



9 DECEMBER 2013

LATE ITEMS

**Ordinary Meeting of Council Meeting No. 25/13
TUESDAY, 10 DECEMBER 2013**

**Council Chambers, Level 6, Civic Centre,
1 Devlin Street, Ryde - 7.30pm**

English

If you do not understand this letter, please come to the Ryde Civic Centre, Devlin Street, Ryde, to discuss it with Council staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact Council for you. Council's phone number is 9952 8222. Council office hours are 8.30am to 4.30pm, Monday to Friday.

Arabic

إذا كنت لا تفهم محتويات هذه الرسالة، فالرجاء الاتصال بمركز مجلس بلدية رايد Ryde Civic Centre، وعنوانه: Ryde، Devlin Street، لمناقشتها مع العاملين في المجلس عن طريق مترجم، يستعين به العاملون لمساعدتك. أو يمكنك، بدلا من ذلك، أن تتصل بمكتب خدمات الترجمة TIS على الرقم 131 450 وأن تطلب من أحد المترجمين أن يتصل بالمجلس نيابة عنك. رقم تليفون المجلس هو 9952 8222، وساعات العمل هناك هي من الساعة 8.30 صباحا إلى 4.30 بعد الظهر من يوم الاثنين إلى يوم الجمعة.

Armenian

Եթէ այս նամակը չէք հասկնար, խնդրեմ եկէք՝ *Բայր Սիվիլ Սենթըր, Տելվին* փողոց, Բայր, խօսակցելու Քաղաքապետարանի պաշտօնեաներուն հետ, որոնք թարգմանիչ մը կրնան կարգադրել: Կամ, կրնաք հեռաձայնել Թարգմանութեան Սպասարկութեան՝ 131 450, եւ խնդրել որ թարգմանիչ մը Քաղաքապետարանին հետ կապ հաստատէ ձեզի համար: Քաղաքապետարանի հեռաձայնի թիւն է՝ 9952 8222: Քաղաքապետարանի գրասենեակի ժամերն են՝ կ.ա. ժամը 8.30 - կ.ե. ժամը 4.30, Երկուշաբթիէն Ուրբաթ:

Chinese

如果您看不懂這封信，請到位于 Devlin Street, Ryde 的禮特區市府禮堂 (Ryde Civic Centre) 與區政廳工作人員討論，他們將會給您安排傳譯員服務。或者您自己打電話給“翻譯及傳譯服務”，電話：131 450，請他們替您與區政廳聯係。區政廳的電話號碼是：9952 8222。區政廳工作時間是：周一至周五，上午 8.30 到下午 4.30。

Farsi

اگر این نامه را نمی فهمید لطفاً به مرکز شهرداری رايد در Devlin Street مراجعه کنید. کارمندان شهرداری ترتیب استقاده از يك مترجم را براي شما خواهند داد. یا ميتوانيد به سرويس ترجمه کتبي و شفاهي شماره 131 450 تلفن بزنيد و بخواهيد که يك مترجم از جانب شما با شهرداری تماس بگیرد. شماره تلفن شهرداری 9952 8222 و ساعات کار از 8.30 صبح تا 4.30 بعد از ظهر مي باشد.

Italian

Le persone che hanno difficoltà a capire la presente lettera, sono pregate di presentarsi al Ryde Civic Centre in Devlin Street, Ryde, e parlarne con gli impiegati municipali che provvederanno a richiedere l'intervento di un interprete. Oppure possono chiamare il Translating & Interpreting Service al 131 450 e chiedere ad uno dei loro interpreti di mettersi in contatto con il comune di Ryde. Il numero del comune è 9952 8222. Gli uffici comunali sono aperti dalle 8.30 alle 16.30, dal lunedì al venerdì.

Korean

이 편지를 이해할 수 없으시면 Ryde의 Devlin Street에 있는 Ryde Civic Centre로 오셔서 카운슬 직원과 상담하여 주십시오. 저희 직원이 통역 서비스를 연결해 드릴 것입니다. 아니면 131 450번으로 통번역 서비스(TIS)에 전화하셔서 통역사에게 대신 카운슬에 연락해 주도록 부탁하셔도 됩니다. 카운슬 전화 번호는 9952 8222번입니다. 카운슬의 업무 시간은 오전 8:30부터 오후 4:30, 월요일에서 금요일까지입니다.

Meeting Date: Tuesday 10 December 2013
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: 7.30pm

*Council Meetings will be recorded on audio tape for minute-taking purposes
as authorised by the Local Government Act 1993.*

NOTICE OF BUSINESS

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LATE ITEMS

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LATE ITEMS

15 ENFORCEMENT OF PARKING POLICY - REVIEW OF STATE DEBT RECOVERY OFFICE ADMINISTRATIVE SERVICE AND COUNCIL'S INTERNAL REVIEW PROCEDURE

Report prepared by: General Counsel, Public Officer
File No.: GRP/09/5/6/4 - BP13/1219

REPORT SUMMARY

This report outlines Council's current renewal options for the administration services provided by the State Debt Recovery Office (SDRO) in relation to the processing of penalty notices. It also outlines Council's internal procedure for the consideration of appeals to the issuing of these notices.

This report recommends Council renewing the 'Premium' Service Level Agreement with the SDRO. The report also recommends continuing with Council's internal procedure for appealing infringement notices. This is based on Council restricting this appeal service to technical issues only, in accordance with the SDRO and Attorney General's guidelines.

RECOMMENDATION:

- (a) That Council renew the 'Premium' Service Level Agreement with the State Debt Recovery Office for the provision of administrative services for processing penalty notices issued by Council's Rangers.
- (b) That Council continue to provide an internal procedure for appealing infringement notices comprising of a technical review (by Council's Adjudication Officer) in accordance with the State Debt Recovery Office and the Attorney General's guidelines.

ATTACHMENTS

- 1** Enforcement of Parking Policy dated 16 August 2013
- 2** SDRO Guidelines
- 3** Attorney General's Guidelines for Internal Review under the Fines Act 1996

Report Prepared By:

Bruce McCann
General Counsel, Public Officer

Report Approved By:

Roy Newsome
Acting General Manager

ITEM 15 (continued)**Discussion**

The Fines Act 1996 provides for the review of penalty notices establishing the legal right for the recipient to seek a review by either the issuing authority (Council) or the State Debt Recovery Office (SDRO), or both.

Council's Enforcement of Parking Policy (Attachment 1), "Procedures for appealing infringement notices", also provides for the adjudication of representations made by appellants by the Adjudication Officer (General Counsel) if the appellant is dissatisfied with the review conducted by the SDRO in the first instance. The Adjudication Officer's review relates only to technical matters, as extenuating circumstances are matters for the consideration of the SDRO and the Court.

All Councils have a service level agreement with the SDRO for the administration of penalty notices. There are two levels of agreements - Basic and Premium.

The difference between the two levels relates to the treatment of representations made by penalty notice recipients and the management of court elected penalty notices:

- The Basic Service: the Council as issuing authority is responsible for answering written inquiries, handling letters of representation and dealing with correspondence. The SDRO manages court elected penalty notices and police prosecutors appear only at the first return date on behalf of the Council.
- The Premium service: this service allows the SDRO to use its guidelines to adjudicate on representations and reply to correspondence on behalf of the issuing authority (Council). In addition, police prosecutors appear at first mentions and hearings for vehicle related court elected penalty notices.

Council currently has a Service Level Agreement for Premium Processing Service. The Agreement expired in March 2013, but continues in accordance with the carry over provisions specified in the Agreement. An updated Service Level Agreement has been provided to all Councils for renewal by the SDRO.

Clause 2.44 of the renewed Premium Service Level Agreement with SDRO states:

If the Commercial Client adopts its own set of guidelines or opts to conduct its own review of representations for instance by the operation of a review panel or similar arrangements for review, the Commercial Client agrees it will revert back to a Basic Processing Service whereby the Commercial Client is responsible for all requests for reviews, correspondence in relation to representations and elections to have a court determination of Penalty Notice. In reverting to a Basic Processing Service this premium service agreement will be terminated without prejudice to any accrued rights or remedies of the parties.

ITEM 15 (continued)

This means that if City of Ryde is to enter into a Premium Service Level Agreement with SDRO and continue with Council's internal review process, SDRO may terminate the Premium Service Level Agreement and replace it with a Basic Service Level Agreement.

On 3 December 2013 Council staff met with representatives from the SDRO. At that meeting the SDRO supported the role of Council's Adjudication Officer, provided the officer's review addresses technical issues only. Furthermore, the SDRO requires Council to comply with the Attorney General's Guidelines (Attachment 3). As noted above, Council's current review procedure complies with the SDRO's and the Attorney General's requirements in this respect.

