

First Nations Guide to COVID-19 Laws – Western Australia

2 November 2020



Governments have introduced wide-ranging temporary measures to help prevent the spread of coronavirus (COVID-19) and keep communities safe. The Police have powers to enforce these public health directions.

This may change your daily life and what communities can do together.

This information sheet explains some of the key public health directions in Western Australia and the powers of the police.

Directions and police powers are changing regularly and so it is important to check for any updates.

A. Public health laws - Social distancing and travel within communities

What can I do?

Following continued low numbers of new cases and the encouraging responses to COVID-19 coronavirus in WA, further restrictions have been lifted. WA is now in Phase 4 of their roadmap to lifting restrictions. No start date for Phase 5 of the roadmap has been announced.

All previously restricted venues are now allowed to open but must have at least 2 square metres per person. High capacity hospitality venues (1000 square metres or more of space) can only have gatherings if the 2 square metre rule is followed.

People are able to visit:

- cafes, restaurants, pubs, bars and food courts for sit down meals and drinks;
- galleries, museums, arcades, cinemas, theatres and concert venues;
- play full contact sport (indoor and outdoor), visit gyms and fitness studios;
- beauty and personal care services;
- community facilities (playgrounds, skate parks play centres)
- swimming pools;
- work, university, and school;
- arcades;

- auctions;
- TAB and gaming venues; and
- attractions such as Rottnest Island, zoos and wildlife parks;
- unseated performance venues such as concert halls, live music venues, bars, pubs, and nightclubs;
- street food and arts festivals;
- adult entertainment venues;
- wine tastings and wine tours;
- open homes and home tours.

You can continue to visit family and friends and gather together – see below for more information. Workplaces have been encouraged to return people to the office. School and education facilities are open.

Travel within WA (including regional areas) is allowed, however travel to remote Aboriginal communities is still restricted – see below for more information.

Interstate travel is still restricted for everyone except exempt travellers.

What do I have to do when I go out?

You should still practice physical distancing when you go out, keeping 1.5 metres away from others where possible, and maintain good personal hygiene. There should be at least 2 square metres of space for each person.

The aim of *physical distancing* is to keep room between yourself and other people. This is to stop the spread of COVID-19. You should practise physical distancing wherever possible, including in public, at home (when you are with people you don't live with), at work and at schools. Avoid physical touching (handshakes, hugs, and kisses).

What about family in other houses, can we visit each other?

Yes. However, there needs to be at least 2 square metres of space for each person at the gathering.

What if I am homeless?

Homeless services, crisis accommodation and restaurants and cafes that provide food and drink to the homeless are open. The WA Government may give emergency accommodation to people who are homeless during COVID-19. Contact the WA Government COVID-19 information line on 13 268 43 for more details.

What if I don't feel safe in my home?

You can still get help from specialist domestic, family and sexual violence services, such as refuges, shelters, counselling or legal services. You should call 1800 737 732.

If it is an emergency, call the police on 000.

When do I have to self-isolate?

Self-isolation means staying at home or in your hotel room to prevent the possible spread of COVID-19 to other people. This means that you must not leave your home unless in an emergency and you cannot let visitors in your home.

You must self-isolate if:

- you have been diagnosed with COVID-19;
- you have been tested for COVID-19 and are awaiting the result; or
- an authorised person has told you that you have been in close contact with a person who has been diagnosed with COVID-19.

If you have tested positive or have symptoms for COVID-19 you must self-isolate until you are informed in writing by a responsible officer that you are no longer required to do so.

It is an offence to not follow a public health direction to self-isolate. You can be imprisoned for up to 12 months or fined up to \$50,000 if you do not comply with public health directions.

Returning to WA from another state

A person who comes into WA, must complete a quarantine period of 14 days. Even if you have already quarantined in another State or Territory (for example, after arriving in from overseas) you will be required to quarantine for another 14-day period upon entering WA. If you arrive from another State or Territory and do not have a suitable place to self-quarantine, quarantine will be at a quarantine hotel at your own expense, except in cases of extreme hardship.

WA's borders are closed unless you are an exempt traveller. Most exempt travellers will be subject to a

centre direction which will mean you need to quarantine at a specified quarantine centre (for example, a hotel) for 14 days.

Can I care for Elders and older people?

You can care for Elders and older people if you comply with the above rules including physical distancing.

Visits to aged care facilities should only be undertaken if the service cannot be provided online.

You should not enter the facility if you have:

- returned from overseas in the last 14 days;
- been in contact with a confirmed case of COVID-19 in the last 14 days
- a fever or symptoms such as cough, sore throat, runny nose, shortness of breath;
- not had an up-to-date influenza (flu) vaccination.

Can we still get together for community events?

Yes, there are no longer any limits of how many people can gather but there must be at least 2 square metres of space for each person at the gathering.

What about Sorry Business and funerals?

A funeral and Sorry Business can be held without restrictions, as long as attendees follow the 2 square metre rule. Keep following physical distancing between you and other people attending.

What if I can't pay my rent?

If you have lost your job, or you are making less money because of COVID-19, you should speak with your landlord as soon as possible about options.

If you fall behind in rent, until 28 March 2021, you can't be evicted if you can't pay rent because you are suffering hardship because of COVID-19. If you get an eviction notice, you should call Tenancy WA on 1800 621 888.

