

Police powers in the COVID-19 context

This guidance note has been written by Ashley Chrystall of the Wellington Community Justice Project and covers information relating to police powers while you're at home, outside or on the road, as well as powers of arrest.

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Making reports

How do I report lockdown breaches?

You can report any breaches of the current alert level by businesses or individuals to police by filling out this [form](#) on the NZ Police website.

If you have concerns regarding people who are not self-isolating when they should be, you can email the [dedicated Ministry of Health email address](#).

What will the police be able to do if I report breaches?

Police are patrolling streets with a focus on maintaining law and order and preventing harm. They will deal appropriately with anyone attempting to exploit the restrictions in place.

The police are able to educate anyone breaching COVID-19 restriction rules and can enforce these rules if necessary. Consequences for breaching lockdown restrictions can range from warnings through to prosecutions if necessary.

During the lockdown, police have powers available under various legislative instruments including the Health Act 1956, the Summary Offences Act 1981, and the Civil Defence Emergency Act 2002. Some of these powers rely on either a declared state of emergency or an epidemic notice being in force.

If I see someone breaking current alert level rules, should I handle it myself?

In the first instance, if it is safe to do so, police advise that it may be appropriate to have a polite conversation with the person/people breaching the lockdown restrictions as long as the two metre social distancing rule is observed.

However, if in doubt, the best way to handle a breach of COVID-19 rules is to contact the authorities and inform them of any breaches. Once the police or another authority become aware of the breach, they will be able to handle it effectively. In an emergency, always dial 111.

What about making reports unrelated to lockdown restrictions?

You can report a crime using the same methods as in the pre-lockdown circumstances. You can now visit the police station in person, given social distancing rules are followed.

Call 105 for non-urgent reports and 111 for emergencies. Emergencies include, but are not limited to, serious injuries, house fires, crimes where the offender/s are still around, serious risk to life or safety, and major public inconveniences.

At home

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Can the police enter my home without my consent during the lockdown?

As in normal circumstances, the police can enter your home if they obtain a warrant from the courts. A warrant can be obtained if police are:

- preventing or investigating a crime; or
- enforcing the law.

Warrants can be issued by courts in circumstances set out in various statutes, including, for example, the Search and Surveillance Act 2012. If the police have a warrant issued by a judge or other court official, you must let them enter your home. The police must have the warrant with them when they come to your house, and they must show the warrant to you if you ask to see it.

Police are permitted to enter your house without warrant or your consent only in limited circumstances, including:

- if they are making an arrest;
- if they are preventing a crime that is likely to cause someone to be injured or serious damage to, or serious loss of any property;
- if they are seizing evidence connected to your arrest or connected to a serious crime, whether or not they have arrested you;
- if there is an emergency threatening somebody's life or safety; or
- if they are enforcing specific laws that allow entry without a warrant.

Police may enter your property without a warrant and knock on the door to ask if they can enter. You can choose whether to agree and, if you do agree, you can ask them to leave at any time.

Under special COVID-19 legislation, the police may also enter your home without a warrant if they believe that you are gathering in a way that has been forbidden by Government-issued requirements (e.g. exceeding the limits for the number of people that can gather). This is only lawful if:

- an epidemic notice has been issued under s 5 of the Epidemic Preparedness Act 2006;
- a state of emergency or transition period is in force under the Civil Defence Emergency Management Act 2002; or
- the Prime Minister has authorised it, only after being satisfied that there is a risk of outbreak and after notification in the Gazette;

and only if the Covid-19 Public Health Response Act 2020 is in force (currently set to expire 11 August, unless the House of Representatives agree to continue the Act).

What if police enter my home unlawfully?

If a police officer enters your home without a warrant or good reason as outlined above, you can file a formal complaint [online](#) or by writing to either your local Police District Commander or directly to the Commissioner of Police at Police National Headquarters, PO Box 3017, Wellington 6140. Alternatively, you can file a complaint with the [Independent Police Conduct Authority](#).

Arrests

What powers of arrest do police have during the lockdown?

The focus of the NZ Police during the COVID-19 pandemic restrictions is on prevention through education and encouragement. However, police do have powers to enforce measures if necessary, which includes the power to arrest and prosecute.

Such powers are available under various legislative instruments including the Health Act 1956, the Summary Offences Act 1981, and the Civil Defence Emergency Management Act 2002. Some of these powers rely on either a declared state of emergency or an epidemic notice being in force.

Within their normal powers, police can arrest you if:

- they find you committing an offence (or have good reason to suspect this);
- they find you “disturbing the peace” (or have good reason to suspect this);
- they have the power to arrest you under specific circumstances (e.g. breach of a family violence protection order); or
- they have a warrant for your arrest issued by a court.

If you breach lockdown regulations, you will likely be issued with a warning from police. If you repeatedly breach lockdown restrictions, you may be subject to an arrest.

Reasons for arrest during lockdown may include:

- repeatedly not complying with police officers’ warnings;
- knowingly putting others’ health and safety at risk by breaching lockdown measures; or
- ignoring the rule of staying in isolation when you have tested positive for COVID-19 until you are told you are no longer a risk to the community.

Outside

Can police approach me while I am outside exercising?

You must adhere to the requirements of the current alert level in place. A police officer is entitled to approach you at any time, with or without suspicion, but must not arrest or detain you without good reason. Their focus during the lockdown is to educate people on the new rules put in place to protect against the spread of COVID-19.

Where can I go outside?

For information on restrictions in place with regards to travel, recreation, and public gatherings, refer to the [Government guidelines under the current alert level](#). You must adhere to restrictions on maximum numbers of people at gatherings, as well as social distancing guidelines.

What if a police officer tells me to do something I know they cannot tell me to do?

To lodge a formal complaint about police behaviour, you can submit a formal [complaint online](#) or write to either your local Police District Commander or directly to the Commissioner of Police at Police National Headquarters, PO Box 3017, Wellington 6140. Alternatively, you can file a complaint with the [Independent Police Conduct Authority](#). You can also [lodge an expression of dissatisfaction](#) on the police website.

On the road

Can I be pulled over in my car while I am driving?

Police can still pull you over while you are out on the road if they suspect impairment. An additional measure to reduce the potential spread of COVID-19 is a change to the method of breath testing, which will now be done by using tubes people blow into, rather than drivers speaking into a device.

Can the police stop me from driving somewhere?

If the police believe you are not complying with the [current alert level restrictions](#), they will, as an initial response, seek to educate you on the new restrictions put in place. However, if a person has received an initial warning and continues to flout the rules in place, police can use their discretion in enforcing the restrictions, which may include arrest.

What travel is permitted?

See the Government's guidelines for travel under the [current alert level](#) and the Ministry of Transport's [COVID-19 information](#).