



Media release
For immediate release

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Maribyrnong Council refuses to withdraw unfair fines

Maribyrnong City Council's system for managing infringement notices is unfair and unaccountable, according to Shifrah Blustein, Manager of Strategic Projects and Law Reform at Brimbank Melton Community Legal Centre (BMCLC).

Ms Blustein stated that "Maribyrnong Council's decisions are frequently unjust and arbitrary. These decisions have serious consequences for community members and leave the entire community with no adequate process for review."

BMCLC and other community legal centres have assisted many clients distressed by Maribyrnong City Council's unfair decisions about their infringements.

Councils and other agencies with the power to issue fines are required by law to consider applications for internal review made by individuals who have been issued with infringement notices. Where an application for internal review is received, enforcement agencies are required to review the decision to issue the infringement. The agency can then withdraw the infringement or give the person an official warning instead if they decide "the conduct should be excused having regard to any exceptional circumstances". In practice, this means enforcement agencies can withdraw infringements where they receive information that explains the conduct and it would be fair and appropriate to do so.

In the experience of BMCLC's clients, Maribyrnong City Council conducts its internal reviews in an unfair, arbitrary and unaccountable manner, leaving the entire community without a fair review process.

In addition, Maribyrnong Council's practice of prosecuting infringement offences prevents individuals whose infringements were caused by severe mental health conditions, serious drug or alcohol addictions or homelessness from making applications to have their infringements revoked. "Maribyrnong Council's practice of prosecuting infringement offences means that extremely vulnerable people are criminalised rather than being able to exercise opportunities afforded by law consistent with the practice of all other enforcement agencies", said Ms Blustein.

Ms Blustein noted the vast impact that infringements have on community members and organisations. "Infringements cause financial hardship and stress. Unfair infringements also waste ratepayers' money and cause a significant burden on community legal centres."

"We urge Maribyrnong Council to think beyond the revenue raised by infringements to the impact they have on community members. We urge Maribyrnong Council to implement a fair, accountable and consistent system for reviewing infringement decisions, and urge the Council to lodge matters with the Infringements Court rather than proceeding to prosecution", Ms Blustein said.



Significant case studies have been collected by BMCLC and other community legal centres to identify the impact of Council's poor practices. Stories capturing the experiences of clients assisted by the Brimbank Melton Community Legal Centre are included as an annexure.

For further information, please contact Shifrah Blustein, Manager of Strategic Projects and Law Reform, at sblustein@comm-unityplus.org.au



Case studies

Jerry (not his real name), aged 66 and reliant on the disability support pension, had his rectum and most of his large intestine removed because of bowel cancer. He came to see Brimbank Melton Community Legal Centre because Maribyrnong Council had refused to withdraw his infringement issued for parking in a loading zone. Jerry provided two reports to the council prepared by his GP and surgeon, who explained that Jerry's cancer and surgery meant he could not control his bowels and on the day he parked in a loading zone he required use of a toilet immediately.

Despite this medical evidence, Maribyrnong Council refused to withdraw the infringement. To add insult to injury, Maribyrnong Council's response to Jerry's application included the demeaning statement that "because you were aware of this condition you should have been travelling with medical equipment to ensure you did not incur parking fines".

Jerry elected to have the matter determined at the Sunshine Magistrates' Court rather than pay the fine. In October 2015, Judicial Registrar Horsburgh dismissed the charge against Jerry. Although the court outcome was positive, Jerry reported that "the council's decision not to withdraw the fine took a big toll on me; I can't handle this stress with my medical conditions as well. The Council should have withdrawn the infringement at the beginning."

Marina (not her real name) is 59 years old. Her husband Joe (not his real name) has a number of serious health issues. As a result of his limited mobility, he has a disabled parking permit. Both are pensioners.

In January 2016, the couple parked at Highpoint Shopping Centre in a disabled spot. They displayed a disability permit, but they got confused and displayed a recently expired permit. The valid and current permit remained in the glovebox. They received an infringement of \$152.

Marina spoke to Maribyrnong Council and was assured that the infringement would be withdrawn once she produced the valid parking permit. Marina provided the current valid permit together with a number of letters from Joe's doctors which noted that Joe "is now in a state of panic and stress as [they] cannot afford this fine and feel [they] are being punished while exercising [their] right to park in a disabled bay". The doctor urged the Council to review the decision and noted that "this matter is impacting negatively on [Joe's] chronic health problems". Nevertheless the council refused to withdraw the infringement, noting that although the couple did have a valid permit it was not properly displayed. Overwhelmed and distressed, Marina and Joe decided they had to pay the fine. This took a significant financial toll on them.

Farah (not her real name) tried to buy a parking ticket from the meter in the car park, however none of the meters were working. Farah called the number on the meter and spoke to a council staff member, who said they were not able to assist her. Farah left her vehicle there and received a parking fine. Despite acknowledging that the meter was not working at the time Farah received the fine, Maribyrnong Council refused to withdraw the infringement.

Rose (not her real name) received an infringement for parking in a two hour zone without a valid ticket. As the parking metre did not give change, Rose parked and went to get coins from a nearby store. Upon returning to the car to purchase and display the parking ticket, Rose saw a parking inspector issuing an infringement. Rose explained the situation to the parking inspector, but was told the penalty could not be reversed because it had already been printed and issued. The parking ticket was issued one minute after Rose purchased the parking ticket. Rose's application for internal review of this infringement notice was refused.

Simon (not his real name) was issued with two infringement notices in 2013. Then in early 2016 he was served with a charge and summons to attend the Magistrates' Court for these infringement offences. These charges were not validly filed because summary offences must be filed within 12 months of the offences having been committed. Simon attended the Brimbank Melton Community Legal Centre, which assisted Simon to have the charges struck out.