

10 November 2021

IR-01-21-30530

Sophie  
[fyi-request-17148-92a1efae@requests.fyi.org.nz](mailto:fyi-request-17148-92a1efae@requests.fyi.org.nz)

Dear Sophie,

***Request for information***

Thank you for your email dated 12 October 2021 which asked a range of questions about the process for hearings following the issuing of an infringement notice.

Your request has been considered in accordance with the Official Information Act 1982 and I have responded to each of your questions below.

*I have a few questions regarding what will happen if the alleged infringer on an infringement notice, issued under the Land Transport Act 1998, issued by the NZ Police, choose to request a court hearing.*

1. *What kind and what level of court/tribunal will the hearing be held at? What will be the initial court filing cost for the alleged infringer on the infringement notice?*

When a person requests a court hearing for an infringement offence, these matters are dealt with by the District Court sitting in its criminal jurisdiction.

There is no filing fee for seeking a court hearing on this type of matter, although if the court find the charge proved, the court may impose court costs of \$30 in addition to any other penalty.

2. *Will it be a generalist court or a specialist court? If it will be a specialist court, what specialist area of the court will that be?*

As advised above, when a person requests a court hearing for an infringement offence, these matters are dealt with by the District Court sitting in its criminal jurisdiction. Traffic related infringement notices are usually dealt with by a court presided over by two Justices of the Peace. In some parts of the country Community Magistrates also hear this type of case.

**PNHQ**

180 Molesworth Street, Thorndon, Wellington  
[www.police.govt.nz](http://www.police.govt.nz)

3. *Will it be a criminal case or a civil case?*

These are criminal proceedings.

4. *Will the case prosecutor's (Police's) claimed amount of money and other claims be as same as the infringement fee payable and any other claim on the infringement notice?*

If an infringement matter goes to court and the charge is proved any monetary penalty is no longer an "infringement fee," it becomes a fine. The amount of the fine is a matter for the court.

5. *If the respondent (alleged infringer) is convicted, can the new infringement fee payable become more than the infringement fee payable specified on the infringement ticket?*

Firstly, there is no conviction for an infringement notice. Please see s375 of the Criminal Procedure Act 2011 as set out below:

**375 Conviction not to be recorded for infringement offences**

(1) If a defendant is found guilty of, or pleads guilty to, an infringement offence (whether or not an infringement notice has been issued), the court—

- (a) must not convict the defendant; but
- (b) may order the defendant to pay any fine and costs and may make any other order that the court would be authorised to order or make [as if the court were able to convict a defendant of the offence].

(2) Every reference in this or any other Act, or in [any secondary legislation], to a conviction for an offence is, in relation to an infringement offence, deemed to be a reference to—

- (a) an order that the defendant pay a fine and costs under subsection (1)(b); or
- (b) a deemed order that the defendant pay a fine and costs under section 21(5) or (5A) of the Summary Proceedings Act 1957.

(3) However, sections 229, 244, and 246 do not apply to any deemed order that the defendant pay a fine and costs under section 21(5) or (5A) of the Summary Proceedings Act 1957.

[(3A) This section applies to every infringement offence whether or not there is an express reference to a conviction in the infringement offence provision or in any provision specifying the penalty for the infringement offence.]

(4) Subsection (1) overrides any other provision of this Act or any other Act.

Once an infringement offence matter goes to a court hearing, the proceedings are no longer subject to a set infringement fee. For example, a person who receives an infringement offence notice for "Failing to stop at a stop sign" is

subject to an infringement fee of \$150. If that person requests a court hearing, the actual charge they face in the court proceedings is filed against rule 4.1(1)(a) of the Land Transport Road User Rules 2004. This rule has a maximum penalty of a fine not exceeding \$1000. While courts will commonly consider what the infringement fee may have been, they are not obliged to follow this when it comes to penalty.

6. *If the respondent is convicted, will there be a criminal record left on the respondent's criminal record?*

As outlined in question five, there is no conviction for an infringement notice and no criminal record.

However, there is a record kept of infringement offending as many such offences attract the accumulation of demerit points which if accumulated within a certain statutory timeframe could lead to licence suspension.

7. *If the respondent is convicted, what will be any other court cost that the respondent will need to pay for?*

If a person subsequently pleads guilty or the courts find the charge proved, court costs of \$30 may be ordered.

8. *After the case is filed to the court, can the respondent choose to close the filed case and pay for the infringement fee payable specified on the infringement notice? If the respondent can choose to close the filed case, what other cost besides the infringement fee payable specified on the infringement notice will need to be paid?*

Once court proceedings are filed the ability for defendants to deal with the matter via the infringement process have ceased.

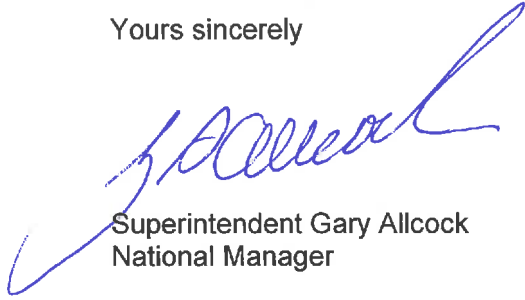
9. *If the respondent chooses to close the filed case and pay for the infringement fee payable specified on the infringement notice, will there be a criminal record left on the respondent's criminal record?*

There is no ability for a defendant to close proceedings and pay an infringement fee as this process ends once a charge is filed in court.

There is no conviction or criminal record associated with infringement offences.

If you have any questions, you may contact Colin McGillivray ([colin.mcgillivray@police.govt.nz](mailto:colin.mcgillivray@police.govt.nz)) in the first instance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G. Allcock', written in a cursive style.

Superintendent Gary Allcock  
National Manager

Police Prosecution Service