You can still be evicted for other things, like damaging your property or not paying rent because of other reasons. Landlords are not allowed to increase rent at this time.

You might be able to get a grant of up to \$2000 from the Government if you:

- lost your job after 20 March 2020;
- have applied for Centrelink income support;
- have less than \$10,000 of household savings; and

- are currently paying rent of at least 25% of the total household income after tax.

B. Police enforcement powers

What powers do the police have to enforce the directions?

Police have powers to enforce the public health directions, including issuing fines or making arrests. Penalties can include:

- Police officers may give you an on-the-spot fine of \$1000 (without having to go through courts);
- a fine of up to \$50,000 for individuals, or \$250,000 for corporations or prison of up to 12 months.

If you do not follow quarantine requirements you may be forced to wear an electronic tracking device or install one at your home. If you don't meet these rules, you could receive a fine of \$12,000 or up to 12 months imprisonment.

There are also new offences relating to COVID-19. This includes fines for assaulting a doctor, nurse or other emergency services or prison officer, where you know you have COVID-19 or you tell them that you have COVID-19. You could face up to 10 years imprisonment. This also includes spitting on someone.

Threatening to injure or harm a public officer by exposing them to COVID-19, could also mean up to 7 years imprisonment.

Police could give you a warning or fine or possibly arrest you if you are not following the rules and you are aged 10 years or over. However, police should only give a fine to a child between 10 and 14 if the police believe the child understood that they were doing the wrong thing.

What do I have to do if the police approach me?

The police have wide powers to assist with emergency. Some of the things a police officer may direct you to do include:

- providing your name, date of birth and address when requested;
- closing your place of business;
- removing you to a place (e.g. your home) if the police officer thinks you are obstructing emergency management activities.

A police officer may use reasonable force to enforce public health directions. For the purposes of emergency management, a police officer may also enter or search a place. A police officer cannot exercise these powers contrary to a public health direction.

If approached by the police, you need to provide your name and address. You don't need to say any more.

You can film your interaction with police in a public place if you are concerned about your rights.

Can I appeal my fine?

If you think the fine is too high or you don't think you should have been fined, you can appeal the decision. It is best to seek legal advice before appealing.

If you need more time to pay, you may ask for a time to pay order which allows you to pay the fine by a later or date or pay in regular instalments.

C. Restrictions on movement into remote Aboriginal communities

There are a number of layers of restrictions on travel within WA, particularly to remote Aboriginal communities and between regions. These rules have been made by the WA, Federal government and local governments, and restrictions also imposed by Aboriginal communities themselves (for example by native title holders).

Karalundi and Djarindjin are excluded from restricted areas.

You may be limited in travel from or to your community or region. Always check for the latest travel restrictions and community restrictions before leaving your particular community or region. The below is a guide to some of the key rules.

You can call the WA government COVID-19 information line on 13 26843. Travel into remote Aboriginal communities remains restricted, as does travel within the Federal Government biosecurity areas.

A person may only enter into a Remote Aboriginal Community:

- where the person is on or returning to the Remote Aboriginal Community they normally reside or work in;
- for family or cultural purposes;

- for so long as is required for the purpose of providing or accessing essential services;
- in an emergency
- if authorised by law; or
- in any other circumstances approved in writing by the Commissioner of Police and State Emergency Coordinator.

Can I travel to another State for work or to shop?

WA has closed its border to other States and Territories. A person must not enter WA unless they are an exempt traveller. Exempt travellers include:

- Compassionate grounds such as receiving medical treatment, visiting ill relatives or attending funerals, as a carer for a relative, to be cared for by a relative;
- Government officials, members and workers;
- Army members;
- Doctors and other people providing health services;
- People working in transport, freight and logistics in or out of WA;
- People with specialist skills not available in WA;
- Fly in fly out employees and their families;
- Emergency service workers;
- People who work at the courts;
- People entering WA as required under a court order;
- Children who live interstate but need to go to WA in the school holidays; or
- Any person the State Emergency Coordinator approves to enter WA.

Re-entry into WA will require a G2G PASS in order to pass police checkpoints. You face a fine of up to \$50,000 and/or up to 12 months in prison for entering WA without an exemption.

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This guidance sheet is not a substitute for legal advice. You should contact a lawyer for specific legal advice or referral.

D. Businesses

Businesses no longer need to follow a capacity limit. The only rule is the requirement of one person per 2 square metres. All other specific restrictions on venues or activities have been removed, but businesses must comply with reopening requirements and must complete a COVID Safety Plan. This includes:

- displaying a COVID Safety Plan Certificate on the premises;
- maintaining a minimum of 2 square metres per person;
- maintaining hygiene and frequent cleaning;
- maintain attendance records of patrons for contact tracing; and
- carefully managing waiting areas to ensure physical distancing.

Major events (such as sporting events or live performances in large hospitality venues) are permitted (subject to capacity restrictions), with the exception of events of more than 500 patrons (unless the event has been registered and has an approved plan in place).

E. Who to call for help or information

For community advice about coronavirus in WA call the WA government COVID-19 information line 13 268 43 or 13COVID.

If you receive a fine and need help, you can call:

- **The Aboriginal Legal Service WA:** (08) 9265 6666 or www.als.org.au
- **Legal Aid Western Australia:** 1300 650 579 or www.legalaid.wa.gov.au