

# COVID-19 FINES

SLEF-HELP KIT - ENGLISH

FITZROY LEGAL SERVICE

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# Have you gotten a fine for breaching the COVID-19 restrictions?

Fitzroy Legal Service is here to help you deal with your fine.\*

We have created a [SELF-HELP KIT](#) to help you deal with your fine, including how to ask for a review if you think the fine was unfairly given or there are special reasons why you should not have to pay.

## Have a different legal or social issue related to COVID-19?

Go to our [COVID-19 Resources Page](#) for information on where to get information and help. Or see Victoria Legal Aid's COVID help page [here](#).

### *DISCLAIMER:*

- The information in these pages and sub-pages are general information - this is not legal advice.
- The information on these pages are written to assist people who have already received a fine - they are not written to help people understand and navigate the restrictions.
- This information does not cover all the legal reasons for being outside of your home.

The restrictions can be found here: <https://www.dhhs.vic.gov.au/victorias-restriction-levels-covid-19>

The Department of Health and Human Services FAQ page can be found here: <https://www.dhhs.vic.gov.au/stage-4-restrictions-summary-covid-19>

# COVID-19 fines self-help Kit

## COVID-19 Fines Self-Help Kit

What are my options if I get a COVID-19 fine?



**Always get legal advice before choosing to go to court. Always get legal advice if the police take the matter to court.**

What happens if I ignore the fine?



Image taken from Fines Victoria: [www.fines.vic.gov.au](http://www.fines.vic.gov.au)

If you ignore the fine, it will not go away. If you ignore your fine it will cost more money.

## What do I do if...

**I breached the restrictions and want to pay:** You can pay the fine in full before the due date.

**I breached the restrictions, but I can't afford the fine:**

- If you need more time to pay, you can request an extension. You must pay the fine **in full** on the new due date.
  - You will be assessed based on your income, financial status, payment history, any hardship you are experiencing, and/or if you hold a health care card/pensioner card/veterans' card
- If you can't pay in full, you can apply for a payment plan. A payment plan means you can pay in installments or bit-by-bit.
  - You will be assessed based on your income, financial status, payment history, any hardship you are experiencing, and/or if you hold a health care card/pensioner card/veterans' card

**I didn't breach the restrictions or I didn't know I was breaching them OR**

**I breached the restrictions but I have special or exceptional circumstances (including family violence):**

- If you think that you have been issued the fine wrongly or unfairly, or you have special or exceptional circumstances you can ask Victoria Police to review and withdraw the fine. This is your first opportunity to request for a review. If they agree, you don't have to pay the fine.
  - Please click **HERE** for a guide to requesting an internal review.
- If you are a victim-survivor of family violence and the family violence was a big reason why you got the fine you may be able to have your fine withdrawn. This means you don't have to pay the fine. **Please call us or speak to a lawyer if this applies to you.**
- If you are experiencing severe financial hardship, family violence, homelessness, mental disabilities, and/or drug or alcohol addiction you might be able to work off your fines. Contact the WDP team (<https://www.justice.vic.gov.au/wdp>), a financial counsellor or your local CLC to see if you could be eligible.
- You can also apply for a review once your fine has reached the ENFORCEMENT WARRANT STAGE. Once a fine is at this stage there can be a penalty of almost \$160.
  - **Please call us or speak to a lawyer ASAP if you are thinking about waiting until this stage and applying for an enforcement review.**

# Requesting an internal review

## Contents:

- When can we leave our homes?
- When can you request an internal review?
- How do you request an internal review?
- What happens now - what do you do if it is rejected?

## When can we leave our homes?

Because of the COVID-19 coronavirus pandemic, there are new laws about when and why we are allowed to leave our homes.

These laws are changing often and sometimes it is difficult to keep up. You may be fined even if you honestly didn't know you were breaching the restrictions - this *might* be a defence to the fine.

