

Internal review

This information sheet is general in nature and provided for information purposes only. It is not intended to be a substitute for legal advice. You should seek your own legal advice as required.

An internal review is a right under the *Infringements Act 2006* (the Act). It allows a person to apply to an enforcement agency for a review of their decision to issue the infringement notice. Section 21 of the Act limits the application of internal review to certain infringement notices or infringement offences.

Internal review is an important part of the infringements system because it offers a fine recipient an opportunity to challenge the decision of the enforcement agency to issue the infringement fine on specific grounds.

Internal review grounds

An internal review application must state the grounds on which the decision should be reviewed. The grounds of review are set out in section 22 of the Act. The following section provides an overview of each ground.

More information about each ground is available in the DJCS Internal Review Guidelines, available on the [website](#).

Contrary to law

The decision to serve and enforce the infringement was unlawful or invalid (section 22(1)(a)(i)).

Mistake of identity

The infringement was issued to the person in error as they were not the person who committed the offence (section 22(1)(a)(ii)).

Exceptional circumstances

The infringement should be excused because of exceptional circumstances relating to the conduct (section 22(1)(c)). This should be determined on a case-by-case basis, and may include out of the ordinary, unavoidable or unexpected situations.

Person unaware

The person was unaware the infringement notice had been served because it was not served personally (section 22(1)(d)).

Special circumstances

The person had special circumstances (section 22(1)(b)). Under section 3A of the Act, a person has special circumstances if they:

- have a mental or intellectual disability, disorder, disease or illness, or a serious addiction to drugs, alcohol or a volatile substance, and those circumstances contributed to a significantly reduced capacity to control or understand their offending conduct
- were experiencing homelessness or family violence, and those circumstances contributed to a significantly reduced capacity to control their offending conduct, or
- have long-term circumstances that make it impracticable to deal with their fines, and that do not solely relate to financial hardship.

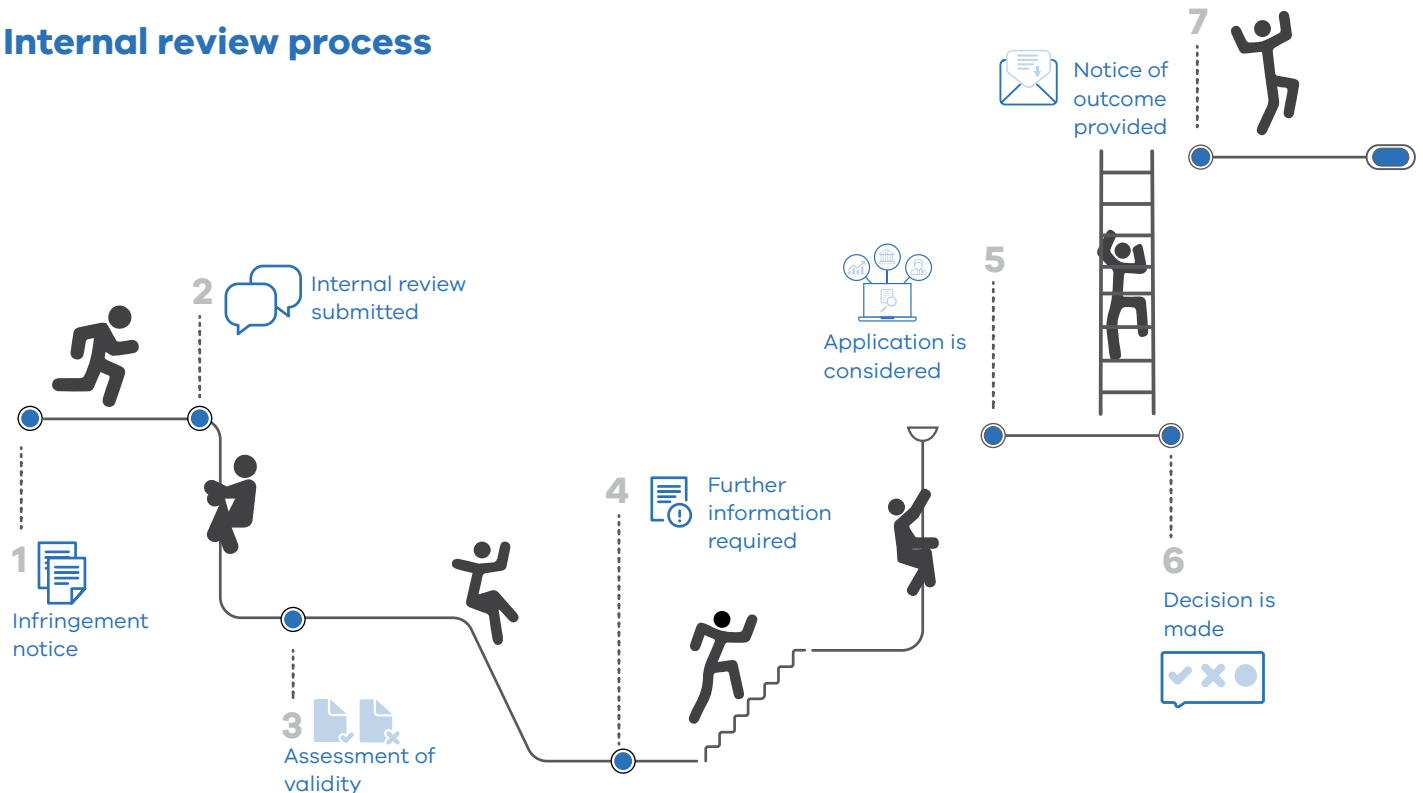
Principles of good decision making:

- lawful
- fair
- independent and impartial
- open and transparent
- efficient
- rational
- appropriate, good faith and proper use of discretion.

Internal review good practices:

- providing reasons for decisions
- identifying the decision maker in outcome letters
- keeping detailed records of decision
- providing the notice of outcome by post
- requesting further information if favourable to the applicant
- changing the ground of the application if it results in a better outcome for the applicant
- developing guidelines to assist review officers to exercise their discretion
- developing an official warning policy.

Internal review process



1 An infringement is issued.

2 An application for internal review is submitted and enforcement activity is suspended (section 24(1)(b)).

3 The review officer assesses whether the application is valid (section 22).

A valid application:

- is made before the fine is registered with the Director, Fines Victoria or the children's court
- is made in writing (via email, post or other)
- includes an address for service
- can only be made once for any one infringement offence
- must specify the grounds of review (specifically or generally)
- is made by the person named on the infringement notice, or someone authorised to act on their behalf.

4 The review officer requests further information if clarity is required (section 23(1)). The review officer should request further information if it may result in a favourable outcome for the applicant.

5 The review officer considers the evidence and application.

The review officer should consider:

- the evidence provided
- the relevant law
- other relevant factors
- administrative law principles.

6 The review officer makes a decision. Depending on the ground of the review, the review officer may decide to:

- confirm the issuing of the infringement
- withdraw the infringement and serve a warning
- withdraw the infringement
- withdraw the infringement and refer the matter to court
- waive fees
- approve a payment plan
- grant or refuse a person unaware application.

The possible outcomes for each ground of review are outlined in section 25 of the Act.

7 The review officer notifies the applicant of the decision, in writing (section 24(3)(b)). The notice of outcome should include the reasons for the decision and provide the options that are available to the applicant, which are outlined in section 25 of the Act.

More information is available on our [Justice webpage](#)

Further information can be obtained via:



Email
Fines Victoria
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