

# Police powers in the COVID-19 context

*This guidance note has been written by Ashley Chrystall, Wellington Community Justice Project, and covers information relating to making reports during the COVID-19 lockdown, police powers to enter your home and to stop you while you are outside or on the road, as well as powers of arrest.*

## Making reports

### How do I report lockdown breaches?

To report an individual or business breaching any of the current alert level restrictions, you can fill out the [form](#) on the 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 can the police do if I report breaches during the COVID-19 lockdown?

The police will educate anyone breaking lockdown rules and can enforce these rules if necessary (discussed below).

Police will be 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.

During the lockdown, police have special powers available under various pieces of legislation, including the Health Act 1956, the Summary Offences Act 1981, and the Civil Defence Emergency Act 2002.

Breach consequences include warnings through to prosecutions if necessary.

### If I see someone breaking the COVID-19 lockdown rules, should I handle it myself?

If it is safe to do so, police advise having a polite conversation with the individual/s breaching lockdown restrictions, at a two metre distance, in the first instance.

The best way to handle a breach of the COVID-19 lockdown 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. Breaching your own isolation to enforce someone else's will do unnecessary harm and it is better to simply inform the police.

In an emergency, always dial 111.

### What about making reports unrelated to lockdown restrictions?

You can lodge a report of a crime the same way you would pre-lockdown, except for visiting the police station in person to make a report.

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

### 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
- if they are enforcing the law.

Warrants can be issued by courts in circumstances set out in various Acts of Parliaments, 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 it to you if you ask to see it.

Police are permitted to enter your house without warrant 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 an arrest of you; 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 warrant.

Police may enter onto your property without 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.

#### *Specific COVID-19 lockdown powers of entry*

Under the [Health Act 1956](#), police can do anything reasonably necessary, including the use of force, to prevent people from obstructing or hindering public health lockdown measures. This includes entering any land or building.

### What if police enter my home unlawfully?

If a police officer enters your home without warrant or good reason as outlined above, you can file a formal complaint [online](#), or by writing to 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?

NZ Police's focus during the COVID-19 pandemic lockdown restrictions is on prevention through education and encouragement. However, police do have powers to enforce lockdown measures 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. Breach consequences include warnings through to prosecutions if necessary.

Under the [Health Act 1956](#), police can do anything reasonably necessary, including the use of force, to prevent people from obstructing or hindering lockdown measures.

Within their normal powers, police can arrest you if:

- they find you committing an offence (or have good reason to suspect this), or
- they find you "disturbing the peace" (or have good reason to suspect this), or
- they have the power to arrest you under specific circumstances (eg 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 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 driving without valid reason while travel restrictions are in place
- repeatedly not complying with police officers' warnings
- knowingly putting others' health and safety at risk by breaching lockdown measures
- ignoring the rule of staying isolated 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](#).

## **Can police direct me to stop what I am doing or to go home?**

Police can make directions if you are breaching lockdown restrictions. Under the [Civil Defence Emergency Management Act 2002](#), police have the power to direct any person to stop doing any activity that may contribute substantially to an emergency.

## **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 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?**

While COVID-19 restrictions are in place, NZ Police have advised that officers will be out ensuring people are staying home and following restrictions. At times this may include pulling people over in their cars. This will be to check reasons for driving to ensure it is within what is permitted under the [current alert level](#).

Although checkpoints for breath tests will be temporarily stopped, as they are deemed unsafe during the lockdown, police can still pull you over while you are out on the road if they suspect impairment. As an additional measure to reduce the potential spread of COVID-19 breath testing 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 on the new restrictions put in place. However, if a person has received an initial warning and continues to breach the rules in place, police can use their discretion to enforce the restrictions.

### **What travel is permitted?**

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

### **What if my WOF, COF or driver licence expires?**

Regulations have been temporarily changed so that all expired Warrant of Fitness or Certificate of Fitness will be deemed current; and all expired driver licences will be deemed current for up to six months.