetings.

Council's Interim CEO advised that he will be conducting exit interviews with all outgoing ERC councillors and feedback from the exit interviews will be used to assist preparation of induction and training for councillors following the September election. They further advised that their officers, with input from Mr Ferguson, have been developing an induction program to address this, and other actions.

Evidence provided

In support of their proposed steps, Council has provided a draft version of the Induction Program mentioned in point 3 above

Comment by temporary adviser Mr Mark Ferguson

I will not reiterate the reasons why the Performance Improvement Order (PIO) was issued except to say that the PIO was accepted by the council as a circuit breaker to the current situation. As the adviser I have been welcomed and treated with courtesy and respect and offered access to the necessary information and facilities. I have had a number of meetings with the Mayor and Interim Chief Executive Officer (CEO) and interviewed all councillors individually and some members of the leadership team on the issues and suggested actions to respond effectively to the Performance Improvement Order.

The codes of conduct, acrimony, stress, climate and other personal reasons manifested in only three members of the existing council nominating to be elected in the forthcoming election. Therefore the new council to be elected will comprise between six and nine new councillors including a new Mayor and Deputy Mayor. This is both an opportunity and a challenge for Edward River Council to effectively induct the new councillors and start the process of building a strong cohesive, community based, outcomes focussed council.

I have had an initial review of the induction program with the Interim CEO. It will consist of a range of development activities on statutory, policy, strategy, leadership, integrated planning and reporting framework and individual development plans. I will continue to work with the council on the development and implementation of this program.

The August Ordinary meeting was conducted on the date resolved by council being the 20th August 2024. It was conducted cordially and within the code of meeting practice. A minor change to the seating arrangements which was mutually agreed, had the councillors seated

together as the governing body closer to the Mayor and the staff positioned further down the meeting table. The Deputy Chairperson assumed the Mayor/Chairperson seat during the Mayor's absence on an item in which the Mayor had declared an interest. Prior and subsequent to the meeting concerns were raised on a range of issues that were dealt with effectively by the Interim CEO in consultation with myself.

These issues included a previous decision to move forward the ordinary meeting to the 13th August to be prior to the caretaker period. This decision was not undertaken by resolution of council and following representations by a councillor the meeting was returned to its original date of 20th August 2024. Thus a code of conduct matter and a tender have been deferred to the first ordinary meeting of the new council.

There was also a request from a councillor for letters provided from three regional political leaders to acknowledge the long service of Cllr Patricia Fogarty. The Interim CEO determined that these would not be read out as they were not listed on the agenda, contrary to caretaker period protocols, partly conveyed by email from a candidate and not supported by the Mayor. I concurred with the Interim CEO advice. The letters were given to Cllr Fogarty following the meeting. The Mayor took the opportunity to acknowledge her colleagues, in particular Cllr Pat Fogarty thanking her for her dedication and presenting her with a floral bouquet. The Deputy Mayor Cllr Marc Petersen did a similar gesture to acknowledge the Mayor for her service to council. Both gestures were supported by acclamation from the meeting.

The next compliance report is due on the 24th September 2024 to report on observations of councillor conduct as well as the process for councillor induction. Edward River Council will not meet again prior to this date. It may be worthwhile deferring Compliance Report 2 to the 22nd October 2024. This will enable the new Council, Mayor, Deputy Mayor to be elected, an Ordinary council meeting to occur and the induction process commenced. Compliance Report 3 and my final report would still remain as 28 February 2025.

Therefore it is recommended that the Performance Improvement Order be varied by the Compliance Report 2 report date being amended to be due on the 22nd October 2024 to enable observations of the meeting of the new council meeting and commencement of the induction process.