

Local Nuisance and Litter Control Act 2016

Factsheet 7 – Cost Recovery Processes

The *Local Nuisance and Litter Control Act 2016* (the Act) contains provisions to facilitate the recovery of administrative and technical costs where action has commenced in relation to contraventions (offences) under the Act. These provisions can only be applied to a person that has contravened the Act.

What are cost recovery provisions?

Activities undertaken by a council to ensure compliance with the Act, such as investigating contraventions, issuing nuisance or litter abatement notices, conducting tests, examinations, monitoring or analysis, all come at a cost to councils.

The Act aims to mitigate some of the costs associated with contraventions by giving councils the ability to serve a written notice on the person who committed the offence, requiring them to pay the reasonable costs and expenses incurred as a result.

This cost recovery process is separate from civil remedies and civil penalties under Part 6 of the Act.

How is the cost to be recovered assessed?

Costs are assessed by reference to the reasonable costs and expenses that would have been or would be incurred in having the action taken by independent contractors engaged for that purpose.

Obligations relating to cost recovery

If - as the result of a contravention – a person receives a written notice relating to cost recovery, the amount stated on the notice should be paid within the specified period. Failure to do so is also an offence which can attract an expiation fee of \$500 or maximum penalty of \$2,500.

Additionally, if the amount on the notice is not paid in full within time specified on the notice, the council may recover it as a debt in addition to the above penalties.

Appealing against a notice for cost recovery

The Act contains provisions that enable a person served a notice of cost recovery to apply to the council for an extension to the time required for payment, or seek to have the amount waived or reduced.

In certain circumstances, such as:

- where the contravention is the subject of an appeal; or
- where the payment amount is in respect of the issue of a nuisance or litter abatement notice (regarding the contravention) which is also the subject of an appeal,

a cost recovery notice may be suspended until these other matters are resolved.

More information

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the *Local Nuisance and Litter Control Act 2016*. Please see other fact sheets for further information about the Act.

Disclaimer

This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.