If Council were to discontinue its internal procedure for appealing infringement notices, the review process for customers would be to request a review of their infringement through SDRO and appeal the matter in Local Court. Referring appeals for penalty notices to the SDRO and Local Courts provides the maximum level of probity and integrity. This approach reduces the potential for perceived Conflicts of Interest to arise by providing a fully independent review mechanism, while also allowing Councillors to make representations on behalf of the community. It should be noted that only 4 Councils in the Greater Sydney Region, including Ryde, currently have operating adjudication panels.

Financial Implications

Currently the Premium Service provides for a cost to Council of \$17.45 per PIN for processing payments and customer enquiries/requests, the review of a PIN and representation in Court by Police Prosecutions. This represents \$450,000 annually.

If Council were not in a Premium Service Level Agreement with the SDRO last financial year, it is estimated that costs, additional to the \$450,000.00 paid to the SDRO, would have been as follows:

Legal costs for Council representations in Court	\$93,600.00
Staffing costs for extra Customer Service assistance with additional customer enquiries/requests	\$7,844.32
Staffing costs for an additional administrative staff member to prepare the documentation for review and customer correspondence for representations in court proceedings	\$46,846.89
Staffing costs for additional time required by Legal Counsel to consult and review PINs.	\$43,330.00
Basic Service Level Agreement SDRO fees (Note: the SDRO processing fee per PIN under the Premium Service is \$17.50 whereas the fee under the Basic Service is \$19.50 per PIN.	\$56,329.90
TOTAL	\$247,951.11

Non-participation in the Premium Service Agreement would represent an ongoing additional cost of \$247,951.11 to Council per annum.

ITEM 15 (continued)**Options**

Option 1

- (a) That Council renew the 'Premium' Service Level Agreement with the State Debt Recovery Office for the provision of administrative services for processing penalty notices issued by Council's Rangers.
- (b) That Council continue to provide an internal procedure for appealing infringement notices comprising of a technical review (by Council's Adjudication Officer) in accordance with SDRO and the Attorney General's guidelines.

Option 2

- (a) That Council renew the 'Premium' Service Level Agreement with the State Debt Recovery Office for the provision of administrative services for processing penalty notices issued by Council's Rangers.
- (b) That Council **discontinue** its internal procedure for appealing infringement notices, referring all appeals to the SDRO and Local Courts.

Option 3

- (a) That Council engage the 'Basic' Service Level Agreement with the State Debt Recovery Office for the provision of administrative services for processing penalty notices issued by Council's Rangers.
- (b) That Council continue to provide an internal procedure for appealing infringement notices comprising of a technical review (by Council's Adjudication Officer) in accordance with SDRO and the Attorney General's guidelines.

Option 3 is not recommended due to the significant financial implications noted above.

ITEM 15 (continued)

ATTACHMENT 1

Enforcement of Parking Policy

Policy Statement

The purpose of this policy is to provide objectives, standards and procedures to assist in the fair, transparent and equitable enforcement of parking within the City of Ryde. The policy provides guidance for enforcement officers in the performance of their duties as well as detailing appeals procedures for the benefit of the community and councillors.

Objectives

The following objectives are designed to assist and define the actions to be undertaken by each enforcement officer within the Regulatory Services Unit. Each officer should seek to:

- Standardise procedures to be adopted in the undertaking of routine enforcement duties.
- Clearly identify his or her responsibilities and accountabilities.
- Adhere to the standard uniform requirements of the Regulatory Services Unit.
- Adhere to Safe Working Procedures when encountering high-risk operational situations.
- Observe the statutory provisions and powers of Enforcement Officers.
- Engage in on-going training to ensure a high level of service provision.
- Pursue corporate and business unit service agreements.
- Pursue excellence in customer service.
- Contribute to an efficient, effective and professional Regulatory Services Unit within the City of Ryde LGA.
- Establish uniformity and consistency in Regulatory Services Enforcement.
- Establish and adopt a high standard litigation procedure.
- Monitor and enforce the appropriate use of parking permits and Mobility Parking Scheme (MPS) permits in the City of Ryde.

Code of Ethics

Ethics is the code of moral and legal conduct required of all Regulatory Services staff.

Officers are required to be professional in their approach to their duties, and must always conduct themselves in an ethical and professional manner.

Officers must have a code of ethics to self-regulate their behaviour in the pursuit of their duties.

Enforcement of Parking Policy		
Owner: Rangers & Parking Services	Accountability: Traffic & Parking Regulatory	Policy Number: # Provided by Governance
Trim Reference: RSU/10/4/9/2	Review date: 28 August 2013	Endorsed: Date and Authority

ITEM 15 (continued)

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This code of ethics is regulated by legal obligations under various regulations and statutes including Council's Code of Conduct.

Enforcement Officers will not engage in any activity that will bring discredit upon himself or herself or the City of Ryde.

Officers shall:

- Not permit personal views, or prejudices to influence their attitude towards any person or duty required to be undertaken as part of the Regulatory Services Unit.
- Respond to any reasonable request or lawful direction of any supervisor or manager of the Council.
- Not commit any act which constitutes dereliction of duties.
- Not commit any act that brings the City of Ryde or the Regulatory Services Unit into disrepute.
- Not publicly criticise Council in any way that is demeaning, defamatory or brings disrespect, or embarrassment to the City of Ryde.
- Not publicly criticise any Council employee in any way, which is demeaning, defamatory or brings disrespect to Council or the Regulatory Services Unit.
- Not obey any order or direction which is contrary to any law.
- Report any such unlawful order to the attention of an immediate supervisor, manager or if required the General Manager.
- Not solicit or receive any gift, gratuity, reward, fee, compensation or payment, which may compromise the officer or the City of Ryde in the execution of their duty.
- Abide by the City of Ryde's Code of Conduct

Dress Code

All Officers must be mindful that they are high profile, highly visible ambassadors of the City of Ryde, before clients, staff and the public. Officers' individual appearance reflects the image portrayed by the City of Ryde.

Officers are issued with uniforms, and must be properly attired in full uniform, including name badge, at the commencement of duty. All Officers are required to wear a High Visibility Vest whilst carrying out any duties on any road or road related area irrespective of the duties undertaken.

Officers must maintain their uniforms in a clean and presentable manner and report any loss or damage to such immediately to the Senior Ranger – Regulatory Services. Uniforms are issued or replaced as part of a set program. However, footwear will be replaced on a needs basis based on wear and tear.

All uniforms must be worn in accordance with any policy or procedure adopted by the Regulatory Services Unit or any policy adopted by the City of Ryde and/or its OHS Management Unit. This includes the wearing of all issued PPE, long sleeve shirts, hats, vests, steel cap boots etc.

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ATTACHMENT 1

Conduct

All Officers shall:

- Be courteous and conduct themselves in a professional manner at all times.
- Reply to internal or external customer inquiries in a prompt and polite manner.
- Perform their duties impartially and in the best interest of the community, uninfluenced by fear or favour.
- Act in good faith in the interest of the City of Ryde and the community.
- Always act in accordance with their obligations of fidelity to their Council.

The Public is entitled to expect that:

- The business of the Regulatory Services Unit and Council is conducted with efficiency, impartiality and with integrity.
- All members of staff obey the law, particularly, the provisions of all relevant Acts, Regulations and instruments.
- Duty to the public is always given absolute priority over the private interests of individuals or staff.

Formal Complaints

Formal complaints about the conduct of enforcement officers of council must be addressed in writing to the General Manager.

Parking Definitions

On-Street Parking

This relates to all public streets, roads, or car parks within the City of Ryde.

Off-Street Parking

Off-Street parking relates to all areas under Council jurisdiction regardless of area, and includes Council's Council Free Car Parks, allocated areas, parks, reserves and privately owned car parks that have Council approved Enforcement Agreements.

Delegated Authority to Enforce Parking

The Commissioner of Police, on the 19th July 2002, gave the authority for all Councils to enforce the provisions of the Australian Road Rules, effective the 22nd July 2002.

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Presently, Council's Rangers are engaged in the core parking enforcement role generally between the hours of 7.50am – 5.40pm Monday – Sunday, including Public Holidays.

The Senior Ranger or Manager – Regulatory Services will determine and designate an appropriate area/s that requires enforcement coverage. Rangers are required to carry out these duties and to follow instruction at all times.

Procedures for Parking Patrol Enforcement

Efficient and effective parking regulation relies heavily on systematic presence of officers. Consistency in enforcement is the key component in avoiding undue criticism to both the individual and the Unit as a whole. Officers will not act in a covert way in enforcing parking rules and restrictions.

Parking offences are strict liability offences, which mean that a breach of the law is sufficient to justify the issuing of a PIN. However, officers should:

- display sound judgment in exercising any discretion to issue a PIN,
- ensure that the Road Rules are pursued in a fair and equitable manner in keeping with this policy,
- put public safety first,
- exercise discretion in keeping with industry best practice.

