

Snapshot: Investigation into decision-making under the *Victorian Border Crossing Permit Directions*

The Case

To manage the ongoing COVID-19 public health crisis, Victoria introduced a traffic light travel system in January 2021, a colour-coded scheme which required every person wanting to enter the State to get a permit. On 23 July 2021, the hard border came down with NSW, then the ACT the following month. Thousands were locked out – no one could enter unless they had an exemption or were an ‘excepted person’. People were left stranded and found themselves unable to get an exemption to enter Victoria to farewell loved ones at funerals, attend medical appointments, return home to care for animals or on compassionate grounds. The Victorian Ombudsman started receiving complaints when the changes were introduced in July, and by early September, had received more than 80 complaints from affected people. The investigation had heard from 315 complainants.

Key Findings

- Decisions to issue the Border Directions during Victoria’s public health emergency were not unjustified or unreasonable.
- On 20 July, Victorian residents in red zones were given 12 hours to make it across the border, which proved impossible for many.
- The unexpected suspension of red zone permits and the subsequent addition of ‘extreme risk zones’ changed the traffic light system people had been accustomed to, and inadvertently caught many off guard.
- Almost 8,000 exemption applications were open in early August 2021, and the team responsible for managing requests was scaled up from 20 staff in early July 2021 to 285 by early September 2021.
- Staff responsible for categorising and prioritising applications were expected to complete 50 per hour: an average of almost one every 30 secs.
- The evidence required for exemptions was extensive and included statutory declarations, proof of residence, proof of ownership of animals, letters from medical professionals, bank/financial statements, and statements of relationship to people who were dying, or funeral notices.
- The Department did not provide reasons and there was no appeal process for those who were denied exemptions.

Recommendations

1. Publicly acknowledge that the narrow exercise of discretion resulted in unjust outcomes and consider measures to alleviate this, such as ex gratia payments on application.
2. Consider clarifying the right to freedom of movement, develop policies to assist decision-makers in the future, and invite people who believed on reasonable grounds they were an ‘excepted person’ to have infringements reviewed and withdrawn.

By the numbers



33,252
exemptions
received between
9 Jul & 14 Sep



8%
of applications
were granted



315
complaints to the
Ombudsman



30 seconds
– time staff had
to categorise
applications

Final word

“The effect of a complex and constrained bureaucracy meant some outcomes were downright unjust, even inhumane. If there is a next time – we cannot let this happen again.” Deborah Glass, Victorian Ombudsman