

Laura Bowman

From: official information
Sent: Thursday, 14 April 2022 8:54 am
To: [REDACTED]
Cc: official information
Subject: PART 3 - Final Response: LGOIMA 22025 - [REDACTED] Parking Wardens legislative queries.

Thank you for your response.

While we understand you may not be satisfied with our response, we believe we have been transparent and provided sufficient explanation.

Hamilton City Council will not be taking this matter any further.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Kind Regards,

Official Information Team

Legal Services & Risk | People and Organisational Performance
Email: officialinformation@hcc.govt.nz




From: [REDACTED]
Sent: Thursday, 7 April 2022 11:18 am
To: official information <officialinformation@hcc.govt.nz>
Subject: Re: PART 2 - Final Response: LGOIMA 22025 [REDACTED] Parking Wardens legislative queries.


Hi

The response makes no sense and does not answer my questions. I am looking for an answer to my questions about parking, and if the parking team are actually able to issue infringement notices from time stamped video and photos.

It seems clear from the 2 responses provided that HCC are refusing to be transparent about what it can or won't do in this regard.



On 7/04/2022 10:54 am, official information wrote:

Kia Ora 

As previously explained, Hamilton City Council parking officers are warranted officers given the powers to enforce infringement offences as described in [Section 259 of the LGA](#), including prescribing breaches of bylaws that are infringement offences under this Act.

There is no specific requirement under the laws, regulations, rules and policies mentioned above that require warranted enforcement officers of the Council to attend reported instances of illegal parking in person or to use evidence obtained from a third party. However, under Section 139 Land Transport Act 1998 – Issue of infringement notice - wardens are required to prove the offence before any infringement notice is issued. To enable this, wardens attend and document facts to ensure that claims and reports made meet the threshold (or requirements) of the aforementioned bylaws and laws.

With respect to [Section 139 of the Land Transport Act 1998](#) , which you have stated, an enforcement officer **may** issue an offence. It does not legislatively **require** us to.

That being said, Hamilton City Council is afforded its discretion when it comes to enforcement. This means, we are permitted to balance the level of offence versus use of our in-house resources (including staff time and management) before acting on an enforcement. If in any instance reports of possible infringements become alarmingly frivolous and vexatious, Hamilton City Council will assess whether it is reasonable to pursue concerns and manage its exposure to risk.

Hamilton City Council will continue to progress enforcement where it finds necessary, in accordance with its legislatively appointed powers. Council is currently progressing advanced technologies with haste to address poor parking behaviours around the city, these initiatives are expected to yield higher levels of compliance.

Hamilton City Council considers this complaint complete. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Kind Regards,

Official Information Team

Legal Services & Risk | People and Organisational Performance

Email: officialinformation@hcc.govt.nz



From: [REDACTED]
Sent: Monday, 21 February 2022 10:56 pm
To: official information <officialinformation@hcc.govt.nz>; Eeva-Liisa Wright <Eeva-Liisa.Wright@hcc.govt.nz>
Subject: Re: Final Response: LGOIMA 22025 [REDACTED] Parking Wardens legislative queries.

Hi

Can you forward this back to the Parking Enforcement team please. I have cc'd Eeva-Liisa Wright, General Manager of Infrastructure to ensure it is actioned according to legislation.

Thank you for compiling this response, but it is factually incorrect.

#V below implies that there is no specific requirement NOT to use timestamped video or photos to issue infringement notices for illegally parked vehicles.

In fact, it refers to Section 139 of the Land Transport Act 1998, where the very first clause (1) states:-

*"If an enforcement office **has reasonable cause to believe** an infringement offence is being, **or has been committed** by a person, an infringement notice in respect of that offence may be issued to that person by an enforcement officer."* (emphasis added by me)

Your statement that "*wardens are required to prove the offence...*" is not correct, as the above clause states "*reason to believe*". They are very different things, and Section 139 is clear that 'proof' is not the driving factor, but 'reason to believe' is. Therefore a timestamped video or photo provides parking wardens with the 'reason to believe' an infringement has occurred.

This is clear that parking wardens do NOT have to physically sight offending vehicles, and should therefore be issuing infringement notices to offending drivers.