It is acceptable to obtain photographic evidence of any vehicle that is committing an offence within the City of Ryde area.

The photographic evidence once obtained must be secured in Council's record system to restrict accessibility by the public and unauthorised members of staff.

It is expected Council Rangers will always enforce the provisions of the regulations in a pro-active manner and it is acceptable that there are times officers may act without warning to motorists, where specific safety issues are concerned.

Enforcement Officers shall adopt the following procedures and work practices in all but approved extenuating circumstances.

- Officers shall discharge and comply with the designated program of enforcement, as designated by the Manager – Rangers and Parking Services.
- All officers must be outfitted with the relevant equipment to carry out parking enforcement at all times whilst on patrol. This includes PDA's, Printer, Official Notebook, pens (stylus), camera, delegations, chalk and envelopes.
- It is acceptable for infringement notices to be issued by post to offending vehicles after the relevant details are checked with the NSW Police or through the RTA Drives24 system.

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Where an officer issues a caution, it shall be issued electronically where possible and all enforcement staff are to follow the set protocol and issue an official caution through the PDA with a \$0.00 amount.

- Empty envelopes will not be left without an Infringement Notice being issued. This may be construed as giving a caution to a vehicle and draw untold criticism upon the individual or unit.
- School Zone enforcement shall be conducted in an ethical and consistent manner. All Officers shall ensure at all times during their enforcement that they are visible to all users of the area (students, staff and parents).
- Notwithstanding the policy all officers shall further comply with and discharge every requirement of the State Debt Recovery Office (SDRO), in regards to the issuing of Infringement Notices.
- Any Officer that does not comply with this Policy may be in breach of Council's Code of Conduct Policy.

Procedures for Appealing Infringement Notices

The City of Ryde has a current premium service agreement with the SDRO; this agreement is for the provision of Infringement Processing, data collection and revenue collection from the infringement notices issued by council officers. The current fee for this service is \$17.45 per infringement notice, plus GST.

Another service provided by the SDRO is the administration of all representations in relation to all Infringement Notices issued by Council; this includes parking fines, companion animal offences, pollution matters etc.

The following procedure will be followed if a member of the public wishes to raise representations with the Council or the SDRO in relation to an infringement notice:

1. The representation must be in writing, containing the full name, address, date of offence, registration number of vehicle, make of vehicle, location of offence, and infringement notice number. This information should be forwarded directly to the SDRO, in the first instance, as the appropriate authority to action infringements.
2. ~~In the event that the appellant is not happy with the decision of the SDRO, they may request a formal review of this decision by the City of Ryde's Adjudication Officer (General Counsel). All requests must be made in writing to the General Manager.~~

~~The decision for the Infringement Notice to be actioned as~~

- 1) ~~Cautioned~~
 - 2) ~~Cancelled~~
 - 3) ~~Penalty to Stand~~
- ~~will be referred to the SDRO for action.~~

~~The determination of the Adjudication Officer (General Counsel) is final and no further correspondence will be entered into by the City of Ryde. The final~~

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ATTACHMENT 1

option for appellants will be to have the matter determined through the Local Court. Requests for matters to be forwarded to the Court are to be made in writing to the SDRO.

Parking Offence photographs are available to be viewed at Council's Customer Service Centre during Council's business hours of 8.30am-4.30pm Monday to Friday. There is no fee for viewing an offence photograph, however there is a processing fee in line with Council's Management Plan if a copy of the photograph is required. Photographs are only able to be provided in hard copy.

Procedures for Councillors

Councillors are encouraged to advise constituents to forward their representations in writing to the SDRO in the first instance. Where Councillors make representations on behalf of constituents, any such representation must be made consistent with Council's Code of Conduct. Some particular requirements of the Code are:

- Clause 4.3 – you must not act in order to gain financial or other benefits for yourself, your family, friends or business interests.
- Clause 6.1(d) and (e) – you must not act in a way that is an abuse of power or otherwise amounts to misconduct or that causes, comprises or involves intimidation, harassment or verbal abuse.
- Clause 8.7 – you must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or someone else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.
- Clause 9.2 – Councillors must not:
 - direct staff other than the General Manager;
 - in any public or private forum, direct or influence or attempt to direct or influence a member of staff;
 - contact a member of staff other than in accordance with approved procedures for such contact;
- Clause 9.7 – Inappropriate interactions
 - Councillors being overbearing to or threatening staff
 - Councillors directing or pressuring staff in the performance of their work

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ITEM 15 (continued)

ATTACHMENT 2

SDRO Review Guidelines

State Debt Recovery Office



ITEM 15 (continued)

ATTACHMENT 2

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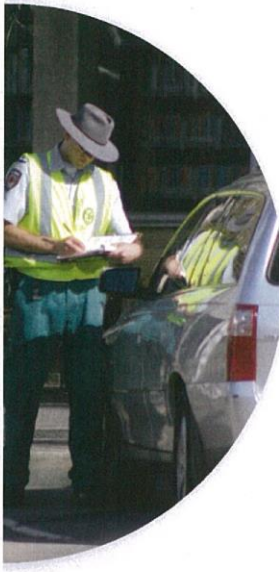
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Overview

Note:

This document is accurate at the time of publication, but can change without notice to meet legislative requirements or a change in focus on enforcement of specific offences. To access the latest version online, please visit www.sdرو.nsw.gov.au

General

We provide a processing service for over 230 agencies who issue penalty notices. These include local councils, NSW Police, RailCorp, hospitals, universities and various statutory boards and trusts.

We issue notices directly for camera detected offences such as speeding, red light and bus lane cameras.

We also investigate, issue notices and prosecute anyone lodging false nominations or failing to nominate drivers for demerit point offences.

Issuing agencies

Issuing officers must consider the caution guidelines under the *Fines Act 1996*, available at www.lawlink.nsw.gov.au, when deciding whether to issue a warning (caution) or a penalty notice.

Reviewing a penalty notice

In accordance with the *Fines Act 1996*, you can apply for a review of your penalty notice up until the due date on your penalty reminder notice. You may feel you are not guilty or that, because of circumstances at the time, you had no choice but to commit the offence. SDRO has arrangements in place to conduct reviews on behalf of most councils and government departments.

Please remember that SDRO was not present at the time of the offence nor are we aware of your personal circumstances.

SDRO's Review Guidelines

These guidelines assist us make consistent decisions. They assist you understand what evidence may be required to support your claim.

These guidelines are not extensive and do not cover every possible scenario. However, they are designed to address the most common occurrences.

It is important to read these guidelines before submitting a request for review. You will see that we cannot conduct reviews for some

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offences. For others, you will need to submit specific evidence, or have a clear driving record for at least 10 years.

We will take into consideration if you suffer from a diagnosed mental health condition, cognitive impairment or homelessness, which led to the offence. Also, if you have received penalty notices for similar offences in the past.

If you do not supply the required supporting information, your request for review may not be successful.

Note: We will only consider a clear driving record for demerit point offences.

These guidelines outline general circumstances, which we will take into account when reviewing your case. So, it is important that you supply as much information as possible.

Please supply any additional information relevant to your request for review. We did not witness the alleged offence and do not know anything about your personal circumstances.

How will the review be conducted?

The review may consider the following:

- the offence
- past offence history
- the circumstances outlined by the client and supporting evidence
- notes recorded by the issuing officer
- any available photographic evidence
- verification of licence and/or registration details
- any additional reports from the issuing agency
- driving history – for demerit points offences.

SDRO may consult the issuing agency where clarification of any aspect is required.

Some issuing agencies conduct their own reviews. In these cases, we will acknowledge receipt of your request and forward it to the respective agency for decision and reply directly to you.

Possible outcomes of the review

Unless advised otherwise, we will place your fine on hold until we review your claim. We will advise you in writing of the outcome, normally within 20 days.

After we assess your request, one of three outcomes is possible:

Penalty to stand – the offence was proven and the circumstances or issues raised did not warrant granting a caution. You must pay the fine or elect to have the matter decided in court.

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Caution – the penalty notice was issued correctly and the offence occurred but due to the circumstances and evidence provided, you have now been issued a caution. Payment is not required and demerit points do not apply. However, for demerit point offences the caution will be recorded on your driving history.

Cancellation – the penalty notice does not sufficiently disclose the offence or has been issued in error. You do not have to pay the fine and demerit points (if applicable) will not be recorded.

Serious offences

We will generally not consider leniency for some offences, where safety is an issue. These include:

- demerit point offences in school zones
- driving while using mobile phone offences
- driver seat belt offences
- offences known as 'burnouts'
- 'point to point' speeding offences, where the average speed recorded is 20 kph over the speed limit
- speed limiter offences
- where multiple offences are issued from one camera incident (e.g. where red light and exceed speed penalty notices are both issued because of one incident)
- RailCorp safety offences.

