

# COVID-19: Police powers – what can the police do?

FACTSHEET

This factsheet aims to help answer your questions about the powers police have to enforce Public Health Orders.

**The Public Health Orders keep changing and this can be confusing. This factsheet will give you information about what the police can do and how to respond to a police officer about a Public Health Order.**

## What action can police take if they believe I've breached an order?

The NSW Government has issued public health orders ('the orders') to limit the spread of COVID-19. The orders have been made under the Public Health Act.

### Penalties and fines

Breach of an order is an offence. The maximum penalty for an individual is \$11,000 or imprisonment for 6 months or both. A further \$5,500 penalty can be imposed for each day the offence continues.

The police have powers to issue on the spot fines to people who don't follow the current orders. These include:

- \$1,000 for breach of an order.
- \$3,000 for participating in an outdoor gathering of more than 2 people.
- \$500 for failure to comply with a direction to wear or carry a mask for those aged 18 years or older.
- \$80 for failure to comply with a direction to wear or carry a mask for those aged 16 or 17 years.
- \$40 for failure to comply with a direction to wear or carry a mask for those aged 15 or younger.
- \$5,000 for failure to comply with the obligation to answer questions asked by a contact tracer, provide your name and contact details to a contact tracer, and provide true and accurate information to a contact tracer.
- \$5,000 for failure to comply with obligations to self-isolate if you are diagnosed with COVID-19, including staying at home or in hospital, as determined by a doctor, nurse or paramedic, providing details of contact with other persons and places you have visited, and complying with NSW Health guidelines.
- \$5,000 for failure to comply with obligations to self-isolate if you are a close contact of a person diagnosed with COVID-19, including staying at home up to 14 days, as determined by a doctor, nurse or paramedic, submitting to testing for COVID-19, and complying with NSW Health guidelines.

### Arrest

In some circumstances, police can arrest and charge a person with breach of an order.

Depending on the circumstances, if you are arrested, the police may take you to:

- your home or usual place of residence (if you're a public health detainee, your usual place of detention), or
- into police custody.

## What questions can police ask and do I have to answer?

The order says that you must respond to these questions and requests by police:

- **Name and address:** Police can ask you to produce evidence of your name and address, including when you are in a car, exercising, shopping, or supervising a child who is outdoors playing.
- **Mask wearing exceptions:** If you're not wearing a face mask, police can ask you to show them a letter from a doctor or a statutory declaration to show that you do not need to wear a mask. You may not need to wear a facemask if you have a physical, mental or intellectual condition which makes wearing a face mask unsuitable.
- **Being away from place of residence without reasonable excuse:** If a police officer has a reasonable suspicion that you are outside of your place of residence without a reasonable excuse, they can request that you return to your place of residence as soon as reasonably practicable.
- **Drivers and passengers of vehicles:** Police can ask anyone over 16 years old who is in a vehicle with another person to produce evidence of their name and address. You can only be in a vehicle with a member of your household, your nominated visitor (if applicable), if you are travelling together to carry out work, providing a public transport service, provide care or assistance to a vulnerable person, in an emergency or for compassionate reasons.
- **Leaving an LGA of concern for work:** Police can ask you to produce evidence of your name and address and evidence of vaccination or a vaccination appointment or evidence of a medical reason why you did not get the vaccine and work permit.
- **Entering an LGA of concern for work:** If you are entering an area of concern for work, you must have a permit from Service NSW and police can ask you to produce the permit and evidence of your name and address for inspection.
- **Leaving Greater Sydney:** If you're leaving Greater Sydney to work more than 50km from Sydney, police can ask you to produce evidence that you have a permit to do so, and evidence that you have received a negative test result within the last seven days. If you're leaving to Greater Sydney to move house, to move between houses or to inspect a property, you must have a permit from Service NSW.
- **Early education and care and disability support workers:** Police can ask to see evidence of vaccination or a vaccination appointment or evidence of a medical reason why you did not get the vaccine).
- **Construction sites:** Police can ask people on construction sites to show evidence of vaccination (or evidence of a medical contraindication to vaccination).
- **Test results:** If the Chief Health Officer has listed your profession or LGA on the website of NSW Health, police can ask you for evidence of a negative test result.

Failing to give the information requested in this list is a breach of the public health orders and could mean that a police officer gives you one of the fines listed above. Police could also give you a Court Attendance Notice and require you to attend court.

A person who gives police information knowing it to be false and misleading, is also guilty of an offence. The maximum penalty is \$11,000 and/or imprisonment for 6 months.

# COVID-19: Police powers – what can the police do?

FACTSHEET

## If people at my home are required to self isolate under the public health orders and police knock at my door, do I need to respond?

If you have been diagnosed with COVID-19 or a contact tracer has identified you as a close contact of a person with COVID-19, you must self-isolate.

The orders require any person at a home where a person is self-isolating to respond to questions by police about who is living there, including providing their names and addresses.

If police officers knock at your door in these circumstances, the orders require you to:

- open the door, and
- comply with a request by police for information about who is living there.

The police do not have the power to enter your home to check or ensure compliance with orders. Only authorised officers such as staff from the NSW Health Service can enter premises and seize, inspect or copy documents in the premises.

## What can I do if I've been fined or arrested?

If you've been fined or charged with an offence, you should get legal advice. You can call LawAccess on 1300 888 529.

You can ask for a review of your penalty notice by Revenue NSW and/or appeal the penalty notice to the Local Court.

There are also options for asking for a waiver or reduction because of financial hardship. You may also be eligible to clear your fines debt through a Work and Development Order. To find out if you are eligible, contact the Legal Aid NSW WDO Service at [wdo@legalaid.nsw.gov.au](mailto:wdo@legalaid.nsw.gov.au).

If you get arrested, you can refuse to answer any questions asked by police. You have the right to speak to a lawyer. You can contact:

- LawAccess on 1300 888 529
- If you're a young person, the youth hotline on 1800 101 810, or
- If you're Aboriginal or Torres Strait Islander, the ALS custody line on 8303 6666.

## Where can I find more information?

- Revenue NSW WDO Hotline 1300 478 879.
- For the most up to date information on what you can and cannot do under the rules go to the [NSW government website](#).

# COVID-19: Police powers – what can the police do?

FACTSHEET

## How can I get help?

For free legal help call LawAccess on 1300 888 529 or [call your local Legal Aid NSW office](#).

There is also a series of [factsheets about COVID-19 and the law](#) available on the Legal Aid NSW website to assist you to manage all the changes that are happening in our community.

If you need an interpreter, call the Translating and Interpreting Service on 131 450 and ask for LawAccess NSW. If you find it hard to hear or speak, call the National Relay Service on 133 677 and ask for LawAccess NSW or visit [www.relayservice.gov.au](http://www.relayservice.gov.au).

This factsheet is intended as a general guide to the law. Do not rely on this information as legal advice. We recommend you talk to a lawyer about your situation. This information is correct at the time of writing, however, it may change.

CVCIV19 | 10 September 2021 | © Legal Aid NSW