



# Infringement Notice Review Policy

## Policy - CP005

Prepared	Reviewed	Approved	Date	Council Minute No
Local Laws Coordinator	SMT	Council	August 2023	2023/0137
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### 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 Fines Victoria or the Magistrates Court of Victoria for processing. Costs imposed by Fines Victoria or the Magistrates Court of Victoria for the offence will be in addition to payment of the infringement fee.

Where a person wishes to dispute the alleged offence they must do so in writing to Council within 28 days of the infringement notice being issued. 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.

The Authority to undertake an internal review of an infringement notice has been delegated to the General Manager Infrastructure and Assets, the Manager Civic Compliance and the Local Laws Coordinator. Factors considered in undertaking reviews include:

- any errors or omissions of fact;
- any errors or omissions in procedure; and/or
- any exceptional circumstances at the time of 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 Fines Victoria to make payment arrangements.

For all incidents where a person is relying on evidentiary circumstances, they may be required to declare the information on a statutory declaration in the first instance. Neither the Council, its Councillors or 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 Fines Victoria or the Magistrates Court of Victoria.

A person issued with an Infringement Notice may elect to have the matter referred to the Magistrates Court of Victoria at any time.

All requests for an infringement notice review must be in writing setting out the circumstances and basis for disputing the alleged offence and including any documentary evidence. If at any point a Council 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 Civic Compliance and the Local Laws 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 Civic Compliance or the Local Laws Coordinator declare a conflict of interest, the General Manager Infrastructure and Assets will make the final decision on the review outcome. In the instance the General Manager Infrastructure and Assets declares a conflict of interest, the General Manager Healthy Communities, the General Manager Corporate Performance, the General Manager Strategy and Growth or the CEO will make the final decision on the review outcome. Notices not withdrawn by the CEO, General Managers, the Manager Civic Compliance or the Local Laws Coordinator will be processed in accordance with the procedure outlined in the Magistrates' Court Act 1989 and the Infringements Act 2006.

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 Fines Victoria or the Magistrates Court of Victoria. 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 Infrastructure and Assets, the Manager Civic Compliance or the Local Laws Coordinator will contact the Court and arrange for the matter to be withdrawn. The matter must be referred to the General Manager Infrastructure and Assets or the Manager Civic Compliance for a decision immediately. No request in writing is required on such occasions.

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

General Manager Infrastructure and Assets, Manager Civic Compliance and Local Laws 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
Magistrates Court of Victoria	The criminal jurisdiction of the Magistrates' Court
Fines Victoria	Fines Victoria processes and enforces infringement notices and penalties and registered court fines
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;*
- *Local Government Act 2020;*
- *Domestic Animals Act 1994;*
- *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
- Local Laws 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	✓