

A fair fines system for young Victorians

Youthlaw submission on Infringement Regulations 2016 and Fines Reform Regulations 2017

We welcome the opportunity to provide feedback on the Department of Justice and Community Safety's (the "**Department**") review of the Infringement Regulations 2016 and Fines Reform Regulations 2017.

Youthlaw is Victoria's specialist community legal centre for young people under 25. We run a weekly Fines Clinic and have significant expertise dealing with young people experiencing family violence, homelessness, mental health issues, intellectual disabilities, and alcohol and drug use issues to navigate Victoria's fines system. From our many years of frontline legal practice experience in infringements, we have a nuanced and in-depth understanding of both the strengths and shortcomings of the existing legislative framework.

Recommendations

1. The Department should **introduce a concession-based scheme** under Fee Option 3 in its Regulatory Impact Statement.
2. Any concessional fine scheme should apply not only to concession card holders, but to those reliant on a Centrelink Low Income Health Card and Victorians who fill the 'special circumstances' criteria.
3. The Department should identify young people with special circumstances at the early stages and **exit them out of the fines system early**.
4. The Department should **not introduce fees** for the Family Violence Scheme or Work Development Permits.
5. The Department should reinstate **fee waivers**.

Although outside of scope of this review, we also urge the Department to **expand community legal centres' ability to provide evidence of special circumstances** for the Family Violence Scheme to include applications for Internal Review or Enforcement Review. This will enable Fines Victoria to respond to applications with evidence from community legal centres able to substantiate the evidence required under the relevant guidelines.

1. Introduce a concession-based fines system

We welcome the Department's consideration of a concession-based scheme for fines. Applying concessions to both the fine amount and the PRN would create a simpler and more equitable system for all Victorians.

The main complexity identified by the Department appears to be updating systems to recognise concessional fines. Once this is done, the only ongoing task is verifying concession status. The fairness and equity gained – both system-wide and for individual fine recipients – should outweigh any administrative inconvenience to Fines Victoria or the Department.

If concession status can be recognised at the ticketing stage (including issuing specific fines for failing to carry a concession card), it should be possible to recognise concession status after a fine

is issued. It is inconsistent to acknowledge that concession card holders are entitled to lower fares while denying them lower fines. This inconsistency disproportionately affects young people and can force them to choose between paying a fine and covering living essentials such as food, medication, warm clothing or housing.

Recommendation 1: The Department should introduce the concession-based scheme under Fee Option 3 in its Regulatory Impact Statement. Any concessional fine scheme should apply not only to concession card holders, but to those reliant on a Centrelink Low Income Health Card and Victorians who fill the 'special circumstances' criteria.

2. Ensure concessional fine scheme applies to healthcare card holders and Victorians with special circumstances

We believe a concessional infringement penalty (with all late, registration and warrant issue fees waived) should apply to Victorians reliant on a Centrelink Low Income Health Card, or who fall within the 'special circumstances' category already implemented by Fines Victoria in assessing fines enforceability.

In our practice, we see many young people who are not eligible for Centrelink, but experience other special circumstances such as homelessness, family violence, mental health challenges, or substance abuse issues, that impact their ability to pay their fines.

Recommendation 2: Any concessional fine scheme should apply not only to concession card holders, but to those reliant on a Centrelink Low Income Health Card and Victorians who fill the 'special circumstances' criteria.

3. Exit young people with special circumstances from the fines system at early stages

The Department mentions in the Regulatory Impact Statement that concession-based fines are unnecessary because there are alternate mechanisms to have fines reduced or removed. One of these mechanisms is a special circumstances application. The Department could prioritise fairness and efficiency by identifying people with special circumstances at an early stage and exiting them out of the system.

The Department should reduce costs by making special circumstances applications easier, especially for community legal centres, financial counsellors and other support agencies. Maintaining complex applications is inequitable and reduces the effectiveness of Fines Victoria carrying out its core functions. Unnecessary back-and-forth correspondences with fines recipients, community legal centres and other identified support agencies also drives up Fines Victoria's costs – including above the amounts they would recover if the fines were paid.

Recommendation 3: The Department should identify young people with special circumstances at the early stages and exit them out of the fines system early.

4. No fee increases

We agree with the Department's stance that introducing fees for applications to the family violence scheme or the work and development permit would be antithetical to the purpose of these programs to support vulnerable fine recipients. We would strongly oppose any deviation from this position as it would decrease efficiency and equity while prioritising revenue raising for applications that are specifically grounded in principles of equity.

Recommendation 4: The Department should **not introduce fees** for the Family Violence Scheme or Work Development Permits.

5. Reinstate fee waivers

Victorians are currently living through a cost-of-living crisis, and the increase in fees may have unintended consequences including pushing more young people into homelessness. If Fines Victoria is aggressive with collecting substantial fees from young people, in our experience it is young people's basic living essentials that are sacrificed to pay these fines. Young people who already cannot afford food, rent, utilities, medication or other living essentials are suddenly faced with an even lower budget for that month when forced to pay exorbitant fees on top of their fines.

We note the seven-week infringements amnesty introduced by the Victorian Government in 2010 during which fine defaulters were able to pay only their initial penalty, with enforcement and other fees being waived. More than \$112 million in fines was paid as a result. Increasing fees payable at each stage of the life cycle decreases people's ability to pay, and results in less money being recouped by the Department, than facilitating fee waivers which enables more people to pay their original fines.

Recommendation 5:

The Department should reinstate **fee waivers**.

6. Accept evidence of special circumstances from community legal centres for Internal and Enforcement Review

Noting this is not part of this review, we ask the Department and Fines Victoria to seriously consider accepting evidence from workers with experience working with people with special circumstances outside the Family Violence Scheme.

The ability for lawyers to provide evidence for a Family Violence Scheme should be expanded to allowing evidence from community legal centres and social workers to support applications for Internal Review or Enforcement Review. This will enable Fines Victoria to respond to applications with evidence from the community legal centre being able to substantiate the evidence required under the relevant guidelines.



Youthlaw has around 20 years' experience supporting young people experiencing the intersecting challenges of homelessness, serious addiction to drugs or alcohol, mental health issues, intellectual disabilities and family violence, and how these special circumstances impact on a young person's ability to having a seriously reduced capacity to control the conduct that constitutes the offence. Our workers are often better placed to make these submissions than support workers who have less experience of Victoria's fines system or with the cohorts of young people we support, and requiring detailed letters of support is challenging and takes support workers away from their core work of supporting young people experiencing hardship and disadvantage.

Additional recommendation: Although outside of scope of this review, we also urge the Department to **expand community legal centres' ability to provide evidence of special circumstances** for the Family Violence Scheme to include applications for Internal Review or Enforcement Review.

If you would like to discuss any of the above submissions or recommendations, please contact our CEO Lee Carnie (they/them) at lee@youthlaw.asn.au or our Senior Policy Officer Tammy Kamil (she/her) at tammy@youthlaw.asn.au.

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