

2 May 2016

Director Dispute Resolution
Civil Justice Division
Department of Justice and Regulation
Level 4, 121 Exhibition St
Melbourne Victorian 3000

Dear Director,

Re: Victorian Civil and Administrative Tribunal (Fees) Regulation 2016

The Victorian Council of Social Service (VCOSS) welcomes the opportunity to provide feedback on the proposed new fee structure for the Victorian Civil and Administrative Tribunal (VCAT)

VCAT is an important low-cost, timely and affordable avenue for people to resolve legal disputes. For many community members it is a more familiar, simpler and less intimidating alternative to the courts. VCOSS believes the ability to enforce legal rights or resolve legal disputes should be available to everyone, and not be limited by financial considerations.

The priority for the review of the VCAT fee structure should be ensuring VCAT is an accessible pathway for all Victorians, including those living on low-incomes or otherwise facing disadvantage.

For this reason, VCOSS strongly supports the Regulatory Impact Statement (RIS) preferred option 3. In particular we welcome the introduction of a tiered fee structure, where individuals holding a Health Care Card will pay lower concession fees. This is likely to significantly reduce barriers to low-income people enforcing their rights and accessing justice.

While we support the introduction of a concession fee level, we would prefer all fees for this level be reduced to no cost. In the areas where most claims by low-income people are made, including residential tenancies matters and civil claims valued at less than \$10,000, the RIS already proposes individuals with health care cards will pay no fees. This could easily be extended to the full spectrum of matters.

Because there are likely to be comparatively few applications in these other areas, the cost to VCAT will not be significant. This would also simplify the somewhat confusing fee structure for low-income Victorians who already face significant barriers to accessing justice.

In particular, VCOSS advocates that no fees should also apply to civil claims up to and including \$100,000 and to hearing day fees. At present, hearings that run more than one day attract fees of \$390 - \$1087 per day. VCOSS members report that low-income people often have cases that run for multiple days (for example, cases involving motor vehicles). Although the proposed structure reduces hearing day fees to a maximum of \$150 per day, many low-income clients will still struggle to afford this amount. It seems unreasonable that the RIS would reduce application fees for low-income clients, but continue to require fees for multiple day hearings.

Similarly, no fee should apply to civil claims up to \$100,000. This means that low-income people with claims just over the \$10,000 threshold (for example, motor vehicle related claims) are not disadvantaged.

VCOSS strongly supports reduced fees for not-for-profit organisations. Our member organisations are often underfunded, and struggling to stretch every dollar to provide assistance to as many people as possible.

In recent years, fee increases have led to a significant drop in the number of applications to VCAT civil claims, especially regarding claims of under \$10,000. VCOSS members report that the higher fees are presenting a barrier to low income and disadvantaged community members. Retaining or making minor modifications to the existing fee structure (as in option 1) will not improve access to justice for low-income Victorians, and is likely to result in a continued drop in numbers of applications to VCAT.

In addition to the proposed fee structure, VCOSS advocates for improvements to the fee waiver system. Fee waivers should continue to be available for people who do not have a healthcare card, but who face financial hardship. This could include people from culturally and linguistically diverse backgrounds and people experiencing family violence. VCOSS members report that under the current system, fee waiver applications are sometimes rejected for reasons that are unreasonable or unclear. The application and assessment process for fee waivers should be reviewed and simplified, to ensure it is not a barrier for people accessing justice.

VCOSS looks forward to working with VCAT and the Department of Justice to refine the fee structure, and ensure low-income Victorians are able to access justice and enforce their legal rights.

To discuss any of the issues raised in this submission, please contact Llewellyn Reynders, Policy Manager, on Llewellyn.reynders@vcoss.org.au or on 9235 1021.

Yours sincerely


Emma King
Chief Executive Officer