

Powers of police, council officers and security guards

WHAT IS HAPPENING?

Maribyrnong Council is employing security guards to work with council officers in public areas of Footscray, like the mall and surrounding areas.

IF YOU ARE APPROACHED

1. Record the interaction on your phone or ask a bystander to film and email it to you (or your lawyer if you have one)
2. Ask the person who has approached you if they are a police, a security guard or council worker

Powers of police, council officers and security guards are <u>different</u>

IF THE PERSON IS A POLICE OFFICER

You generally have the **<u>right to silence</u>**. This means that you do not have to answer any questions the police ask you. However you **<u>must give police your name and address</u>** if the police reasonably believe you have committed or are about to commit an offence.

Police can **search** you if:

- they have arrested you
- they have a warrant
- you consent
- you are in an area that has been declared to be a 'designated area' (these areas can change), or
- you are in a public place and they reasonably suspect you have something illegal like drugs or a weapon on you.

We recommend you **DO NOT consent to a search** by a police officer

If you believe a search is unlawful, we recommend you say **"I don't consent to this search" but comply** so that you are not charged with resisting arrest.

Police can **arrest** you in certain cases but can only use handcuffs on you if they reasonably believe it's necessary to do so, for example to prevent a serious offence or to prevent suicide.

IF THE PERSON APPROACHING YOU IS A SECURITY GUARD

Security guards generally **do not have any official powers** to make you do things or to ask you to stop doing things. If a security guard asks you to do something, you should **ask them** what their power is to make the request or demand.

If a security guard tells you they have the powers of a council officer, look at the section about council officers below.

If a security guard **does not** have the powers of a council officer:

We recommend you **DO NOT consent to a search** by a security guard

- they **cannot search you** unless you provide consent.
- they **cannot require you to answer their questions**
- they **cannot require you to dispose of or move your possessions**
- they **can only arrest you by using 'citizen arrest' powers**. This means they can physically hold and detain you until police arrive if they find you committing a criminal offence and they believe arrest is necessary to:
  - preserve public order
  - protect you or other people, or
  - prevent further offending.
- They have **no power to use handcuffs on you**, or use any other tools such as OC spray, tasers, etc.

IF THE PERSON APPROACHING YOU IS A COUNCIL OFFICER

Council officers **CANNOT** arrest you for breaching local laws, like drinking in public, rough sleeping or "interfering with someone else's use or enjoyment" of public space.

Council officers:

We recommend you **DO NOT consent to a search** by a council officer

- **cannot search you** unless you provide consent
- **can ask you to leave the area** if you are breaching a local law. If you are asked to leave the area, you should ask what their power is to make the request or demand.
- if you have **alcohol**, can:
  - direct you to seal or empty your alcohol, or
  - seize and dispose of containers of alcohol
- can issue you with a **fine** or a **charge and summons** for a breach of local laws
- can **tell you to remove your belongings** (such as bedding) from council land, like the mall, if the items are causing a safety risk or "interfering with any other person's reasonable enjoyment or use of" public space. If you don't remove them, a council officer can **seize and impound your belongings**. They can then sell or dispose of your belongings if you don't claim them back from council within 10 days
- generally have **no powers to touch you or physically move you**
- can only arrest you by using 'citizen arrest' powers (see above for more information)
- have **no power to use handcuffs** on you, or use any other tools such as OC spray, tasers, etc

INTERACTING WITH POLICE, SECURITY GUARDS OR COUNCIL OFFICER

We expect that security guards, council officers or police may try to intimidate you. They might also do something that you think is unlawful or unfair.

We recommend that you:

- stay **calm**
- **film** the interaction or ask bystanders to film it for you
- ask for the **person's name, job title and identification number** and save the details in your phone
- **don't physically resist** as it can escalate situations and put you at risk, **but say that you do not consent** to what is happening.

LEGAL SUPPORT IS AVAILABLE. CONTACT YOUR LOCAL COMMUNITY LEGAL CENTRE:

Community legal centre	Phone Number
Victorian Aboriginal Legal Service If you identify as a First Nations person	1800 064 865
Westjustice (western suburbs)	9749 7720
Inner Melbourne Community Legal (CBD, North Melbourne, Flemington, Parkville, West Melbourne, Docklands, Carlton, Kensington)	9328 1885
Fitzroy Legal Service (Darebin and Yarra Council areas)	9419 3744
Justice Connect Homeless Law If you are experiencing homelessness	8636 4400
Southside Justice (Port Phillip, Stonnington & Bayside council areas)	7037 3200

Lawyers and community groups are concerned the security guard patrols program is not legal.

We want to monitor what is happening. Affected community members and bystanders can send footage of interactions with security guards, council officers and/or police to **info@footscraycommunityresponse.net**

Please note: this publication is not legal advice. If you would like legal advice, contact one of the above services