



Mildura Rural City Council

# Infringement Notice Review Policy

## Policy - CP005

Prepared	Reviewed	Approved	Date	Council Minute No
Civic Compliance Coordinator	Executive Leadership Team	Council	24 June 2020	2020/0134
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Document Owner: Manager Development Services		Review Frequency: 3 Yearly		

### 1. The purpose of this policy is

To outline the conditions under which Infringement Notices are reviewed in the Mildura Rural City Council.

### 2. Policy Statement

Council acknowledges the right of people issued with Infringement Notices by Council officers to seek a review of the circumstances of the Notice before further legal action is taken under various Acts and Regulations. All such reviews will be dealt with fairly, promptly, impartially and consistently.

### 3. Principles

An Infringement Notice is a means whereby Council officers may report a person for an alleged offence, which can be resolved by payment of a prescribed fee. Where the fee is not paid within the specified period the matter may be referred to the Law Courts for processing. Costs imposed by the Law Courts for the offence will be in addition to payment of the infringement fee.

Where a person wishes to informally dispute the alleged offence they must do so in writing to Council within the 28 days notice expiration period. Reviews will not be accepted after the 28-day period unless the person proves that they did not receive the original notice. A review of the circumstances of the notice is carried out by the relevant officer/s and a determination made. Any determination is provided in writing back to the appellant.

Council has delegated authority to undertake these reviews to the General Manager Development, the Manager Development Services and the Civic Compliance Coordinator. Factors considered in undertaking reviews include:

- any errors or omissions of fact;
- any errors or omissions in procedure; and/or
- any extenuating circumstances which may ameliorate the offence.

Documentary evidence must be provided where relevant, such circumstances are considered on their individual merits.

Financial hardship of the person is not a ground considered in a review. Extensions of the time to pay infringements in full will be considered (2 to 4 weeks depending on the amount of the infringement) from pensioners or the unemployed, without penalty. Alternatively a person who advises they have financial hardship can elect to be referred to the Infringements Court within the Courts system to make arrangements to 'pay off' their fines.

For all incidents where a person is relying on evidentiary circumstances, they will be required to declare the information on a statutory declaration in the first instance. Neither the Council nor its Committees will become involved in reviews of Infringement Notices and will not hear deputations regarding individual Infringement Notices. Where the authorised officers reject an appeal the next course of review is the Law Courts.

A person issued with an Infringement Notice may elect to have the matter referred to the Law Courts at any time.

All requests for informal review must be in writing setting out the circumstances and basis for disputing the alleged offence and including any documentary evidence. However, if at any point an officer suspects that a procedural error may have occurred, the matter should be referred for review immediately and without the necessity of a letter. A hold will be placed on the Infringement Notice so as not to incur late fees until the matter is reviewed and response provided.

Councils Manager Development Services and the Civic Compliance Coordinator will review all documents received, determine whether the appeal is to be upheld according to the above criteria and advise the person of the outcome of the review in writing. In the instance the Manager Development Services or the Civic Compliance Coordinator declare a conflict of interest, the General Manager Development will make the final decision on the review outcome.. In the instance the General Manager Development declares a conflict of interest, the General Manager Community, the General Manager Corporate or the CEO will make the final decision on the review outcome. Notices not withdrawn by the CEO, General Managers, the Manager Development Services or the Civic Compliance Coordinator will be processed in accordance with the procedure outlined in the Magistrates' Court Act 1989.

If a notice is not paid, even after a reminder courtesy letter (with late fee added) has been sent, the matter can be referred to the Law Courts. Normally Council will not intervene once this referral has occurred, as technically the matter is no longer under Council's control. However, should an officer become aware that an error has been made or of new circumstances, the General Manager Development, the Manager Development Services or the Civic Compliance Coordinator will contact the Court and arrange for the matter to be withdrawn. The matter must be referred to the General Manager Development or the Manager Development Services for a decision immediately. No request in writing is required on such occasions.

#### **4. Who is responsible for implementing this policy?**

General Manager Development, Manager Development Services and Civic Compliance Coordinator.

## 5. Definitions

Agency	The organisation that issues the infringement notice
Courtesy Letter	A reminder notice about an unpaid infringement notice
Enforcement	Action to recover money owed
Expiation Period	The period specified in an infringement notice for payment of the infringement fee
Fine	An amount of money (being the unpaid part of the infringement penalty plus any added costs) set out in a Court order
Infringement Notice	A notice issued by an agency for an alleged offence
Infringement Penalty	The amount of money payable as a penalty for the offence set out in the infringement notice
Law Court	The criminal jurisdiction of the Magistrates' Court
Infringements Court	The court that registers and enforces unpaid infringement penalties
Summary Offence	An offence that is heard by a magistrate in court without needing a formal trial by jury
Infringements Processing Contractor	A contracted agency to process infringements for Mildura Rural City Council

## 6. Legislation and other references

### 6.1 Legislation

For further information related to this policy see:

- *Environment Protection Act 1970;*
- *Road Safety Act 1986;*
- *Local Government Act 1989;*
- *Domestic Animals Act 1994;*
- *Planning and Environment Act 1987;*
- *Magistrates' Court Act 1989; and*
- *Infringements Act 2006*

### 6.2 Documents

This Policy is implemented in conjunction with the following documents:

- Issuing infringements – Promapp process
- Civic Compliance Officers guidelines.

### 6.3 Risk Assessment Reference

*Please tick the corporate risk(s) that this policy is addressing.*

Risk Category	✓	Risk Category	✓
Asset Management		Financial Sustainability	
Committees		Human Resource Management	
Compliance – Legal & Regulatory	✓	Leadership & Organisational Culture	
Contract Management		Occupational Health & Safety	✓
Contract Tendering & Procurement		Organisational Risk Management	
Corporate Governance		Project Management	
Environmental Sustainability		Public Image and Reputation	✓