I am going to assume that because HCC Parking Wardens have the power to issue infringement notices, that they have access to owner details for vehicles infringing on current rules, laws, bylaws etc, and can therefore post infringement notices to the owner. It is the owner of the vehicles responsibility to pay the fine. I have read this in other legislation in dealing with moving

infringements by Police. It is not the enforcing authority's responsibility to prove who was in charge of the vehicle at the time of the infringement. That is the responsibility of the registered owner of the vehicle.

What is the point of having parking regulations, rules and laws if they are not being enforced, even when clear evidence is presented to Hamilton City Council.

The Police refuse to enforce driving infringements in relation to bike lanes because apparently they don't have the resources, and if Council Staff also refuse to enforce parking infringements, then every resident in Hamilton can park and drive wherever that please. The unacceptable thing here is that if a traffic lane is blocked by anything, Council and Police are there immediately, as if impeding vehicles is totally unacceptable, but Council and Police quite literally don't give a toss about vehicles blocking the space legally allocated to cyclists.

Given the above explanation, I am requesting all timestamped photos that I have supplied to Hamilton City Council in the last 12 months, be used as sufficient "reasonable cause to believe..." & "has been committed...". HCC was supplied the photos within 24 hours of the infringements taking place.

I have attached another timestamped photo taken this afternoon which I also expect to be issued an infringement notice. The vehicle make and model can be confirmed in CarJam - CGW268. It was parked completely over the bike lane outside number 120 Rifle Range Rd, Feb 21 2022 16:14pm, denying access to any cyclists. You can see the intersection with Aberdeen Drive just ahead. The vehicle is outside the 3rd house from that intersection, number 120. I can provide video if required.

Regards



On 18/02/2022 4:46 pm, official information wrote:

Kia Ora,

I refer to your **information request below**, Hamilton City Council is able to provide the following response.

Your request:

Are you able to locate and advise the legislation or by-laws that require only Warranted Parking Wardens as the only people who must physically sight parking infringements before they can issue tickets please?

I want to challenge that system with the appropriate authorities, but I have so far not been able to locate the legislation.

Our Response:

1. Hamilton City Council appoints enforcement officers under the [Local Government Act 2002 \(LGA\) section 177](#) to manage compliance to legislation and bylaws.

1. As per S 177(2)(b) of the above, an appointed officer has the power to enforce infringement offences provided for by regulations made under [Section 259 of the LGA](#), including prescribing breaches of bylaws that are infringement offences under this Act.

1. The [Land Transport Act 1998 S22AB](#) allows for Road Controlling Authorities (RCA), to make certain bylaws – including those relating to Parking. For local roads, the local council is the RCA. Here you can view the [Hamilton City Council Traffic Bylaw](#).

1. [S 128\(D\) of the Land Transport Act](#) allows for local authorities to appoint Parking Wardens. Parking wardens are confined to infringement notices related to stationary vehicles only. See S 128(E) for an in depth list of [Powers of Parking Wardens](#).

1. There is no specific requirement under the laws, regulations, rules and policies mentioned above that require warranted enforcement officers of the Council to attend reported instances of illegal parking in person or to use evidence obtained from a third party. However, under Section 139 Land Transport Act 1998 – Issue of infringement notice - wardens are required to prove the offence before any infringement notice is issued. To enable this, wardens attend and document facts to ensure that claims and reports made meet the threshold (or requirements) of the aforementioned bylaws and laws.

Hamilton City Council adheres to its obligations, both relative to the Local Government Act 2002 and the Land Transport Act 1998. Should you have any issues relevant to these legislations, please contact [Department of Internal Affairs](#) or [Ministry of Transport](#) respectively.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Kind Regards,

Official Information Team

Email: officialinformation@hcc.govt.nz



From: [REDACTED]
Sent: Sunday, 30 January 2022 4:06 pm
To: Matthew Leach <Matthew.Leach@hcc.govt.nz>
Subject: Parking laws

Hi Matt

Are you able to locate and advise the legislation or by-laws that require only Warranted Parking Wardens as the only people who must physically sight parking infringements before they can issue tickets please?

I want to challenge that system with the appropriate authorities, but I have so far not been able to locate the legislation.

Thank you



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