



Written traffic warnings

Version : 2.0

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Summary

This section contains the following topics:

- [Introduction](#)
- [Hierarchy of traffic enforcement interventions](#)

Note: Staff must not issue WTWs until training in their use is completed.

Introduction

Police constables have a general discretion to issue warnings for minor traffic offending that does not place other motorists at undue risk. It is important when using discretion that:

- Police take all of the circumstances of the offence and offender into account;
- Police act in a consistent manner;
- any warnings do not encourage or condone risky behaviours that when committed by the wider motoring public, lead to increased death and injury rates from crashes.

When considering a warning, the presumption is that warnings should not be issued for those offences that cause or aggravate trauma, and are otherwise known as "Fatal Five" offences, namely:

- **Speed** (in this context speeding outside the established enforcement tolerance unless there is an exceptional reason)
- **Alcohol or drug impaired driving**
- **Failure to wear restraints**
- **Dangerous or careless driving** (including intersection offences) - see exceptions for careless driving
- **High risk driver behaviours** (such as disqualified driving, serious licence breaches, illegal street racing etc).

Warnings should not be issued for offences that are either a growing risk (such as illegal use of cell phones), or pose significant risks such as substantive breaches of graduated licence conditions.

Note that officers have a general discretion to not issue a WTW where the circumstances of the offence or offending make that inappropriate (for instance where a firm line is taken on a particular behaviour that is posing a growing risk in a particular location).

Hierarchy of traffic enforcement interventions

Constables must take action when they observe a motorist on the road breaching the traffic law, or engaging in unsafe behaviour. This requires an enforcement response that is commensurate with the level of offending. Constables that observe a motorist breaching or failing to comply with the law can respond by considering a hierarchy of responses:

- Verbal warnings
- Traffic Compliance or Written Traffic Warnings (note that compliance is a form of written traffic warning and is governed by the [Traffic Compliance Scheme](#))
- Infringement Offence Notice
- Charging document.



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Guidance on traffic warnings

This section contains the following topics:

- [Verbal warnings](#)
- [Responding to non-compliance or unlawful behaviour by motorists](#)
- [Factors to consider](#)

Verbal warnings

Verbal warnings should only be given to motorists when they commit offences that are considered minor breaches of traffic law and are likely to be "one-off", such as changing lanes without indicating.

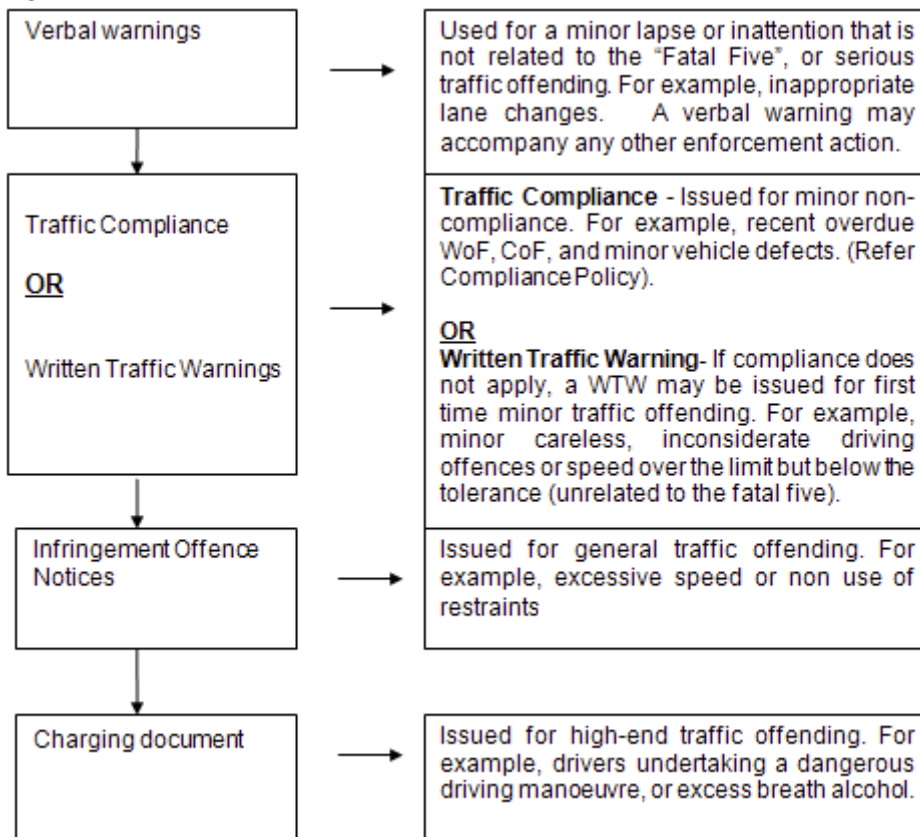
The circumstances justifying the use of verbal warnings will be dependent on the nature of the offences and the history of the driver. While constables are able to use their discretion, they must be satisfied that the offending would not better warrant the use of a Written Traffic Warning (WTW) or more stringent intervention.