Some good ways to keep you and your community informed are:

- Read the ["stay at home" directions on the DHHS website](#). Scroll down past the map and you will see all the current directions (restrictions) listed.
- Summaries of the restrictions have been translated into different languages. [Click here](#) to access them.
- FAQs in English can be found [here](#).
- Follow a trusted news source or community group on social media that is sharing news about changes in restrictions and that speaks your language.
- If you have friends or family that have difficulties understanding or reading English, help connect them to a community group that speaks their language and can help keep them informed.

The restrictions have been changing, so if you got a fine a while ago you may need to find the restrictions that were in place at the time you were fined. The DHHS website only shows the **current** restrictions. If you need previous restrictions, call our office and we can help you.

# When can you request an internal review?

You can request an internal review if:

- You have "*special circumstances*"
- You have "*exceptional circumstances*"
- You think the fine has been given contrary to law (wrongly)
- You were acting lawfully
- There has been a mistake in identity: you weren't the person who committed the offence

## *Special Circumstances*

Special circumstances are things that were affecting you at the time you were fined that meant:

- you didn't understand that you were breaking the law; OR
- even if you knew you were breaking the law, you couldn't control your behaviour or weren't able to make good choices (like if you had mental health problems or a serious dependency on drugs or alcohol)

Special circumstances are things like having an intellectual disability, a mental illness or disorder, a serious addiction to drugs or alcohol, experiencing homelessness, or experiencing family violence.

If you are applying for special circumstances you should get a letter from a doctor or support workers.

## *Exceptional Circumstances*

Exceptional circumstances are not defined. Generally, they are other things that impacted your behaviour or your ability to pay the fine.

They are things like your age, experiencing poverty, financial difficulty, debilitating life events (such as acute illness), language or literacy difficulties and cultural differences. It is not enough that these things exist - you need to make a case that they should excuse your behaviour.

They can also be things that were outside of your control like a medical emergency or your car broke down.

Exceptional circumstances can also include the relative gravity of the behaviour, whether it is your first offence or a first offence in a long time.

If you can, include supporting documents that help establish that your behaviour should be excused because of your exceptional circumstances.

### *The fine was issued contrary to law*

You can ask for the fine to be reviewed if you did not break the law. Under the Victorian restrictions, this can include if you had a 'reasonable excuse' for breaching the restrictions.

This can also include if the fine is invalid for some reason or the officer acted unlawfully, unfairly, improperly or outside of their authority.

If you apply on this ground, Victoria Police may consider whether the officer:

- was authorised to issue the fine,
- made a mistake, or
- acted improperly or unfairly.

They may also consider whether Victoria Police has complied with their responsibilities.

**The Victorian 'Stay at Home' directions do not apply to people experiencing homelessness and who have not been given proper housing for the pandemic. Please call us if you have a COVID-19 fine and are experiencing homelessness, including if you are in emergency housing.**

### *You weren't the person who committed the offence*

You can apply for a review if the fine has been sent to you by mistake. Or, if someone else was driving your car and got a fine but the fine has come to you: you can 'nominate' that other person. You can only do this when the fine is still in the 'infringement stage'.

**If you are a victim-survivor family of violence and can't nominate the correct person please call us.**



# How do you request an internal review?

You can request an internal review by sending a letter to Victoria Police. You need to do this **before the due date**.

Your letter should include:

- Your name, address and date of birth
- Your infringement number
- What grounds you are requesting a review on:
  - special circumstances
  - exceptional circumstances
  - mistake of identity
  - the fine was issued contrary to law (wrongly), or
  - you had a reasonable excuse for breaching the restrictions
- an explanation of your circumstances or situation. This could include:
  - if you are a child or young person
  - you have an intellectual disability, acquired brain injury or cognitive impairment
  - you have a physical disability relevant to why you were fined
  - your mental health
  - if you are an alcohol or other drug user
  - experiencing homelessness
  - experiencing family violence
- any supporting documents or letters (like letters from a support worker, health practitioner, or other person who can help prove your reasons).