We will not consider leniency for speeding offences of more than 30kmh over the speed limit. These offences incur an automatic licence suspension period.

Note: We may refer a driver to NSW Roads and Maritime Services (RMS), for any action deemed necessary, if the information provided raises doubt about a person's fitness to drive.

It is an offence to provide false or misleading information. We may refer a matter to the NSW Police Force for investigation, which can lead to prosecution in court.

How to request a review

- online at www.sdro.nsw.gov.au/fines/pn/review
- in writing to SDRO, PO Box 786, Strawberry Hills, NSW 2012
- email at www.sdro.nsw.gov.au/contact/
- over the phone for claims of wrong vehicle reported or clear driving record of at least 10 years on 1300 138 118.

We receive a large volume of enquiries and try to respond to requests as quickly as possible, usually within 20 days. To prevent any unnecessary delays, please supply all relevant documents when you request a review.



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Parking offences

Note: This section incorporates offences that relate to the parking of a motor vehicle. For speeding, traffic and other offences, go to page 8.

We will only consider a clear driving record for demerit point offences.

Offences that take place in school zones are unlikely to result in a favourable decision due to the serious child safety implications.

The following table outlines general circumstances, which we will take into account when reviewing parking offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
<p>The circumstances below relate to ticketed parking and parking meters:</p> <ul style="list-style-type: none"> I purchased a valid parking ticket but did not display it correctly. the parking ticket machine/parking meter was faulty. I left the vehicle to obtain change. I returned with change and confirmed this with the issuing officer. I was unfamiliar with the operation of the ticket machine. I purchased multiple tickets, which combined, did not exceed the allowable time limit. This is the first time I have made this claim. I overstayed the time limit because my keys were lost, stolen or locked in the vehicle. I placed money in the wrong meter or bay. 	<p>You must submit evidence in support. Depending on your case, this may include, but is not limited to:</p> <ul style="list-style-type: none"> a copy of the valid parking ticket details of the time you attempted to make payment and the parking machine fault reference number, if obtained.
I failed to display a valid Mobility Parking Scheme permit.	<p>Provide a copy of both sides of the relevant valid permit.</p> <p>Note: Only the first offence of this type will be considered.</p>
I had a valid resident parking permit for a particular vehicle but I used another vehicle at the time of the offence.	<p>Provide a copy of both sides of the relevant valid permit.</p> <p>Note: Only the first offence of this type will be considered</p>
I received a penalty notice for parking in a special/restricted zone, but I am authorised to use the zone.	<p>Details of your claim will be checked against the information recorded by the issuing officer at the time of issue.</p> <p>Note: Confirmation of your authority to park is required.</p>
I parked in an area and the signage that applied was changed after I parked.	<p>Details of your claim will be checked against the information recorded by the issuing officer at the time of issue.</p>

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What are my circumstances?	What do I need to do?
<p>The circumstances below relate to loading zones:</p> <ul style="list-style-type: none"> My vehicle is permitted to be parked in a loading zone, and I was engaged in setting down or picking up goods or passengers. I purchased a valid loading zone ticket and the vehicle is the type that is allowed to use a loading zone. I could not obtain a ticket for the ticketed loading zone because the machine was faulty. 	<p>You must submit evidence in support. Depending on your case, this may include, but is not limited to:</p> <ul style="list-style-type: none"> a copy or details of your valid ticket details of the ticket machine fault reference number, if obtained. <p>Note: Details of your claim will be checked against information recorded by the issuing officer at the time of issue and NSW RMS records for vehicle registration type.</p>
<p>The vehicle was broken down at the time of the offence.</p>	<p>Proof of the breakdown, such as repair or towing receipt.</p> <p>Please note:</p> <ul style="list-style-type: none"> Any documentary evidence must clearly show the time, date and place of breakdown. Multiple claims may not be considered and the question of vehicle road worthiness may be referred to NSW RMS.
<p>The offence occurred because there was a medical emergency:</p> <ul style="list-style-type: none"> I obtained timed parking but could not return to the vehicle due to an unexpected trauma or treatment during an appointment I was visiting someone in hospital and their condition worsened or death was imminent and it was not reasonable to leave at that time. 	<p>Proof of medical emergency on letterhead from a medical authority supporting the circumstances.</p> <p>Note: There has to be an emergency, as opposed to a diagnosed condition.</p> <p>We may refer the matter to the issuing authority for further advice.</p>
<p>You believe the penalty notice was issued for the wrong vehicle.</p>	<p>Details of your claim and any supporting documentation you have.</p> <p>Note: Usually, a simple call to our contact centre on 1300 138 118 can resolve these matters</p>
<p>I received duplicate penalty notices for the same offence and the zone or time limit had not recommenced or changed.</p> <p>Note: This does not mean that a vehicle detected for repeat offences cannot be given penalty notices for each separate offence committed.</p>	<p>Details of your claim and the multiple penalty notices that are in dispute.</p>
<p>I was directed to park my car by an emergency services worker during an emergency.</p> <p>I was arrested by Police and could not move my car.</p> <p>I was assisting Police as a witness and overstayed the time limit.</p>	<p>Details of your claim, including any supporting documentation, including a Police event number</p>
<p>I own the vehicle and have been sent a penalty notice but I was not the driver at the time of the offence.</p>	<p>Send in a completed statutory declaration, found at www.sdro.nsw.gov.au, telling us the driver/person responsible for the vehicle at the time of the offence.</p>

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What are my circumstances?	What do I need to do?
You sold or transferred the vehicle ownership prior to the date of the offence.	<p>The registered owner should update the change of ownership with NSW RMS and then send us a statutory declaration providing details of the new owner.</p> <p>They can also provide evidence of the transfer or sale of the vehicle with their statutory declaration if NSW RMS records are not yet updated.</p> <p>Relevant traffic authority records may be used to confirm.</p>
The vehicle or plates were stolen at the time of the offence.	<p>Details of your claim and any of the following:</p> <ul style="list-style-type: none"> an Event number from a NSW Police Force report copy of a report from interstate Police confirming the date and time the vehicle was stolen. <p>Note: These documents must clearly show the time and date the vehicle was stolen and/or recovered.</p>
I believe that I have been falsely nominated as being responsible for this offence.	<p>Provide documentary evidence that you could not have been responsible for the offence. This should include proof of your whereabouts at the time of the offence (eg. overseas, in hospital etc).</p> <p>Note: If your claim is accepted, consideration will be given to pursuing the false nomination by the other person.</p>
The person who committed the offence is now deceased.	<p>Proof of death may include:</p> <ul style="list-style-type: none"> copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages copy of Certificate of Death issued by a medical practitioner copy of any document issued by a legal practitioner, police officer or Coroner which refers to the death, any other documentary evidence that is sufficient proof of death.
The vehicle was an emergency services vehicle engaged in official duties.	Confirmation in writing from Service agency.
<p>The person issued the penalty notice has an intellectual disability, a mental illness, a cognitive impairment or is homeless. They were unable to:</p> <ul style="list-style-type: none"> understand that their conduct constituted an offence control such conduct. 	A detailed report on official letterhead from a medical practitioner, support agency or government department.

ITEM 15 (continued)

ATTACHMENT 2

Printed copies cease to be controlled



Speeding, traffic and other offences

Notes:

1. A 10-year clear driving record can only be considered for offences that attract demerit points.
2. SDRO will generally not consider leniency for certain offences, where safety is an issue. Speeding offences of more than 30 km/h over the speed limit incur an automatic licence suspension period and leniency will not be considered.
3. Instances where information provided raises doubt about a person's fitness to drive may be referred to NSW Roads and Maritime Services (RMS) for any action deemed necessary.
4. It is an offence to provide false or misleading information. These matters may be referred to the NSW Police Force for investigation, and can lead to prosecution in court.
5. P1 drivers/riders caught speeding will have their licence suspended for at least 3 months. Leniency will not be considered.
6. NSW law requires that NSW RMS be advised of your change of address within 14 days.
7. Penalty notices issued for weights and loads offences will be reviewed in conjunction with the issuing agency.

This section covers the following offences:

Camera detected:

- speeding
- red light
- T-Way and bus lane offences.

Police detected:

- speeding
- red light penalty notices issued to the driver
- mobile phone and in-car TV/DVD offences
- seat belt offences
- negligent driving penalty notice issued to the driver
- L and P plate notices issued to a driver
- unlicensed driver/rider, including 'not produce licence'

ITEM 15 (continued)

ATTACHMENT 2

Printed copies cease to be controlled

- unregistered and uninsured penalty notice issued to the driver
- weights and loads offences.

Other:

- toll offences.

