

POLICY & PROCEDURE		Responsible Department	Works
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TITLE	ISSUE OF PARKING EXPIATION NOTICES POLICY & PROCEDURE
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Related Documents: Nil

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1. PURPOSE AND SCOPE

Councils (and others) create parking controls for a variety of reasons such as efficient traffic flow, public safety, encouraging turnover of cars in popular areas and assisting residents and businesses. Issuing parking expiations is one means of enforcing parking controls.

This procedure starts with the observation of a breach of a parking offence which may warrant an infringement notice and covers the actions necessary to issue a legal notice. Expiation Notices Procedure is a related SOP. See also Council's Reviewing and Withdrawing and Expiation Notice Procedure.

Its purpose is to ensure the consistent and accurate application of relevant legislation and Council Policy when issuing expiations, written and verbal warnings.

1.1 Responsibility

This procedure applies to persons with valid authorisation to issue Expiation Notices (see 2 Relevant Documentation) and associated administrative staff. Only Authorised Persons can issue an expiation notice.

Officers are required to act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgement where necessary to ensure an outcome in line with legal requirements and Council's Enforcement Policy.

1.2 Legislation & Policy

Road Traffic Act 1961
Road Traffic (Miscellaneous) Regulations 1999
Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
Australian Road Rules 1999
Expiation of Offences Act 1996
Expiation of Offences Regulations 1996
Local Government Act 1999
Section 125-Internal Control Policies
Council's Enforcement Policy

1.3 Definitions

The definitions contained herein are not exhaustive and officers may need to consider the relevant legislation for further applicable definitions.

Trifling is defined in Section 4(2) Expiation of Offences Act 1996. An alleged offence will, for the purposes of this Act, be regarded as trifling if, and only if, the circumstances surrounding the commission of the offence were such that the alleged offender ought to be excused from being given an expiation notice on the ground that:

- a. There were compelling humanitarian or safety reasons for the conduct that allegedly constituted the offence; or
- b. The alleged offender could not, in all the circumstances, reasonably have averted committing the offence; or
- c. The conduct allegedly constituting the offence was merely a technical, trivial or petty instance of a breach of the relevant enactment.

1.4 General Notes

An expiation notice should not be issued other than for the purpose of bringing a person to account for committing an offence. It should not be issued for any other reason (for example to intimidate or harass) and not without proper inquiries having been made. It is improper to issue an expiation notice at the request of another person, such as other officers of Council or Elected Members.

Expiation Notices are a form of enforcement action which may be appropriate for breaches of legislation. Warnings and prosecution are other levels of enforcement available.

This procedure is drafted on the presumption that Council has properly prescribed forms for issuing expiation notices and other notices relevant to the expiation process. Books of expiation notices can be pre-purchased. Alternatively, you may use a hand-held device that has been properly programmed with the required information.

Verbal warnings are conversations with drivers which do not lead to any record of an offence. Written warnings record the breach and the name of the offender in a manner which can be seen as past history in the event of repeat offending.

Expiation notices that are issued for motor vehicle offences, such as parking offences, must include a statutory declaration form to enable a vehicle owner to declare that he or she was not the driver of the vehicle at the time of the offence.

2. RELEVANT DOCUMENTATION

Best Practice Procedures for Appointing Authorised Persons

Prescribed forms, as set out in Schedule 1 to the Expiation of Offences Regulations. These prescribed forms are generally pre-printed on the expiation notice booklets.

3. RECORD MANAGEMENT

All documents, notes, photographs and correspondence must be retained and stored in accordance with Council's Records Management protocols, as required by Section 125 of the Local Government Act 1999.

4. PROCEDURE

4.1 Parking incident identified

Illegally parked/stopped vehicles are identified through personal observation or as follow up to a report.

Other than exceptional circumstances where concern for the public safety is high, legally park the Council vehicle before inspecting further. When not reasonably practicable to do so a Council vehicle may be parked as safely and unobtrusively as possible in order to investigate the breach (Rule 307 ARR 1999).

Officers who observe a breach of the Australian Road Rules may either expiate, issue a written warning, or provide a verbal warning. This decision is at the discretion of the officer concerned. In determining the decision consider the seriousness of the infringement, the potential hazard caused, the location, and (where practicable) if previous warnings have been issued and ignored.

4.2 Inspecting a Vehicle

Wherever possible approach the vehicle from the kerbside and ascertain whether it is unoccupied. Determine that it has not been left in that position due to unavoidable circumstances such as vehicle breakdown (Rule 165 ARR 1999).

If the vehicle is occupied advise the driver of the breach and give the option to move the vehicle without an expiation notice. Exceptions to this approach are around schools, permit areas for persons with disability and with proven, consistent offenders.

In a zone where time restrictions apply mark the tyres in the approved manner and check again at least 5 minutes after the time permitted expires. Keep in mind Rule 205(2) of ARR 1999 in relation to movement of vehicles when parking longer than indicated.

4.3 Collecting Evidence

If expiation appears warranted take photographs of the vehicle clearly showing the number plate. Preferably include the surroundings, make and model of the vehicle, and applicable signs, doors open, vehicle stopped, etc. Avoid photos of people, especially those not associated with the issue under investigation. Use diagrams where photographs are impractical.

Note other relevant details such as the number of occupants in a vehicle and the number of persons who entered or left a vehicle at the time it was illegally parked.

Record details in notebook and on expiation notice where time permits. Ensure that evidence is filed in accordance with Council's Records Management protocols.

4.4 Issue the Expiation

Consider whether the offence is "trifling" (Section 4(2) Expiation of Offences Act 1996) and whether written or verbal warning might suffice or be effective in the circumstances. Council's Parking Expiations Guidelines (Attachment A) provide further information about when to issue expiations.

Complete an Expiation Notice (Attachment B) with the correct offence and double check all details.

If the driver returns before the notice is placed and it appears that a warning may be sufficient in the circumstances the ticket may be cancelled. Make an explanatory note.

Whenever possible, place the expiation notice in a plastic sleeve and leave it under the passenger side windscreen wiper of the vehicle (being careful not to damage vehicle).

The exceptions are for notices issued for offences around schools, where the officer believed there is an unacceptable danger in the vehicle remaining while a notice is issued or here the driver returns to the vehicle and drives off or refuses to take the ticket. In this case a letter of explanation is to be sent through the post with the notice to the owner of the vehicle.

The Act states that if a vehicle is involved in the commission of the alleged offence or offences, and is found unattended, the expiation notice may be served by affixing or placing it on that vehicle. This creates a complication when another person is in a vehicle but the driver is not. In these circumstances, wait for the driver to return, or send the expiation by post.

4.5 Written Warning

Like verbal warnings written warnings can be a valuable tool for education and encouragement of the public. The recording of written warning provides a history, so that an expiation notice can be issued for a second breach.

Warnings should generally be issued on the spot. Indicate that the written warning may be converted to an expiation if a later check shows that a previous warning has already been given.

4.6 Recording

On return to the offence and depending on Council's protocols, ensure that all notices are issued and notes and photographs linked and stored.

4.7 Issuing Reminder Notices and Certificates of Enforcement

[See Expiation Notices Procedure](#)

4.8 Reviewing and withdrawing Expiation Notices

See Council's Reviewing and Withdrawing an Expiation Notice Procedure.