## Who should I get a support letter from?

If you -

- have an intellectual disability or mental health issue:
  - doctor, psychiatrist, psychologist or psychiatric nurse
- have an alcohol or drug addiction:
  - doctor, case manager, psychiatrist, psychologist, drug treatment agency, drug counsellor
- are experiencing homelessness:
  - case worker, case manager, support agency, community service organisation
- are a victim survivor of family violence:
  - case worker or social worker, doctor, psychiatrist or psychologist, occupational therapist, school principal or school welfare coordinator.

## *What if I was providing care to someone else?*

Under the Chief Health Officer's Directions it has always been legal to leave your home to provide care and support to someone:

- who has particular needs because of age, infirmity (physical or mental weakness), disability, illness or a chronic health condition;
- who needs assistance due to their health (including mental health or pregnancy);
- by providing child-minding assistance if you were doing so before 5 August 2020.

If you were fined while providing care for someone else and you want to request an internal review - you should do so on the ground that you believe the fine was issued 'contrary to law'.

*We have made some [templates and sample letters](#) to help you!*

If you are happy with the letter, you can send it off. You must send the letter in time for it to be delivered before your due date.

If you don't have access to a printer you can use the online form [HERE](#). You can attach your letter as a PDF or Word document.

# Templates and sample letters

To help you request a review we have made some templates and sample letters.

- *Templates* are documents you can use by adding in your details.
- *Sample letters* are to show you how a finished letter can look.

**IMPORTANT:** These are just examples of applications - they are **not** examples of successful applications.

## **Contrary to law**

[Contrary to law template](#)

[Contrary to law sample letter](#)

## **Special circumstances**

[Special circumstances template](#)

[Special circumstances sample letter](#)

## **Exceptional circumstances**

[Exceptional circumstances template](#)

[Exceptional circumstances sample letter](#)

## How do I use the templates?

1. Read through the template carefully before changing anything
2. Insert your name, address, date of birth, infringement number, and today's date
3. Remove the parts that don't apply to you
4. Add in the clauses that relate to you. Refer back to the [when can we leave our homes page](#)
5. Read through the letter again - ask a friend or family member to read over if you can
  - Does it make sense?
  - Is there anything still highlighted in grey?
  - Are all your details correct?

What are the bits highlighted in grey?

- Where you need to put your details in; or
- Where you need to choose the right information (special circumstances, exceptional circumstances, contrary to law etc) or
- Suggestions about what you could include

# What happens now?

Once you request an internal review your fine is placed on hold while the review is being done.

While you wait, you don't need to pay and you won't incur any late fees.

Victoria Police have **90 days** to decide your application or to ask you for more information.

If they don't reply within this time, you should talk to a lawyer.

## What if my application is successful?

If your application is successful Victoria Police can:

1. Withdraw your fine and take no action, or
2. Withdraw your fine and give you an official warning, or
3. Withdraw the fine and bring a charge against you in court (see below for more information)

## What if it is rejected?

If your application is rejected, Victoria Police will give you a new due date for the fine.

Your fine is still in the infringement notice stage. You can pay the fine, apply for an extension, or apply for an installment plan. There is more information on these options [here](#).

Some people can also apply to work off the fine through the Work and Development Permit scheme (WDP). More information about this is [here](#).

### What if I still think the police were wrong?

You can write back to the police and request their written reasons for rejecting your request.

There is one more option for review. This option is only available once the fine reaches the 'enforcement stage'. A fine reaches 'enforcement stage' if you do nothing. BUT it becomes more expensive.

You can also choose to take the case to court before the new due date. You should get advice from a lawyer **before** choosing to take the matter to court.

If you are considering doing nothing and waiting for the enforcement stage to request a second review **please call us or your local CLC to get advice.**

## The police have withdrawn the fine BUT they have listed the matter in court

If the police have listed your matter for court **please call us or your local CLC and get advice.**

You can find your local Community Legal Centre by putting in your postcode on [this webpage: https://www.fclc.org.au/find\\_a\\_community\\_legal\\_centre](https://www.fclc.org.au/find_a_community_legal_centre)

Victoria Legal Aid has lots of helpful information about going to court [here](#).