The following table outlines general circumstances, which we will take into account when reviewing traffic offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
I have had a clear driving record for the past 10 years.	<p>Send in details of your claim including information regarding your licence.</p> <p>Notes:</p> <ul style="list-style-type: none"> ■ If you have not held a NSW licence for 10 years, but held an interstate licence (or licences) for part of the time, you must supply copies of your certified traffic records from those States, to cover a continuous 10 years of driving. ■ International licence records will not be considered.
I own the vehicle and have been sent a penalty notice but I was not the driver at the time of the offence	<p>Send in a completed statutory declaration, found at www.sdرو.nsw.gov.au, telling us the driver/person responsible for the vehicle at the time of the offence.</p>
You believe the penalty notice was issued for the wrong vehicle.	<p>Details of your claim and any supporting documentation you have.</p> <p>Note: These matters may be referred to the issuing authority for a decision and the relevant traffic authority records may be used to confirm.</p>
You sold or transferred the vehicle ownership prior to the date of the offence.	<p>The registered owner should update the change of ownership with the NSW RMS and then send SDRO a statutory declaration providing details of the new owner.</p> <p>They can also provide evidence of the transfer or sale of the vehicle with their statutory declaration if NSW RMS records are not yet updated.</p> <p>Note: Relevant traffic authority records may be used to confirm.</p>
The vehicle or plates were stolen at the time of the offence.	<p>Details of your claim and any of the following:</p> <ul style="list-style-type: none"> ■ an Event number from a NSW Police Force report ■ copy of a report from interstate Police confirming the date and time the vehicle was stolen. <p>Note: These documents must clearly show the time and date the vehicle was stolen and/or recovered.</p>

ITEM 15 (continued)

ATTACHMENT 2

Printed copies cease to be controlled

What are my circumstances?	What do I need to do?
The person who committed the offence is now deceased.	<p>Proof of death may include:</p> <ul style="list-style-type: none"> ▪ copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages ▪ copy of Certificate of Death issued by a medical practitioner ▪ copy of any document issued by a legal practitioner, police officer or Coroner which refers to the death ▪ any other documentary evidence that is sufficient proof of death.
The vehicle was an emergency services vehicle engaged in official duties.	<p>Confirmation in writing from Service agency.</p> <p>Note: A statutory declaration nominating the driver is not required if the vehicle was on official duties.</p>
I was not the person who committed the offence and believe that another person has used my particulars.	<p>Supporting evidence can include:</p> <ul style="list-style-type: none"> ▪ evidence that you were not in the location at the time of offence ▪ an Event number from a police report of stolen identity, loss of wallet, etc. ▪ proof of absence overseas – transcript from Department of Immigration, showing your exit and entry dates around the time of offence ▪ copies of photo identity. <p>Note: These matters may be referred to the issuing authority for a decision.</p>
The offence occurred because there was a medical emergency.	<p>Proof of medical emergency on letterhead from a medical practitioner or medical professional supporting the circumstances.</p> <p>Note: These matters may be referred to the issuing authority for a decision. They may also be referred to the NSW RMS Licence Review Unit in the interest of public safety.</p>
I believe that I have been falsely nominated as being responsible for this offence.	<p>Provide documentary evidence that you could not have been responsible for the offence. This should include proof of your whereabouts at the time of the offence (eg. overseas, in hospital etc).</p> <p>Note: If your claim is accepted, consideration will be given to pursuing the false nomination by the other person.</p>
This is the first time I have received a penalty notice for not displaying L or P plates.	<p>Details of your claim, this will be checked against the information provided by the reporting officer.</p>
I have received a penalty notice for being unlicensed, but NSW RMS or relevant transport authority has made an error.	<p>Details of your claim with supporting documentation from NSW RMS or relevant transport authority to prove that you were not unlicensed.</p>
I have received a penalty notice for being unlicensed but I have an interstate licence. I am not a resident in NSW.	<p>Proof from the relevant transport authority in that State that you were within any designated grace period and were considered to be licensed.</p>

ITEM 15 (continued)

ATTACHMENT 2

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What are my circumstances?	What do I need to do?
I have received a penalty notice for an unregistered vehicle but NSW RMS or relevant transport authority have made an error.	Details of your claim with supporting documentation from the NSW RMS or relevant transport authority proving that your vehicle was registered.
I have received a penalty notice for driving an unregistered vehicle but was driving it for a purpose directly associated with the registration process.	Details of your claim (eg. driving to nearest convenient Motor Vehicle Inspection Station) with supporting evidence. Note: 'Nearest convenient' can be a person's preferred location, even if the destination is some distance from their place of residence. However, factors such as the time you were detected is relevant in determining 'nearest convenient'. For example, a driver detected at 2am is unlikely to be en-route for repairs or to a Motor Registry.
I was driving an unregistered vehicle which was owned by a third party (eg. hire car company)	Details of your claim.
I was driving a vehicle, which I believed to be registered, but the registration was cancelled because the owner has defaulted on fines.	Details of your claim.
I have received a penalty notice for driving an unregistered vehicle, but it is registered interstate, and the renewal is within the grace period allowed in the relevant State.	Details of your claim.
The circumstances below relate to T-Way or bus lane offences: <ul style="list-style-type: none">■ I am authorised to travel in this lane.■ I was directed to travel in this lane by someone in authority.■ There was an accident or emergency situation and I had to travel in this lane.■ I received two penalty notices for offences detected within a short period of time. I realised I should not be driving in this area and tried to correct my error.	Details of your claim, and any documentary evidence in support. Note: These matters may be referred to the issuing authority for advice.
The person issued the penalty notice has an intellectual disability, a mental illness, a cognitive impairment or is homeless. They were unable to: <ul style="list-style-type: none">■ understand that their conduct constituted an offence■ control such conduct.	A detailed report on official letterhead from a medical practitioner, support agency or government department. Note: Such information may be referred to RMS in relation to the person's 'fitness to drive'.
I have received a penalty notice for not paying a toll, but have a valid e-TAG. I have received a penalty notice for not paying a toll, but paid it within the allowed 7 day time frame.	Details of your claim, including: <ul style="list-style-type: none">■ documentary evidence of payment made within 7 days of the offence■ copy of receipt quoting relevant docket number and date.

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ATTACHMENT 2

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Rail offences

RailCorp and the NSW Police Force can issue penalty notices for offences on the transport network.

For some offences, we will only consider a review for the first offence of that type. **Note:** Other than the general circumstances set out in the table below, we cannot review and will not accept any evidence for the following:

- tickets for travelling outside allowable school hours or school area using a school pass
- travelling without a valid ticket because of lack of time to purchase, forgot to renew weekly ticket or lack of change
- using offensive language within hearing of the public
- consuming alcohol or holding an empty/open alcohol container
- having feet on seats (including one foot) for non-medical reasons
- smoking on train/enclosed or covered railway land
- interference with train door operation
- graffiti and vandalism
- safety offences

The following table outlines general circumstances, which we will take into account when reviewing rail offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
I was not the person who committed the offence and believe that another person has used my particulars.	Supporting evidence can include that you were not in the location at the time of offence. an Event number from a police report of stolen identity, loss of wallet, etc. proof of absence overseas, transcript from Department of Immigration, showing your exit and entry dates around the time of offence. copies of photo identity showing date of birth. Note: These matters will be referred to the NSW Police Force.
The person issued the penalty notice has an intellectual disability, a mental illness, a cognitive impairment or is homeless. They were unable to: <ul style="list-style-type: none"> ■ understand that their conduct constituted an offence ■ control such conduct. 	A detailed report on official letterhead from a medical practitioner, support agency or government department. Note: These matters will be referred to the issuing authority for determination.

ITEM 15 (continued)

ATTACHMENT 2

Printed copies cease to be controlled

What are my circumstances?	What do I need to do?
I committed the offence because I feared for my safety.	Supporting evidence can include: <ul style="list-style-type: none"> an Event number from a Police report confirming the claim. any other documentary evidence that is sufficient proof.
The person who committed the offence is now deceased.	Proof of death may include: <ul style="list-style-type: none"> copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages copy of Certificate of Death issued by a medical practitioner copy of any document issued by a legal practitioner, police officer or Coroner which refers to the death any other documentary evidence that is sufficient proof of death.
I received duplicate penalty notices for the same offence. Note: This does not mean that a person who repeats an offence cannot be given a fresh penalty notice for each offence.	Details of your claim and the multiple penalty notices that are in dispute.
The circumstances below relate to ticket offences, concessions and passes: <ul style="list-style-type: none"> I had a valid bus, train or ferry ticket or concession card. I am a regular fare-paying customer of RailCorp and failed to obtain a ticket on this one occasion because of extenuating circumstances. The ticket selling window was closed, and no other alternate ticket vending machine was available. I was first time user of the rail system and was unfamiliar with the area and regulations. 	You must submit evidence in support. Depending on your case, this may include, but is not limited to: <ul style="list-style-type: none"> a copy of valid ticket a copy of relevant concession card or evidence of entitlement including of entitlement including confirmation that usage at the time of offence was according to conditions evidence of regular ticket purchases (eg. previous tickets) In addition, you must meet the following requirements: <ul style="list-style-type: none"> you have not received a penalty notice associated with fare evasion on the railway system within the last 5 years you have not received a penalty notice for a separate offence on the same occasion proof of residence or visit and that you live outside NSW. For overseas visitors, transcript from Department of Immigration, showing your exit and entry dates.
I boarded a train at a set down only station or left a train at a non-set down station because of service disruptions.	Details of your claim, including details of normal and alternate service.
I could not purchase a ticket due to faulty vending machine. No other ticket selling facilities were available.	Details of your claim, including the time and station you travelled from.

