**Issues Paper: Questions for consideration**

*Summary Offences Act 1988* Section 9: Continuation of intoxicated and disorderly behaviour following move on direction.

You may use this document as a guide to help you with the preparation of your submission.

**Optional**

Your name:

Organisation:

Contact Details:

Interpretation of Disorderly

1. What are your views about the discretion provided to police to determine whether behaviour is disorderly?

Type your response here

1. Which matters should police take into consideration in determining whether behaviour is disorderly?

Type your response here

1. Should there be a requirement that a member of the public needs to be present at the scene or affected by the behaviour to allow police to give a direction to move a person on under s.198 of the LEPRA?

Type your response here

Information and Warnings

1. In your view, are the safeguards relating to the information and warnings to be provided by police adequate. If not, how should they be amended? Do you think the requirement for police to give warnings under both 201(2C) and 201(2D) of the LEPRA should be simplified?

Type your response here

1. We are interested to receive details of any incidents that illustrate the effectiveness or otherwise of the safeguards relating to information and warnings.

Type your response here

Move on directions must be reasonable

1. In your view, what matters should police take into consideration in determining whether a move on direction is reasonable in the circumstances?

Type your response here

1. Are there any impediments, such as a lack of public transport that may impede police in your community from using the move on powers effectively?

Type your response here

1. We are interested to receive details of any incidents that illustrate move on directions by police that were reasonable or unreasonable in the circumstances.

Type your response here

Police discretion relating to offences

1. Should the legislation be amended so that the offences under s.199(1) of the LEPRA and s.9 of the SO Act are made mutually exclusive?

Type your response here

1. If not, what matters should police take into consideration when deciding whether to proceed under s.199(1) of the LEPRA or s.9 of the SO Act?

Type your response here

1. In what circumstances, if any, should police use their discretion not to take proceedings? (ie, to ‘walk away’).

Type your response here

Interpretation of s.9

1. In your view, should the definition of a move on direction under s.9 of the SO Act be amended to put beyond doubt that it includes directions under s.198(1)(a) and (b) of the LEPRA? If so, how should it be amended?

Type your response here

Reasonable Excuse

1. In your view, what factors should police consider in assessing whether a person may have a reasonable excuse for behaving in a manner that appears to be a result of intoxication, but is not?

Type your response here

1. Should the NSW Police Force develop guidelines to assist police in respect of this issue?

Type your response here

Impact on Aboriginal communities

1. What have been the most common circumstances in which Aboriginal people in your community have been subjected to the new powers? Please include the location.

Type your response here

1. How has the implementation of the new provisions impacted on the relationship between local police and your Aboriginal community?

Type your response here

1. Have there been any strategies, other than the use of move on directions, in your community involving police and Aboriginal people working together to address alcohol related crime? If yes, please provide details.

Type your response here

Impact on Vulnerable Groups

1. What is your view about the potential impact on vulnerable groups of the introduction of this legislation?

Type your response here

1. Should the legislation be amended to include further safeguards to protect vulnerable people? If so, how?

Type your response here

1. Do you know about any occasions involving a vulnerable person being subject to a move on direction for intoxicated and disorderly behaviour, or a s.9 of the SO Act offence? If so, please outline the circumstances and the outcome of the incident.

Type your response here

Custody and police discretion

1. What is your view about how police should use their discretion either to detain the person under s.206 of the LEPRA, or to take proceedings under s.9 of the SO Act?

Type your response here

Detention under s.206 of the LEPRA

1. In your view what impact, if any, will the legislation have on the number of intoxicated people in police custody?

Type your response here

1. Do you believe ‘sobering up’ centres would be a useful option for police to have in dealing with seriously intoxicated people who are disorderly? (Please give reasons for your answer)

Type your response here

1. In your view, what obstacles may there be to setting up effective ‘sobering up’ centres?

Type your response here

1. If a police officer decides to detain a person who is intoxicated and disorderly, what matters should police consider in exercising discretion about whether the person is detained under s.206 or under s.99 of the LEPRA?

Type your response here

Penalty notices

1. In your view, should the NSW Police Force be exempt from the operation of s.24(2) of the Fines Act? If so, should the NSW Police Force develop guidelines that ensure penalty notices are reviewed consistent with these provisions?

Type your response here

Other comments/additional information

Type any additional comments/suggestions in relation to the new legislation here

When completed, your submission may be sent:

By email: [review@ombo.nsw.gov.au](mailto:review@ombo.nsw.gov.au)   
(please include Summary Offences Amendment review in the subject line).

By Fax: 02 9283 2911

By mail: Summary Offences Amendment Review

NSW Ombudsman

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