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We welcome the opportunity to provide this input.

# VCOSS Submission to Remaking of Fines Regulations

## Executive Summary

VCOSS appreciates the opportunity to provide feedback to the Department of Justice and Community Safety (the Department) on government proposals to reform the *Infringement Regulations 2016* and *Fines Reform Regulations 2017*.

We understand that, in initiating this process, a key objective for the Victorian Government is to minimise the costs of operating the fines system. From VCOSS' perspective, this should not come at the expense of people already experiencing socio-economic disadvantage.

As it stands, Victoria's fines system is not fair or equitable. The proposed increases to late fees will exacerbate financial hardship and psychological harm for people who are already experiencing significant vulnerability. That's because people who face disadvantage are those most likely to have unpaid fines and be most affected by added penalties and enforcement actions.

These are the key regulatory impacts that the government should consider in this process.

**To this end, VCOSS does not support the proposed Regulations which seek to increase late fees for fine recipients who are unable to pay their fines by the determined due date.**

We also note that these fee hikes are being proposed at a time when more Victorians than ever are unable to afford the essentials – with some households skipping meals and foregoing healthcare and medicines to pay rising rents and energy bills.

**VCOSS’ core recommendation is for the Victorian Government to abandon the proposed fee increases and to implement concessional exemptions for fee payments.**

We also note the proposed Regulations include amendments aimed at providing clearer information to fine recipients. While VCOSS is supportive of these changes, our submission details **further opportunities to ensure fine recipients receive plain language information early, ensuring they know where to go for support and the options available to them.**

Finally, in this submission we detail the importance of the Victorian Government **providing additional funding to community legal centres, Victoria Legal Aid, and financial counsellors to enable services to meet the increase in demand resulting from changes to referral information on correspondence.**

More broadly, we urge the government to work with the social and community sector (including the community legal sector and financial counselling sector) to institute a broader suite of fairer fines reforms.

The current punishment and deterrence model does not work. It fails to recognise that some groups have no or limited capacity to pay fines, or how they get trapped in the system in the first place. The system needs to reflect a greater understanding of disadvantage and vulnerability; be simpler to navigate; and have better hardship provisions. The community sector stands ready to work with government to design a fairer and better system.

### Summary of Recommendations:

That the Victorian Government:

1. Does not proceed with the proposed fee increases and implement concessional exemptions for fee payments.
2. Via the Department of Justice and Community Safety, meaningfully consults with the Infringement Working Group<sup>1</sup> to update notices to an 'easy to read' format in plain English, with visual aids and options for different languages to ensure they cover all options available to them to address fines.
3. Increases funding to community legal centres, Victoria Legal Aid, and financial counsellors to enable services to meet the increase in demand resulting from changes to referral information on correspondence.

*This VCOSS submission was informed by the deep technical expertise of the Infringements Working Group (IWG). The Infringements Working Group is a joint working group of the Federation of Community Legal Centres (Victoria), Victoria Legal Aid and Financial Counselling Victoria and comprises 38 member organisations. The IWG is committed to supporting laws, policies and practices that improve the infringement system's operation for individuals, services, governments and courts.*

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<sup>1</sup> The Infringements Working Group is a joint working group of the Federation of Community Legal Centres (Victoria), Victoria Legal Aid and Financial Counselling Victoria and comprises 38 member organisations.

### Unpaid fines and price hikes compound disadvantage for marginalised Victorians:

Fees and fines are the worst part of Victoria's revenue base from an equity perspective. They are the same amount no matter how high or how low someone's income is.

The current system creates, and compounds, financial hardship and psychological harm for the most marginalised members of our community who do not have the capacity to pay.

The proposed fee increases would make this situation worse.

### **VCOSS strongly opposes any increases to fees. We are concerned that:**

- Higher fees will only further entrench poverty and compound financial and psychological distress during a cost-of-living crisis.
- Higher fees do not take into account valid reasons why a person cannot resolve their fines within the Department's timeframes. There are legitimate reasons why a person may be unable to pay their fines on time, for example, experiences of homelessness, family violence, mental ill-health, substance dependence or financial hardship<sup>2</sup>. VCOSS does not believe the proposed higher fees will incentivise earlier payments.
- Victoria's fines system is highly complex and limits a person's ability to engage. It is not easy for people to seek help in this system.
- Fines enforcement should not be applied bluntly or in an automated manner. The Department has the power to tailor enforcement activity and should do so. Such an approach would not only be fairer and safer, but more cost effective, as the current approach of pursuing all fine recipients equally in an automated way means significant resources are wasted on people who could, with a tailored approach, be identified as unlikely to ever be able to pay or likely to be eligible for a social support intervention.
- If late fees are waived for people in financial hardship, the Department is more likely to recoup the original cost of the infringement as this will be more affordable to fine recipients.