ITEM 15 (continued)

ATTACHMENT 2

Printed copies cease to be controlled

Littering offences

Councils, RailCorp, statutory authorities and the NSW Police Force can issue penalty notices for littering offences.

The following table outlines general circumstances, which we will take into account when reviewing littering offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
I was not the person who committed offence and believe that another person has used my particulars.	Supporting evidence can include: <ul style="list-style-type: none"> evidence that you were not in the location at the time of offence. an Event number from a police report of stolen identity, loss of wallet, etc. Proof of absence overseas, transcript from Department of Immigration, showing your exit and entry dates. Copies of photo identity showing date of birth. <p>Note: These matters will be referred to the NSW Police Force.</p>
The person issued the penalty notice has an intellectual disability, a mental illness, a cognitive impairment or is homeless. They were unable to: <ul style="list-style-type: none"> understand that their conduct constituted an offence control such conduct. 	A detailed report on official letterhead from a medical practitioner, support agency or government department. <p>Note: These matters will be referred to the issuing authority for determination.</p>
The person who committed the offence is now deceased.	Proof of death may include: <ul style="list-style-type: none"> copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages copy of Certificate of Death issued by a medical practitioner copy of any document issued by a legal practitioner, Police officer or Coroner which refers to the death any other documentary evidence that is sufficient proof of death.
The circumstances below relate to littering from a vehicle offences: <ul style="list-style-type: none"> I own the vehicle and have been sent a penalty notice but I was not the driver at the time of offence. I believe the penalty notice has been issued to my vehicle in error. I have been recorded as the owner of the vehicle in error. The vehicle was stolen at the time of the offence. 	You must submit evidence in support. Depending on your case, this may include, but is not limited to: <ul style="list-style-type: none"> a statutory declaration telling SDRO the driver/person responsible for the vehicle at the time of the offence the registered owner should update any change of ownership with NSW RMS, then send SDRO a statutory declaration providing details of the owner. They can also provide evidence of the transfer/sale if NSW RMS records are not yet updated an Event number from a NSW Police report copy of a report from interstate Police confirming the date and time the vehicle was stolen.

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ATTACHMENT 2

Printed copies cease to be controlled

Criminal infringement notice offences

NSW Police Force officers issue penalty notices for criminal infringement notice offences. These notices cannot be issued to anyone under 18 years of age.

The following table outlines general circumstances, which we will take into account in respect of criminal infringement notice offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
I was not the person who committed offence and believe that another person has used my particulars.	<p>Supporting evidence can include:</p> <ul style="list-style-type: none"> documentary evidence that you were not in the location at the time of offence an Event number from a police report of stolen identity, loss of wallet, etc. proof of absence overseas, transcript from Department of Immigration, showing your exit and entry dates. copies of photo identity showing date of birth. <p>Note: These matters will be referred to the NSW Police Force.</p>
The person who committed the offence is now deceased.	<p>Proof of death may include:</p> <ul style="list-style-type: none"> copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages copy of Certificate of Death issued by a medical practitioner copy of any document issued by a legal practitioner, police officer or Coroner which refers to the death any other documentary evidence that is sufficient proof of death.
<p>The person issued the penalty notice has an intellectual disability, a mental illness, a cognitive impairment or is homeless. They were unable to</p> <ul style="list-style-type: none"> understand that their conduct constituted an offence control such conduct. 	<p>A detailed report on official letterhead from a medical practitioner, support agency or government department.</p> <p>Note: These matters will be referred to the NSW Police Force.</p>
Disputing offence or seeking leniency.	<p>Details of your claim will be referred to the NSW Police Force for consideration.</p>

ITEM 15 (continued)

ATTACHMENT 2

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Fail to nominate offences

Fail to nominate penalty notices are issued to companies and individuals who fail to nominate the driver or person responsible for the vehicle at the time of a demerit points offence.

These offences are considered serious due to attempts to avoid the application of demerit points.

Any request for review must explain why you were hindered from lodging a nomination within the required timeframe. Leniency may be considered on the first occasion, but multiple offences may lead to prosecution and fines up to \$11 000.

Note: The provision of false or misleading information is also a serious offence and can lead to prosecution.

Building development and environmental offences

Councils issue penalty notices for building development and environmental offences. Requests for review will be referred to the issuing authority for a decision.



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ATTACHMENT 2

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Animal offences

Councils, RSPCA, statutory authorities and the NSW Police Force issue penalty notices for animal offences.

The following table outlines general circumstances, which we will take into account in respect of animal offences. It also outlines the type of detail and evidence you need to submit in support of your case.

What are my circumstances?	What do I need to do?
I was not the person who committed the offence and believe that another person has used my particulars.	<p>Supporting evidence can include:</p> <ul style="list-style-type: none"> evidence that you were not in the location at the time of offence an Event number from a police report of stolen identity, loss of wallet, etc. proof of absence overseas, transcript from Department of Immigration, showing your exit and entry dates copies of photo identity showing date of birth. <p>Note: These matters will be referred to the NSW Police Force.</p>
The person who committed the offence is now deceased.	<p>Proof of death may include:</p> <ul style="list-style-type: none"> copy of death certificate issued by the Principal Registrar of Births, Deaths and Marriages copy of Certificate of Death issued by a medical practitioner copy of any document issued by a legal practitioner, police officer or Coroner which refers to the death any other documentary evidence that is sufficient proof of death.
You sold or transferred ownership of the animal prior to the date of the offence.	<p>Details of your claim including details of the sale.</p> <p>Note: These matters will be referred to the issuing authority for a decision.</p>
The animal is deceased.	<p>Details of your claim including supporting documentary evidence confirming the death of the animal.</p> <p>Note: The death of the animal does not automatically warrant leniency for offences issued to the owner.</p>

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ATTACHMENT 2

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Statistics

During 2011–12:

- The NSW Police Force issued over **200 000** penalty notices for speeding. Police also issued a further **8800** penalty notices for speeding in a school zone.
- Camera detected offences resulted in SDRO issuing over:
 - ▶ **333 000** speeding penalty notices
 - ▶ **78 000** speeding in school zone penalty notices
 - ▶ **122 000** safety camera (red light) penalty notices.
- Over **1.2 million** parking penalty notices were issued.
- SDRO received over **260 000** requests for review.
- Approximately **78 900** cautions were issued (predominantly for clear driving records).
- **268** companies and individuals were prosecuted for failing to nominate the responsible driver or providing false nominations.



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ATTACHMENT 2

Printed copies cease to be controlled




Contact us

State Debt Recovery Office

Website

 www.sdro.nsw.gov.au

Phone

 1300 138 118 (Monday to Friday 8.00 am to 6.00 pm)
For international callers: +61 2 4937 9207


Hearing or speech impaired

 TTY 133 677

Email us via

 www.sdro.nsw.gov.au/contact/

Post

 State Debt Recovery Office
PO Box 786, Strawberry Hills NSW 2012


LawAccess

LawAccess NSW is a free government telephone service that provides legal information, referrals and in some cases, advice for people who have a legal problem in NSW.

Phone

 1300 888 529 (Monday to Friday 9.00 am to 5.00 pm)
For international callers: +61 2 8833 3190

Hearing or speech impaired

 TTY 1300 889 529

Translating and Interpreting Service (TIS)

 131 450 (TIS is a free and confidential service)

ITEM 15 (continued)

ATTACHMENT 2

Fines don't just go away.
Act now to avoid extra costs.



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Office of State Revenue: ISO 9001 – Quality Certified
Department of Finance & Services

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ITEM 15 (continued)

ATTACHMENT 3

Printed copies of this document may not be up to date.
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Internal Review Guidelines under the *Fines Act 1996*

The *Fines Act 1996* (NSW) provides that all agencies which issue penalty notices have the power to internally review the decision to issue a penalty notice, and sets out the basic requirements for such reviews.

These Guidelines are issued by the Attorney General, as a standard to assist agencies to conduct internal reviews of penalty notices fairly, impartially, and consistently across Government, and in accordance with the law.

In the event of any inconsistency between these Guidelines and the *Fines Act 1996*, the *Fines Act 1996* prevails.

