

# Factsheet No. 16

## What are my options for reviewing a fine?



*This factsheet discusses the SDRO Advocacy Hotline and the options available for reviewing fines.*

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### Introduction

Fines can be divided into two main categories. You may be given a fine as part of various court orders or by a penalty notice. A penalty notice may be issued for a range of offences, including the common examples of driving through a red traffic light, driving above the speed limit, using public transport without a valid ticket and parking a vehicle outside permitted times or zones.

You can find further details about a penalty notice you have been given by visiting [myPenalty](#) and filling in the required details. This website will also provide more information about options for dealing with a penalty notice.

### Who administers fines?

The Commissioner of Fines Administration has the responsibility of managing fines under the *Fines Act 1996* (NSW). The Commissioner may use the name 'State Debt Recovery' when carrying out its functions, including when contacting you.

### Who can I contact for help dealing with fines?

There are certain organisations and/or individuals, known as 'advocates', who can help you deal with fines. These may include financial counsellors, community workers,

lawyers and others who have registered with the State Debt Recovery Office (**SDRO**).

By registering, advocates may use the Advocacy Hotline to contact the Advocacy Support Team. This team provides assistance to your advocate when they are dealing with fines on your behalf. If you have an advocate that wishes to register with the SDRO they should visit their [website](#).

Individuals who usually receive support include:

- people who have a mental health impairment, cognitive impairment or intellectual disability;
- people who are homeless;
- people with serious addiction to drugs, alcohol or volatile substances;
- inmates and people recently released from custody;
- people in serious financial, medical or domestic hardship; and
- young people.

### I have received a penalty notice; what are my options?

If you receive a penalty notice, you may respond by:

- paying the fine;
- naming the driver  if the fine is related to a traffic offence that you were not involved in;
- requesting an internal review with the SDRO; or
- filing for an external review in court.

### What is an internal review?

An internal review is undertaken by either the authority that issued you a penalty notice (such as the local council) or the SDRO. You can seek to correct any incorrect fine details, such as incorrect name or date of birth, during an internal review. There are three possible outcomes from an internal review:

- a successful review will result in the penalty notice being cancelled, and the fine is no longer payable;

- a formal caution may be issued instead of a penalty notice, meaning the fine will not be payable and any demerit point offences will not apply (although a caution for these offences will appear on your driving history); or
- an unsuccessful review means that the penalty notice still applies and the fine remains payable, although you may still choose to have the matter reviewed by a court.

### **How do I request an internal review?**

A Request for Review of a Penalty Notice Form or a written request may be posted to the SDRO, or a request may be submitted online.

If you request a review from the agency that issued the penalty notice, they do not have to carry out the review if they notify you of the decision not to review and the reasons within 10 days of your request.

A review may be requested even if a fine has been part or fully paid. It must be received either before the due date on the penalty reminder notice, or if the fine has been paid in full then within 60 days of receiving the penalty notice.

The reviewing agency can request additional information from you, which you must provide within 14 days of the request.

However, it should be noted that the options to review your fine, either through SDRO or by a court, **will not** be available once you voluntarily seek to have the fine paid through the Centrepay system provided by Centrelink.

### **What is considered as part of an internal review?**

The factors considered as part of an internal review will vary depending on the reason for a penalty notice being issued.

An internal review may be requested where you believe an error has been made or there are special circumstances such as:

- the penalty notice was wrongly issued;
- there are issues of mistaken identity;
- the person fined has an intellectual disability, mental illness, cognitive impairment or is home and either unable to control their conduct or did not understand their conduct was an offence;
- there was a medical emergency; or
- an official caution should have been given instead of a penalty.

There is also a comprehensive guide available for offences relating to traffic, parking, speeding, littering, public transport, animal and environmental etc from the [SDRO website](#).

This guide provides details about the evidence that will need to be submitted to ensure the most favourable outcome from the internal review.

### **How long will I have to wait to get an outcome from an internal review?**

The reviewing agency has to notify you in writing of the outcome of the review within 42 days, unless they request additional information, in which case you must be notified of the outcome within 56 days.

### **Can someone else request an internal review on my behalf?**

Yes. Someone else may request a review on your behalf as long as they submit an [Authority to Act](#). Similarly, you may request a review on behalf of another person by submitting the same form.

### **What if I want to have my penalty notice reviewed in court?**

You may also choose to have your penalty notice decided by a Local Court if you believe you are not guilty or that the penalty is too harsh. To choose this option, visit the [SDRO website](#).

It is best to consider seeking a review of the penalty notice before going to court, as a review is not available once you start the court process. It is also best to seek legal advice before taking this option, as the court may order you to pay further costs. For free information and advice, contact LawAccess on 1300 888 529.

The option to have a court make a decision on your penalty notice is available up until the due date of the first penalty reminder notice. If there is a good reason why you are unable to respond to the first penalty notice, for example due to illness, you may apply for an annulment. A successful application will allow you to take your penalty notice to court even if the due date of the first reminder notice has passed and the SDRO is seeking enforcement of the penalty notice. Applications for annulment must be in writing and sent to the SDRO. The form is available from the [website](#).

Other grounds for annulment include:

- you only found out about the penalty notice because you received an enforcement order, if you make an application within a reasonable time of receiving the enforcement order;

- you could not deal with the penalty notice due to illness, accident or misadventure – for example if you were experiencing homelessness or have a mental illness or disability – as long as the application is made within a reasonable time after these factors stop preventing you from taking action;
- the penalty notice was returned to sender and later received by you at a different address;
- there is doubt you are liable to pay the penalty and there was no previous opportunity for review; or
- circumstances mean that there is another good reason why your application should be granted.

### **What options do I have if it was a court who ordered me to pay a fine?**

If the fine was given by a Local Court less than two years ago and you weren't able to attend, you may also be able to apply for an annulment.

This type of annulment will give the court an opportunity to reconsider the matter with your input. However it does not guarantee that the outcome will be different. In fact if you lose you may be required to pay extra court costs. We recommend seeking legal advice before you decide to apply for an annulment.

To successfully apply for an annulment, you must be able to prove that:

- you were not aware of the original case until it was finished;
- you were unable to attend court because of accident, illness, misadventure or other causes; or
- it is in the interests of justice to do so.

### **What happens if I ignore a fine?**

Ignoring a fine is likely to result in extra costs and potentially serious enforcement action, such as the suspension of your licence or a Community Service Order. It is therefore recommended that you take action as soon as possible after receiving a fine.

If you have ignored or not resolved a penalty notice, you may receive an enforcement notice and undergo enforcement action. Please see RLC's Factsheet **"Fines and Enforcement Action"**.

*Produced by Redfern Legal Centre in September 2016.*

*This factsheet is a guide to the law in New South Wales, Australia. It is not a substitute for legal advice. If you have a legal problem seek legal advice from your local community legal centre.*