Verbal warnings can accompany other actions, such as an infringement notice or written traffic warning. A key thing to remember is that by not recording an action, a driver may continue to repeat the behaviour.

A verbal warning can be given to other road users, such as pedestrians and cyclists.

Responding to non-compliance or unlawful behaviour by motorists

These interventions should be used dependent on the nature of the offending committed by a driver.



Factors to consider

When deciding if a warning is appropriate, consider the following:

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- What is the history of the offender, including any charge history, demerit history under driver licence, entries in the 'Warnings' node of the NIA person or dossier view and alerts for previous warnings?
- Are there any mitigating or aggravating factors?
- How serious was the incident?
- What are the views of any victims or complainants and the degree of any loss or harm they may be facing?



Issuing Written Traffic Warnings

This section contains the following topics:

- [Basic requirements for issuing WTWs](#)
- [What may WTWs be issued for](#)
- [When not to issue WTWs](#)
- [Considering the rights of crash victims](#)
- [Exceptions](#)
- [Process](#)

Basic requirements for issuing WTWs

Before any WTW is issued, the offender must acknowledge the offence and there must be a level of evidential sufficiency that if the case were to go to court that there is a reasonable chance of prosecutorial success. Except for in the circumstances outlined in this document, a WTW cannot be issued for any of the 'Fatal 5' offences.

While a WTW may be issued for more than one minor offence arising from the same incident, a WTW should not be issued if the offender is being prosecuted for one of those offences. If appropriate, a verbal warning for this other offence should be issued and the officer should record it in the notes on the notice.

What may WTWs be issued for

A WTW may be issued for:

- Some crashes subject to certain criteria (see below considering the rights of crash victims).
- Speeding offences within established tolerance levels (refer to '[Speed Enforcement](#)' policy). Speed outside of the tolerance should not be warned unless there is an exceptional reason which must be recorded on the notice. Allowing the perceived enforcement tolerance to creep up due to inappropriate use of warnings for speed can contribute to more speed related deaths and injuries, so discretion must be used wisely.
- Instances where previously a verbal warning was appropriate (note: WTWs do not over-ride a constable's discretion to give a verbal warning; they are to be considered an alternative in these cases).
- Minor offending of a technical or regulatory nature including minor breaches of graduated driver licence conditions.

When not to issue WTWs

A WTW must **not** be issued for:

- Fatal 5 offences as previously outlined. Compliance can be issued for some minor technical breaches related to restraints (refer to '[Traffic Compliance Scheme](#)'), however, non-use of restraints where they are available should not be warned.
- the illegal use of cell phones by drivers (as this is a persistent and growing problem)
- substantive breaches of graduated driver licence conditions
- any offences punishable by imprisonment including:
 - drink and drugged driving
 - careless driving causing injury or death
 - reckless or dangerous driving
 - driving while disqualified, suspended, revoked or contrary to limited licence conditions
 - racing/exhibition of speed or sustained loss of traction offences
- any offences where compliance is available (minor vehicle condition offences, not wearing helmets; refer to '[Traffic Compliance Scheme](#)') as compliance is a form of WTW
- where the offender has convictions for similar traffic offences

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- where the offender has current demerit points.