Essential Summary

There are two ways to challenge a penalty notice: applying for internal review of the decision to issue the penalty notice, and electing to have the alleged offence heard in court.

The *Fines Act 1996* states that an application for review of a penalty notice may be made at any time up to the due date for payment specified in the penalty reminder notice.¹

On review, the penalty notice must be withdrawn if the reviewing agency finds that:

- The penalty notice was issued contrary to law,
- The issue of the penalty notice involved a mistake of identity,
- The penalty notice should not have been issued, having regard to exceptional circumstances relating to the offence,
- A caution should have been given instead of a penalty notice, having regard to the relevant caution guidelines.
- The person to whom the penalty notice was issued is unable, because the person has an intellectual disability, a mental illness, a cognitive impairment or is homeless:
 - To understand that their conduct constituted an offence, or
 - To control such conduct.²

¹ *Fines Act 1996*, s24A(3).

² *Fines Act 1996*, s24E (2).

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Note that the fact that a person has an intellectual disability, mental illness, cognitive impairment or is homeless is not in itself sufficient grounds to require withdrawal of a penalty notice.

A reviewing agency is to notify the applicant in writing of the outcome of the review within 42 days of receipt of the application (or 56 days if additional information has been requested).

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1 Scope of Guidelines

- 1.1 These Guidelines do not apply if the agency has issued its own internal review guidelines, or has adopted the Guidelines issued by the SDRO. An agency's internal review guidelines must not be inconsistent with the Attorney General's Guidelines.
- 1.2 These Guidelines apply to requests for internal review which are received before the due date on the penalty reminder notice. If the penalty notice is not paid on the due date, and no time-to-pay arrangements have been made, the penalty will be enforced and an additional enforcement cost will be added to the original fine.
- 1.3 There is a different process for appealing a penalty notice which has already proceeded to enforcement. In these cases, a person must submit an application for annulment of the penalty notice enforcement order to the SDRO, under sections 48 and 49 of the *Fines Act 1996*.

2 Definitions

Unless otherwise specified, the terms used in these guidelines have the same meaning as in the *Fines Act 1996*.

Offence means an offence under a NSW law for which a penalty notice may be issued.

Issuing agency means the agency that has employed or engaged the officer who issued the penalty notice or the caution.

SDRO means State Debt Recovery Office

Fines Act means the *Fines Act 1996* (NSW) , as amended from time to time.

3 Applications for internal review

- 3.1 Applications for review should be made to the SDRO, which will either conduct the review or refer the application to the issuing agency.
- 3.2 Applications may be made by any person to whom a penalty notice has been issued. Applications may also be made on behalf of another person, for example, by their carer, guardian, parent or advocate.

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- 3.3 Applications for review must be in writing, and must include
- the mailing address of the applicant,
 - the grounds on which review is sought, and
 - appropriate supporting evidence.
- 3.4 Applications may be made even if the penalty notice amount has been fully paid, or paid in part.³

4 Requirements for internal review under the *Fines Act*

When must an internal review under the *Fines Act* be conducted?

- 4.1 Any issuing agency may review a decision to issue a penalty notice, or withdraw a penalty notice, on its own motion.
- 4.2 However, a review must be conducted in accordance with the *Fines Act* if an application for review is received, and that application complies with the Act's requirements, as set out in Part 4 above.⁴

Purpose and scope of internal review

- 4.3 The purpose of internal review is to determine, on the available information, whether a penalty notice was correctly issued, and whether any circumstances warrant withdrawal of the penalty notice.
- 4.4 Internal review cannot result in any variation of the amount to be paid under the penalty notice, nor any variation in options for payment.
- 4.5 If an application for internal review raises allegations of poor performance or misconduct by law enforcement officers, this may require a separate investigation, independent of any review of the decision to issue penalty notice.

Person who may conduct the review

- 4.6 The internal review must be conducted by a person who was not involved in making the decision to issue the penalty notice.⁵

³ *Fines Act 1996*, s24A.

⁴ In certain circumstances, internal reviews may be carried out using an alternative process (see paragraph 5.16 of these Guidelines).

⁵ *Fines Act 1996*, s24C(2).

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- 4.7 The person or people who made the decision to issue the penalty notice must not be the manager or superior of the person conducting the review.
- 4.8 A person must not review penalty notices if they have any actual, potential or perceived conflict of interest or personal interest in the outcome of the decision relating to that penalty notice, including:
 - a) Where the penalty notice was issued to a relative, family member, business partner or friend of the person, or
 - b) where the person's relative, family member, business partner or friend issued the penalty notice.

Matters to be taken into account on review

- 4.9 Review officers conducting internal agency reviews must ensure that their discretionary powers are exercised in good faith and in a way that is consistent with Division 2A of the *Fines Act*, these Guidelines (or agency Guidelines which are not inconsistent with these Guidelines).
- 4.10 To help ensure the integrity of the review process, applications must be determined with reference to the written application and wherever possible, to any statement or other information provided by the applicant, such as medical, psychological or case worker reports.
- 4.11 The review must also take into account the grounds upon which the application for review has been made and whether, given the person's application, prosecution of the offence would be likely to be successful and/or, whether it is appropriate to continue the enforcement process.
- 4.12 The reviewing agency may request additional information from the applicant, in writing. The review can be conducted without the additional information if this is not provided within 14 days of the request.⁶
- 4.13 Where an application for review contains information that significantly conflicts with the evidence presented by the issuing officer or any relevant camera, machine or other device, and this information is considered material to the offence/s indicated; a report should generally be requested from the issuing officer, or regarding that device, for consideration as part of the internal review. Such reports should be retained and filed with the application.
- 4.14 A report need not be requested if all the matters on which the application conflicts with the issuing officer's evidence are the subject of express notes made by the issuing officer at or around the time the penalty notice was issued.

⁶ *Fines Act 1996*, s24D.

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Extension of deadline for enforcement

- 4.15 While a review is under way, the deadline for the enforcement of that penalty notice is extended. However, the deadline for enforcement cannot be extended beyond the applicable statutory limitation period for that offence.

Alternative processes for review

- 4.16 Internal review can be conducted according to a process other than the one set out in the *Fines Act* only if
- (a) Regulations under the *Fines Act* specify an alternative procedure for that type of penalty notice,
 - (b) the procedure under section 24B of the *Fines Act* is followed, or
 - (c) an internal review in accordance with the *Fines Act* has already been conducted with respect to that penalty notice. In these cases, the agency may either decline to further review the decision to issue that penalty notice, or it may, at its discretion, conduct another internal review using an alternative procedure.

5 Grounds for review

- 5.1 An issuing agency has the discretion to withdraw a penalty notice on its own motion,⁷ and on any grounds it sees fit.⁸
- 5.2 However, the *Fines Act* stipulates mandatory grounds on which a penalty notice must be withdrawn. On review, a penalty notice must be withdrawn if the issuing agency finds that:
- The penalty notice was issued contrary to law,
 - The issue of the penalty notice involved a mistake of identity,
 - The penalty notice should not have been issued, having regard to exceptional circumstances relating to the offence,
 - The person to whom the penalty notice was issued is unable, because the person has an intellectual disability, a mental illness, a cognitive impairment or is homeless:
 - To understand that their conduct constituted an offence, or
 - To control such conduct.

Note that the obligation to withdraw the penalty notice only arises if the person is unable to understand that their conduct is an offence, or is

⁷ *Fines Act 1996*, s24H (1).

⁸ *Fines Act 1996*, s24E (3).

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unable to control the conduct constituting the offence, as a result of their condition.

- A caution should have been given instead of a penalty notice, having regard to the relevant caution guidelines,
- Any other ground prescribed by the regulations.⁹

5.3 Each of these grounds is discussed in more detail below.

The penalty notice was issued contrary to law.

- 5.4 A penalty notice is only issued according to law if every element of the offence appears to be present and there is sufficient evidence to prove every element of the offence.
- 5.5 For example, when an officer issues a penalty notice for travelling on a train without a valid ticket, the penalty notice is issued contrary to law unless officer is satisfied, and there is sufficient evidence to prove, all of the following:
- a) that the person travelled on a train,
 - b) without possessing a valid ticket (either personally or with someone else on their behalf), and
 - c) none of the legal defences or exceptions are applicable in this case.
- 5.6 A penalty notice is issued contrary to law, and must be withdrawn if an error has been made regarding the existence of any of the elements of the offence. For example, a penalty notice must be withdrawn on this ground if a person is issued with a penalty notice for not paying a toll, but the toll was in fact paid within time.
- 5.7 A person cannot lawfully be issued with more than one penalty notice for a single offence. This does not mean that a person who repeats an offence, or a vehicle detected for repeat offences, cannot be given a penalty notice for each separate offence committed.

The issue of the penalty notice involved a mistake of identity.

