



*DISCLAIMER: This fact sheet is intended to be used a general guide only. You should not act on the basis of this fact sheet alone without first getting legal advice about your own particular situation. This was updated in July 2020.*

# BEING FOUND DRUNK IN A PUBLIC PLACE

## INCLUDED IN THIS FACT SHEET ARE:

Is it a crime to be a drunk in public?

What can the police do if they find me drunk in public?

Do the Police have to breathalyse me to prove I'm drunk?

Can police lock me up for being drunk in public?

How long can the police lock me up for?

What about Protective Services Officers?

What if police or PSOs treat me unfairly or police lock me up somewhere unsafe?

More information

Getting legal help

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## IS IT A CRIME TO BE A DRUNK IN PUBLIC?

You can be fined or charged for a number of different offences, and imprisoned for up to 2 months, if the police find you:

- being drunk in public;
- being drunk and disorderly in public; or
- behaving in a riotous or disorderly manner while drunk in public.

## **WHAT CAN THE POLICE DO IF THEY FIND ME DRUNK IN PUBLIC?**

If a police officer finds you drunk in a public place, they have the power to:

- caution or fine you;
- charge you in court; or
- arrest you and place you in safe custody.

## **DO THE POLICE HAVE TO BREATHALYSE ME TO PROVE I'M DRUNK?**

No.

If police and/or other witnesses say you were behaving in a drunken manner, such as slurring your words, unsteady on your feet or smelling of alcohol, it may be enough evidence to prove you were drunk.

## **CAN POLICE LOCK ME UP FOR BEING DRUNK IN PUBLIC?**

Yes.

Police have the power to remand you into custody, most often by locking you up in a police cell, if they find you drunk in a public place.

## **HOW LONG CAN THE POLICE LOCK ME UP FOR?**

Police should release you from custody when you have sobered up and it is safe to let you go, unless they want to interview or charge you in relation to other offences.

## **WHAT ABOUT PROTECTIVE SERVICES OFFICERS?**

Protective Services Officers (PSOs) have the power to fine you if they find you drunk while you are on or near railway premises. This includes roads, car parks, bus stops or taxi ranks connected with or leading into a train station.

PSOs can also arrest you for being drunk in public on or near railway premises but they must hand you over to police as soon as possible if they think you should be locked up.

## **WHAT IF POLICE OR PSOS TREAT ME UNFAIRLY OR POLICE LOCK ME UP SOMEWHERE UNSAFE?**

If police or PSOs treat you unfairly, or police lock you up in a place where you are unsafe, you should seek legal advice as soon as you are released.

If police keep you in custody because they want to interview you or remand you into custody for other criminal offences, you have a right to contact a lawyer.

## MORE INFORMATION

For more information, see Victoria Legal Aid: <https://www.legalaid.vic.gov.au/find-legal-answers/criminal-offences/public-drunkenness>

## GETTING LEGAL HELP

### Youthlaw

If you are under 25, you can get free and confidential legal advice.

Phone: (03) 9113 9500 (9am-5pm, Mon-Fri)

Website: [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

### Victoria Legal Aid – Legal Help

For legal information, referrals or appointments.

Phone: 1300 792 387

Website: [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

Visit our website: [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

Chat to us: 03 9113 9500

Email your questions: [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au)

# YOUTHLAW

Young Peoples Legal Rights Centre

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