



29 May 2020

Andrew Geddis
fyi-request-12771-7bab072b@requests.fyi.org.nz

REF: IR-01-20-11829

Dear Mr Geddis

REQUEST FOR INFORMATION

I refer to your email dated 4 May 2020 in which you request the following:

"I request the Operational Policing Guidelines issued on or about 25 March, 2020 for the commencement of New Zealand's 'Level 4 Lockdown', as well as any subsequent amendments or updates to these Guidelines. The document(s) I seek provide guidance to frontline officers as to enforcement of the Health Act 1956, s70(m) notice and powers under the Civil Defence and Emergency Management Act 2002."

I have considered your request in accordance with the Official Information Act 1982 and attach a copy of the guidelines provided to Police staff. There is one small redaction pursuant to s9(2)(a) of the Official Information Act 1982 to protect the privacy of natural persons.

You have the right, under section 28 (3) of the Official Information Act 1982, to ask the Ombudsman to review my decision if you are not satisfied with the way I have responded to your request.

Yours sincerely

Richard Chambers
Assistant Commissioner

Police National Headquarters

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Advice for Frontline Police staff – Alert Level 4

These are unprecedented times and our focus remains on keeping our communities safe and preventing harm. The public will notice an increased Police presence and we will adapt and change how we Police in response to this situation.

Our focus will be on prevention through education and calm encouragement. We don't want to get to a place where we have to enforce these restrictions that come with Alert level 4, but we will if required.

Police is asking that everyone commits to keeping themselves and their community safe by adhering to the restrictions imposed.

Right now we are encouraging everyone to get home, stay home and stay safe. For more information and advice visit www.covid19.govt.nz

If necessary to maintain law and order and keep our community safe, Police has a number of powers available to them under the Health Act 1956, the Summary Offences Act 1981 and under the Civil Defence Emergency Management Act 2002 to take action where appropriate.

Our officers will still have discretion in how they deal with matters and how they are enforced and all situations will be assessed on a case by case basis.

We acknowledge that the current environment is a stressful one for many in our community. We know that in times of high stress we can see an increase in callouts, and we would like to remind people to take stock, take a breath, and look after yourselves and each other.

If you need some extra support, Police would encourage people to take advantage of a number of resources available online and in the community - everything from family harm support, to budgeting, to mental health support.

Police response overview

The aim of Police in these circumstances is to **deal with all situations with compassion and be reasonable in our response**. There is no curfew in place, people will still be capable of movement.

The following **guidelines** should be followed when Police are responding to events, after the level 4 announcement:

1. **Engage** with the responsible parties
2. **Communicate** with them to identify whether their current behaviour or activities are contrary to COVID-19 recommendations
3. **Educate** them on current recommendations (if necessary) to correct their behaviour or activities
4. **Encourage** compliance measures
5. Take **enforcement** measures (**only if necessary**)

Members of the public who do not follow your direction may be liable for further enforcement action, following consultation with the medical office of health which is facilitated via the NCCC. This could include such situations as: non-compliant businesses, private addresses and public areas.

We want to empower our frontline staff to make decisions in the face of New Zealand's Level 4 announcement. Each District will encounter situations where Police will need to take action and respond promptly, please consider the situations below and how you could respond bearing in mind the guideline identified above.

The following are potential situations you may encounter, the location of event will dictate frontline staff ability to enforce the situation.

- People on essential business
- Non-compliant business owners
- Assembly of large groups in public areas
- Assembly of groups within a private residence
- Individuals in public
- People in vehicles

Powers under the two enactments will dictate our approach.

Nothing in the Health Act and the Civil Defence and Emergency Management Act negates the powers conferred under the enactments currently used by police.

The following course of action are required should you require the assistance of a Medical Officer of Health (MOOH):

1. Remain safe, however withdraw if necessary
2. Inform NCCC of your current situation
3. Wait for recommendation from NCCC for nature of response which could include medical officer of health directions e.g. Power to direct a person to isolate, failure to comply can be enforced by way of Power of Arrest under [Health Act 1956 \(section 71A\)](#), in certain circumstances.

Powers

Medical Officer of Health (MOOH) Notice (s 71A Health Act, 1956)

A Constable may do anything reasonably necessary (including the use of force) to help a MOOH or any person authorised by a MOOH:

- To help the MOOH in the exercise or performance of powers or functions under s 70
- To help a person to do a thing that the MOOH has caused or required to be done
- To prevent people from obstructing or hindering activity under the MOOH notice
- To prevent, or reduce the extent or effect of, the doing of the prohibited activity.

A Constable may direct a business premise to comply with MOOH notice, and take enforcement action if individuals responsible fail to comply.

The act provides authority for Police to act, using reasonable force if necessary to ensure compliance with requirements requested as above.

Section 9, Civil Defence Emergency Management Act (CDEMA), 2002

On the basis that a national civil defence state of emergency has been declared, any Constable may pursuant to s91:

- (a) Direct any person to stop any activity that may cause or substantially contribute to an emergency;

- (b) Request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency.

Any person who fails to comply with a direction under s 91 is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000.

In the instance where Police deem it necessary to utilise the CDEMA they will need to satisfy themselves that the need to limit harm is sufficient to satisfy subsection (a) and only to carry out the actions as detailed in subsection (b)

Commentary

It is desirable that every effort is made to utilise the powers conferred in the Health Act before relying on the CDEMA 2002.

Staff should consider their Health and Safety

This remains a fluid situation, for the latest information and advice on Health and Safety requirements please check our [Ten One intranet page](#).

Link to essential services:

<https://covid19.govt.nz/government-actions/covid-19-alert-level/essential-businesses/>

If you have any queries around essential services you can get in touch with MBIE team at [Section 9\(2\)\(a\)](#) or email essential@mbie.govt.nz.