- 5.8 A penalty notice must be withdrawn if it has been issued to the wrong person. For example:
- a penalty notice issued by a camera for a driving offence is issued to the registered owner of a vehicle. However, the vehicle had been stolen or sold at the time the offence was committed, or the penalty notice was issued to the wrong vehicle due to an error in recording the registration number.

⁹ *Fines Act 1996*, s24E (2).

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- A law enforcement officer gives a penalty notice for an offence, but the offender has provided another person's identification documents.

The penalty notice should not have been issued, having regard to exceptional circumstances relating to the offence.

- 5.9 In some cases, a penalty notice should not have been issued due to exceptional circumstances relating to the offence.
- 5.10 Some examples of exceptional circumstances which may mean that a penalty notice should not have been issued are set out below. However, this does not mean that a penalty notice must be withdrawn in every case where there are exceptional circumstances. Regard must be had to what is reasonable in all the circumstances of each case, including the nature and severity of the offence.

	Example
Emergency services	An offence is committed by emergency or essential services personnel while engaged in emergency work.
Police direction	A person parks longer than they are entitled to. They could not return to their car because they were taken into Police custody, or were assisting Police with their enquiries
Medical emergency	A person parks longer than they were entitled to because <ul style="list-style-type: none"> ○ They experienced unexpected trauma during a medical appointment ○ they were visiting someone in hospital and their condition worsened or death was imminent, and it was not reasonable to leave at that time.
Faulty vehicle or machinery	A person travels without a ticket because the vending machine was broken down and there was no other way to purchase a ticket. A person parks longer than they are entitled to because their vehicle was broken down at the time.
Circumstances beyond the person's control	A person travels on public transport without a ticket to escape violence or the threat of violence (for example, a family needing to travel suddenly to a

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	<p>domestic violence refuge).</p> <p>A person gets a penalty notice for consuming alcohol in a park, but they are at a festival which has Council approval to serve alcohol.</p> <p>A person drives an unregistered vehicle, but the fact that the registration was not valid at the time was due to an error by the registration authority.</p>
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- 5.11 This is not an exhaustive list of exceptional circumstances (or of categories of exceptional circumstances) which may mean that a penalty notice should not have been issued.

Intellectual disability, mental illness, cognitive impairment or homelessness.

- 5.12 The fact that a person has an intellectual disability, mental illness, cognitive impairment or is homeless is not in itself sufficient grounds to require withdrawal of a penalty notice.
- 5.13 The obligation to withdraw the penalty notice only arises if as a result of the person's condition, the person is unable to understand that their conduct constitutes an offence, or is unable to control the conduct constituting the offence. For example:
- A person with an intellectual disability does not understand that they have to purchase a platform ticket, even if they have no intention of travelling on a train,
 - A person with a mental illness is swearing or behaving offensively during a severe episode,
 - A person with a cognitive impairment gives a police officer an incorrect name or address because their impairment affects their social and interpersonal skills,
 - For a homeless person, everyday domestic activities such as sleeping, having implements to prepare food (such as a knife) or drinking alcohol can become illegal activities because they are undertaken in public.
- 5.14 If the offence for which the penalty notice was issued is a driving or traffic related offence, and review is sought on this ground, the information and evidence provided may be referred to the Roads and Traffic Authority licence review unit, in the interests of public safety.
- 5.15 For the avoidance of doubt, the terms used above are defined as follows.

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5.16 Intellectual disability: A person has an intellectual disability where that disability:

- (a) is attributable to an intellectual impairment, and
- (b) is permanent or likely to be permanent, and
- (c) results in a significantly reduced capacity in one or more major life activities, such as communication, learning, mobility, decision-making or self-care.¹⁰

5.17 Cognitive impairment incorporates a wider range of disabilities than intellectual disability and includes a disability which:

- (a) is attributable to impaired brain functioning that can be associated with many diagnoses that are present at birth or acquired throughout a person's life span, and
- (b) is permanent or likely to be permanent, and
- (c) results in a significantly reduced capacity in one or more major life activities, such as communication, learning, mobility, decision-making or self-care.

Examples of cognitive impairment include a developmental disorder (including an autistic spectrum disorder and cerebral palsy), neurological disorder, dementia, brain injury (including from trauma or as a result of substance abuse), or Alzheimer's disease.¹¹

5.18 Mental illness means a condition that seriously impairs, either temporarily or permanently, the mental functioning of a person and is characterised by the presence in the person of any one or more of the following symptoms:

- (a) delusions,
- (b) hallucinations,
- (c) serious disorder of thought form,
- (d) a severe disturbance of mood,
- (e) sustained or repeated irrational behaviour indicating the presence of any one or more of the symptoms referred to in points (a)-(d).¹²

Some common types of mental illness include schizophrenia, psychosis, bipolar disorder and serious depression or anxiety.

5.19 Personality disorder: for the purposes of internal review of penalty notices, personality disorder may be considered a form of mental illness.

¹⁰ This definition is adapted from the definition of the intellectual disability target group in section 5 of the *Disability Services Act 1993* (NSW).

¹¹ This list of examples is adapted from the definition of cognitive impairment in s61H(1A) of the *Crimes Amendment (Cognitive Impairment – Sexual Offences) Act 2008* (NSW).

¹² This definition is taken from s4 of the *Mental Health Act 2007* (NSW)

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- 5.20 Personality disorder means an extreme and maladaptive pattern of thinking and behaviour which causes disruption to a person's life.
- 5.21 Examples of personality disorders include, antisocial personality disorder, and borderline personality disorder.
- 5.22 Homelessness: A person is considered homeless if they are:
- (a) Without conventional accommodation – for instance, sleeping in parks or on the street, squatting, living in cars or in improvised dwellings; or
 - (b) Moving from one form of temporary accommodation to another – for example, refuges, emergency hostel accommodation, or temporary space in the homes of family and friends, or
 - (c) Living in temporary accommodation due to domestic violence or unsafe living conditions, or
 - (d) Living in a caravan park due to their inability to access other accommodation, or
 - (e) Living in boarding houses on a medium to long-term basis.¹³

A caution should have been given instead of a penalty notice, having regard to the relevant caution guidelines

- 5.23 The Attorney General has published standard guidelines in relation to cautions. They may be found at: <http://lawlink.nsw.gov.au/lpd> (under the "Publications" section). The Attorney General's Caution Guidelines do not apply to NSW Police, or where an agency has issued its own caution guidelines for the use of issuing officers. Agency caution guidelines must be consistent with the Attorney General's Caution Guidelines.

Any other ground prescribed by the regulations.

- 5.24 The Regulations do not currently prescribe any additional grounds on which a penalty notice must be withdrawn.

6 Outcome of review

- 6.1 After conducting a review to issue a penalty notice, a reviewing agency may confirm the decision to issue a penalty notice or may withdraw the penalty notice.
- 6.2 A reviewing agency is to notify the applicant in writing of the outcome of the review within 42 days of receipt of the application (or 56 days if additional information has been requested).¹⁴

¹³ This is based on the Chamberlain and McKenzie definition of homelessness, which is the most commonly used definition in Australia.

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If the penalty notice is withdrawn

- 6.3 If after a review, the penalty notice is withdrawn, then:
- any action to record demerit points recorded against that person by the Roads and Traffic Authority is to be reversed, and
 - any amount paid under the notice is to be refunded, and
 - any penalty reminder notice is also deemed to have been withdrawn,¹⁵ and
 - the issuing agency may, if it considers it appropriate to do so, give an official caution to the person in accordance with Division 1A of the *Fines Act*, as if it were an appropriate officer.
- 6.4 If a reviewing agency withdraws a penalty notice on its own motion after the amount under the penalty notice (or a penalty reminder notice in respect of the offence to which the penalty notice relates) has been paid, no person is liable to any further proceedings for the alleged offence.¹⁶

If the penalty notice is confirmed

- 6.5 A penalty reminder notice is automatically issued for all penalty notices, even if they are being internally reviewed. If after review the penalty notice is confirmed, the person must be advised of the new due date for payment of the penalty. This advice replaces any previous penalty reminder notice for that offence (and it is not necessary for a second reminder notice to be issued).

7 Termination of review

- 7.1 If a person elects to have a matter dealt with by a court under this Part while a review under this Division is in progress, the review is terminated when the person makes that election.¹⁷

¹⁴ *Fines Act 1996*, s24E(4)

¹⁵ *Fines Act 1996*, s24G(2)

¹⁶ *Fines Act 1996*, s24H(2)

¹⁷ *Fines Act 1996*, s24I.

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8 Delegation of internal review

- 8.1 A reviewing agency may enter into arrangements with another person or body under which the functions of the agency under this Division are exercised by that person or body on behalf of the agency.

(End)

9 Document history

Version	Date	Reason for Amendment

10 Approval by Attorney General

(John Hatzistergos)