

INFRINGEMENT REVIEW POLICY

Policy Number:	3.2.4
Approved by:	Chief Executive Officer
Date Approved:	December 2021
Date of Next Review:	December 2022
Applicable to Unit(s):	Development Communities, Facilities and Emergencies
Responsible Officer:	Manager Municipal Services
Related Policies:	Nil
Related Documents:	Infringement Formal Review Committee Terms of Reference Community Local Law 2021
Statutory Reference:	<i>Charter of Human Rights and Responsibilities Act 2006</i> <i>Local Government Act 2020</i> <i>Privacy and Data Protection Act 2014</i> <i>Infringements Act 2006</i> <i>Road Management Act 2004</i> <i>Road Safety Road Rules 2017</i> <i>Road Safety Act 1986</i> <i>Road Safety (General) Regulations 2021</i> <i>Domestic Animals Act 1994</i> <i>Environmental Protection Act 2017</i> <i>Planning and Environment Act 1987</i> <i>Tobacco Act 1987</i> <i>Country Fire Authority Act 1958</i> <i>Transport (Compliance and Miscellaneous) Act 1983</i> <i>Impounding of Livestock Act 1994</i> <i>Infringements (Reporting and Prescribed Details and Forms) Regulations 2006</i> <i>Children, Youth and Families Act 2005</i>

OVERVIEW

Wellington Shire Council's infringement review system is an administrative framework that aims to deliver a clear, prompt and effective process for dealing with penalties for violations of State and Local Laws. The system is not restricted to the enforcement of infringement notices but extends to the procedures for:

- internal review;
- infringement withdrawal; and
- requests to proceed to Court.

It is the primary objective of the infringement review system to embed the fair and equitable treatment of all customers into its procedures and to ensure flexibility in its decision making.

The rights of residents and the obligations of agencies are prescribed in the *Infringements Act 2006* (the Act). The Act provides a set of guidelines that stipulate the way to manage enforcement.

THE POLICY

A person may apply for a review of the decision to serve the infringement notice before the matter has been lodged with the Court if the person believes the decision is:

- was contrary to law; or
- involved a mistake of identity; or
- that 'special circumstances' apply to the person; or
- the conduct for which the infringement notice was served should be excused having regard to any exceptional circumstances relating to the offence; or
- that the person was unaware of the notice having been served and that service of the infringement notice was not by personal service.

When an application for review is received, council staff will forward it to the Wellington Shire Infringement Formal Review Committee (the Committee). This will ensure a thorough and transparent review is undertaken.

The Committee comprises of the following authorised officers:

- General Manager Corporate Services
- Manager Corporate Finance
- Manager Land Use Planning
- Manager Municipal Services

Note: the Municipal Fire Prevention Officer will be a member of the committee during bushfire emergency season.

Once an infringement notice has been issued the recipient has 28 days to pay the infringement penalty. Within that time they may:

- Pay the infringement penalty
- Request and internal review
- Elect to go to Court
- Apply for an extension of time

A request for an internal review must be received before the infringement notice has been lodged with the courts. The Review Committee must complete the review within 90 days of the receipt of the review request. The Review committee will inform the applicant of the decision in writing within 21 days of the decision being made

The Application of Internal Review of Infringement Form can be downloaded from Council's [website](#).

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.