Considering the rights of crash victims

A WTW may be used for a crash arising from minor carelessness or other traffic offence when:

- a supervisor authorises a WTW; and
- the circumstances are minor (for instance minor inattention); and
- there is no injury to another person and no serious property damage arising (note that the use of a WTW may hamper a victim being compensated for loss). When considering damage to property, it must be viewed through a victim lens to assess the impact of the damage on the individual. As an example, a written off car for an uninsured solo parent is likely to have a significant impact on the individual.

When considering a WTW for a crash, supervisors should consider the substantive offence that caused the crash. If the substantive offence was for example an offence against the Fatal 5 (e.g. speeding outside of the tolerance), a WTW should not be issued except in exceptional circumstances.

Exceptions

In very exceptional circumstances, constables can use their constabulary discretion and deviate from the above guidelines if the totality of the circumstances renders the strict application of these guidelines unduly harsh. Some examples of the appropriate use of this discretion might include a doctor being caught on the way to assist in an emergency and not coming to a complete stop at a stop sign; a pregnant woman in labour and the driver is caught speeding in a 50 km/h area. The reason for the exception must be clearly explained on the notice of written traffic warning and supervisors must actively monitor the use of the discretion to ensure it is appropriate.

While there is a presumption that a WTW should not be issued when the offender has current demerit points, there is some discretion in cases where the demerits are for low-risk driving offences (e.g., no licence label), are unrelated to the current offence, or are nearing their expiry date, to issue a WTW if the circumstances in totality render it the most appropriate action.

Process

Stage	Description
1	The constable must fully consider the full circumstances of the incident or investigation against the criteria above.
2	If a decision is made to issue a written traffic warning, the constable must then complete the offender and offence details on a Traffic Offence Notice (TON) (clearly endorsing the notice as "WARNED") or issue a WTW electronically using a SMART ticketing device. Note: An ION is not to be used to issue a WTW.
3	The constable will then advise the offender that a warning is being issued on this occasion and that a record will be kept of this warning.
4	The officer will complete sufficient notes on the notice to support their decision to give a warning. Note: Sufficient notes are mandatory when an officer uses their discretion to warn in circumstances contrary to the established criteria.
5	PIB will enter the warning details into NIA, making that information available for any future warning considerations for that offender.



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Roles and Responsibilities

This section contains the following topics:

- [Supervisor's Role and Responsibilities](#)
- [Police Infringement Bureau \(PIB\) Role and Responsibilities](#)

Supervisor's Role and Responsibilities

Supervisors must make a determination of whether or not to warn for any crash related incident based on full consideration of the investigation file and O/Cs recommendations against the above criteria (note: it is inappropriate to warn for a crash that stems from any of the Fatal 5 or where the offender would not otherwise qualify for a warning against the above criteria – for example, speed outside of the tolerance and crashes as a result).

Supervisors must run regular reports on the SMART(warnings) database and review all manual notices prior to forwarding to PIB to ensure the guidelines are been accurately and consistently applied.

Supervisors must also:

- ensure staff are trained in and understand the warning criteria and warning process
- ensure staff have the ability to correctly apply the warning criteria and process and monitor staff actions accordingly
- undertake professional discussions with staff in the event of decisions being made outside the warning criteria
- ensure written traffic warning notices are forwarded to PIB at the earliest opportunity
- appropriately respond to any issues raised by District or Area Managers or PIB.

In the event a warning is issued under inappropriate circumstances, NZ Police will still in most instances honour the warning. The supervisor must address it with the issuing member in a manner appropriate to the circumstances.

Police Infringement Bureau (PIB) Role and Responsibilities

PIB must:

- collate and complete data entry for all written traffic warning notices
- as a priority, enter the warning onto NIA to make that information available to operational staff for future consideration regarding that offender
- provide support and advice to Districts as required
- monitor progress of the proof of concept, including compliance with traffic warning criteria, and
- provide an appropriate response for any issues identified provide reports for performance, intelligence, evaluation and other purposes as required.