

INFRINGEMENT NOTICE POLICY

COMMUNITY POLICY



1 Scope

This policy applies to the issue of infringement notices in accordance with State Legislation relevant to local government and Rockhampton Regional Council Local Laws. Infringement notices are an enforcement option utilised by Council's service and regulatory functions as part of an overall enforcement strategy.

2 Purpose

The purpose of this policy is to provide a consistent, accountable and transparent process for infringement management by:

- (a) Documenting Council's approach to the management of infringements issued by Council's authorised officers;
- (b) Ensuring regulatory functions are exercised consistently, without bias and in accordance with the *Local Government Act 2009*; and
- (c) Ensuring the management of infringements is auditable and transparent and in accordance with the requirements of *State Penalties Enforcement Act 1999* and State Penalties Enforcement Registry Guidelines.

3 Related Documents

3.1 Primary

Nil

3.2 Secondary

Information Privacy Act 2009

Local Government Act 2009

Right to Information Act 2009

State Penalties Enforcement Act 1999

State Penalties Enforcement Regulation 2014

Enforcement Strategy

Infringement Notice Procedure

Infringement Notice Instalment Plan Application Form

Infringement Notice Withdrawal Request Form

State Penalties Enforcement Registry Guidelines

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4 Definitions

To assist in interpretation, the following definitions apply:

Alleged Offender	As defined in the <i>SPEA</i> , for an infringement notice, the person on whom the notice is served.
Authorised Person	A person appointed under the <i>SPEA/SPE Regulation</i> to serve an infringement notice.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Council	Rockhampton Regional Council
Delegated Officer	An employee appointed to a position with a sub-delegation of section 28(1) of the <i>SPEA</i> .
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Infringement Notice	A notice under section 15 of the <i>SPEA</i> . An infringement notice is a ticket issued for offences such as parking illegally and contains information about the fine amount and the alleged offence.
Infringement Notice Offence	As defined in the <i>Local Government Act 2009</i> , an offence prescribed under the <i>SPEA</i> to be an infringement notice offence. The <i>SPEA</i> defines as an offence, other than an indictable offence or an offence against the person, prescribed under a regulation to be an offence to which this Act applies.
Person	Includes an individual and corporation.
Reasonable Belief	More than a mere suspicion. Forming a reasonable belief requires a deliberative process of consideration and forming a belief on reasonable grounds that a person has committed an infringement notice offence.
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
<i>SPEA</i>	<i>State Penalties Enforcement Act 1999</i>
SPER	State Penalties Enforcement Registry
<i>SPE Regulation</i>	<i>State Penalties Enforcement Regulation 2014</i>

5 Policy Statement

5.1 Enforcement Principles

To ensure good enforcement principles, Council is committed to:

- (a) Protecting the community's health, safety and the Region's natural, built and social environment by ensuring public compliance in accordance with state legislation relevant to local government and Council's Local Laws, and encouraging conformance through the facilitation of community education;
- (b) Providing a fair, effective, objective, transparent and consistent framework for all aspects of infringement notices; and

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- (c) Ensuring enforcement action, investigation and recovery action is prompt and proportionate to the alleged offence.

5.2 Infringement Notice

The issuing of an infringement notice is an enforcement option available to local governments for an infringement notice offence, other than an indictable offence or offence against a person prescribed under the *SPE Regulation*.

An infringement notice is served in lieu of, or in addition to, alternate processes and remedies as outlined in Council's Enforcement Strategy.

5.3 Authorised Persons

Infringement notices are served by authorised persons if the authorised person reasonably believes a person has committed an infringement notice offence. The *SPE Regulation* specifies those authorised persons who may serve an infringement notice.

5.4 Serving an Infringement Notice in the Approved Form

Where an authorised person reasonably believes a person has committed an infringement notice offence, they may serve an infringement notice in the approved form.

An infringement notice may be served on the alleged offender by:

- (a) Delivering the infringement notice to the alleged offender personally; or
- (b) Leaving it at, or by sending it by post, facsimile or similar facility to, the address of the place of residence or business of the alleged offender last known to the person serving the document.
- (c) For infringement notice offences involving vehicles the infringement notice is served in accordance with section 14 of *SPEA*.

5.5 Options Available to the Alleged Offender on Service of Infringement Notice under the *SPEA*

On issuing of an infringement notice, the alleged offender is to undertake one of the following actions within 28 days of the date of the infringement notice:

- (a) Pay the infringement notice in full;
- (b) If the infringement notice is at or above the threshold amount prescribed under the *SPEA*, apply to Council to pay the fine in instalments of not less than the minimum instalment prescribed in the *SPEA*;
- (c) Give Council a written election to have the matter decided in the Magistrates Court; or
- (d) If the infringement offence involves a vehicle, give Council an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration.

5.6 Withdrawing and Reissuing Infringement Notices

Delegated officers may withdraw an infringement notice at any time before the infringement notice is paid in full or otherwise discharged under the *SPEA*.

Withdrawal under these circumstances generally occurs where it has been identified that the infringement notice contains one or more critical errors.

To correct an error another infringement notice may be reissued by an authorised person.

There may also be circumstances where it is appropriate to withdraw and not reissue an infringement notice. For example, Council may no longer wish to pursue a fine.

5.7 Infringement Notice Review

5.7.1 Requested by Alleged Offender

An infringement notice review includes a request by affected persons to review a decision to issue an infringement notice for an act or omission against a Local Law or other legislation.

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5.7.2 Review Application

The review application must:

- (a) Be submitted using the Infringement Notice Withdrawal Request Form;
- (b) Set out the circumstances and basis for disputing the alleged offence and the grounds on which the decision should be reviewed:
 - (i) was contrary to law;
 - (ii) involved a mistake of identity; or
 - (iii) exceptional circumstances relating to the infringement offence.
- (c) Include any documentary evidence or supporting information; and
- (d) State the applicant's current address for service of the decision outcome.

Requests for review presented verbally are not considered.

5.7.3 Council's Review Process

Requests for review are considered by delegated officers in accordance with the Infringement Notice Procedure.

If the infringement notice is approved to be withdrawn, Council provides correspondence to the applicant advising the outcome.

Should the outcome of the review conclude that the request will be denied, correspondence is provided to the applicant and the infringement notice remains in force. The correspondence states the options to refer the matter to an outside agency, should the applicant remain dissatisfied with the decision.

5.8 Infringement Notice Recovery

Council registers infringement notices with SPER, who attend to the collection of outstanding fines on Council's behalf in the following circumstances, this incurs a registration fee:

- (a) The fine is not paid;
- (b) The infringement notice has not been withdrawn and remains in force;
- (c) Application for approval for payment of fine by instalments is not lodged;
- (d) An application for Infringement Notice Withdrawal Request Form has not been received; and
- (e) A court hearing has not been elected, within 28 days of the issue date of the infringement notice.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Council.

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7 Document Management

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Legal and Governance



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