

Australian Capital Territory

# Litter (Amenity Impact) Code of Practice 2020 (No 1)

Disallowable instrument DI2020-287

made under the

**Litter Act 2004, section 24ZA (Codes of practice)**

## EXPLANATORY STATEMENT

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Section 24ZA of the *Litter Act 2004* (the Act) provides that the Minister must approve a code of practice setting out guidelines for the Director-General in dealing with amenity impacts caused by hoarding.

Under section 24BA of the Act, a person causes an amenity impact if the person deposits litter at an open private place and the litter has, or is likely to have, a significant adverse impact on the amenity, use or enjoyment of an entity's land.

This instrument accompanies the Code of Practice (Code) for managing amenity impacts caused by hoarding as a mandatory Code of Practice under the Act.

In developing this Code, consultation occurred with ACT government agencies and community service and advocacy groups who work with hoarding cases through the amenity impact working group.

### **Purpose of the Code**

Best practice management of cases where hoarding like behaviour has led to an amenity impact indicates that regulation alone is unlikely to lead to long term behavioural change. Rather, case management and the use of a multidisciplinary team to guide a cross sector approach is recommended.

This instrument provides guidance concerning the procedure that the Director-General and authorised persons under the Act must follow when investigating and regulating an amenity impact. The guidance provided in the code is flexible to allow each case of amenity impact to be managed in an appropriate manner. The code ensures that regulatory action is not taken in isolation and that consultation with other government agencies or social services occurs. It also ensures that the human rights of all parties involved are respected and that when regulatory action is taken, it only occurs when other attempts to remove the amenity impact have failed.

In summary the code:

- builds upon the definition of amenity impact in the Act to provide further clarification about what would be considered to be an amenity impact;

- builds awareness of the mental health factors that may be present and encourages best practice management of amenity impact,
- promotes collaboration with non-regulatory and social services to seek non-regulatory solutions to resolve amenity impacts;
- provides guidance about how an investigation into an amenity impact is to be undertaken;
- supports the referral of cases to other services where appropriate;
- provides guidance about the circumstances in which the different levels of regulatory action should be taken; and
- provides guidance on the process for taking and escalating regulatory action where required.

### *Provisions of the Code of Practice in detail*

#### **1. Introduction**

This section introduces the code and provides an overview of the document.

#### **2. Scope**

This section outlines the role of TCCS and authorised persons under the Act when investigating an amenity impact circumstance. It specifies that an authorised person is not providing advice about hoarding disorder, that is, they are not making a decision about a person's state of mind. The role of an authorised person is to determine whether an amenity impact that is detracting from the use or enjoyment of the surrounding area does or does not exist and to provide advice on managing the impact.

This section provides further guidance regarding what an amenity impact is and when it occurs, including examples of what is not an amenity impact. The Act sets the definition by which a decision about an amenity impact will be made, however, the code provides clarification about how the provisions in the Act may be interpreted.

A definition of hoarding is also included in this section. The purpose of this is to provide information about hoarding, why it occurs and to ensure that an authorised person investigating an amenity impact is aware that a mental illness or disorder may be an underlying cause. This definition is not included in any way to assist in a diagnosis.

#### **3. List of key principles**

This section sets out the principles that must be taken into account when managing cases of hoarding.

#### **4. List of objectives**

This section sets out the objectives the code is trying to achieve.

#### **5. Investigation of amenity impact**

This section discusses the circumstance in which it will be necessary to conduct a property visit and provides guidance about contacting the occupier and conducting a property visit where an amenity impact is suspected.

This section discusses the benefits of referring cases to a multi-disciplinary team and introduces the Hoarding Case Management Group. It also briefly discusses

the structure of ACT legislation relating to hoarding and directs to appendix A where the list of relevant legislation is included.

**6. Referral to supports services**

This section discusses the circumstances under which it is appropriate to refer cases to another agency and the process undertaken to refer a case including TCCS's ongoing involvement once the referral has occurred.

**7. The regulatory approach**

This section provides a detailed explanation of the regulatory options under the Act for managing amenity impact, including the triggers and processes for undertaking, escalating or suspending regulatory action. It also sets out the opportunities under the Act to have a decision reviewed.

**8. Code of Practice review**

This section provides a timeframe for the review of the Code of three years.

**9. Appendix A – ACT legislation relating to hoarding**

Appendix A includes a list of the most significant legislation that may be used to manage hoarding behaviour, amenity impact or untidy blocks and identifies the administering directorate.