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<sup>2</sup> Infringements Working Group 2020, 'Infringements Working Group Submission to the Fines Reform Advisory Board: Making fines reform more effective, accessible and fair for all Victorians', [https://www.westjustice.org.au/cms\\_uploads/docs/iwg-submission-to-the-fines-reform-advisory-board.pdf](https://www.westjustice.org.au/cms_uploads/docs/iwg-submission-to-the-fines-reform-advisory-board.pdf).

## The co-occurrence of fines debt and disadvantage is well-established.

The inability to pay fines weighs heavily on fine recipients – those unable to pay are confronted with perverse and unacceptable choices. Do I pay the rent/electricity bill/buy food or pay the fine? Either scenario leaves the fine recipient in more parlous social and economic circumstances, increasing their likelihood of being drawn into the criminal justice system<sup>3</sup>.

Financial counselling clients typically rely on Centrelink income support and regularly present with mental health or other issues that complicate their ability to understand and interact with the infringements system<sup>4</sup>.

Late fees will often just accumulate for clients experiencing vulnerability not because they ‘acted late’, but because the system is structurally inaccessible, particularly for those with multiple and intersecting layers of disadvantage.

Community Legal Centre (CLC) data for 2024/2025 provided by the Infringement Working Group (further detail provided in the IWG’s submission) reports **96%** of people CLCs assisted with fines issues fit into at least one of the priority cohort groups<sup>5</sup> under the [National Access to Justice Partnership](#), including **80%** in more than one priority cohort group and a staggering **25%** in more than four priority cohort groups.

A better way forward is to adopt a concessional fee waiver scheme (refer to detail later in this submission).

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<sup>3</sup> Saunders, B, Erikson, A, Lansdell, G, and Brown, M 2013, ‘An Examination of the Impact of Unpaid Infringement Notices on Disadvantaged Groups and the Criminal Justice System’, <https://youthlaw.asn.au/wp-content/uploads/2012/05/CJRC-Examination-Web-Copy.pdf>.

<sup>4</sup> Infringements Working Group 2017, ‘Discussion Paper: Consultation on Proposed New Scheme to Manage Victims of Family Violence within the Infringements System’, <https://www.westjustice.org.au/cms/uploads/docs/westjustice-iwg-submission-on-proposed-fv-scheme.pdf>.

<sup>5</sup> The NAJP priority groups include individuals experiencing gender-based violence, individuals facing cost-of-living pressures (employment, housing, welfare), Aboriginal and Torres Strait Islander peoples, LGBTQIA+ people, vulnerable migrants, asylum seekers, and refugees.

**Implementing concessional exemptions for fee payments would create a more effective and inclusive fines system:**

**Recommendation 1: That the Victorian Government does not proceed with the proposed fee increases and implement concessional exemptions for fee payments.**

VCOSS does not support the government's preferred option (option 2) of a fixed-rate infringement penalty increase of 73% for Penalty Reminder Notice increases. A fixed rate is inequitable. The quantum of the proposed increase is exorbitant (from \$29.20 to \$50.40) and is compounded by a 23% increase in collection fees (from \$151.50 to \$186.80).

The disproportional impacts of fixed-rate infringement penalties will be exacerbated by the excessive amount of fees that are added to the debt for late payment.

In sum, VCOSS believes that the government's preferred option will increase the likelihood that a fine will be unable to be paid due its accumulated cost.

VCOSS strongly advocates for a fairer fines system which considers the structural barriers to paying fines. For example, 60% of households on JobSeeker payments live below the poverty line. This illustrates why it is unfair – and ineffective – to penalise Victorians who are on very-low fixed incomes with late fees when they have been unable to pay their fines.

While option 3 in the RIS would provide discounted fees for the penalty reminder notices and the collection fee for concession card holders, our view is that a concessional *fee* scheme is tinkering around the edges in terms of equity.

To achieve a more proportionate and effective fines system, Victoria should introduce wholesale change by introducing a concessional scheme for *fines* – modelled on what has already been adopted in NSW. In NSW, clients experiencing serious financial hardship can apply to have their fines written off. This process allows the monetary penalty to be waived while still applying demerit points, ensuring accountability without compounding hardship. Further to this, the scheme allows for an individual in receipt of certain government benefits (including Newstart) or in possession of a Health Care Card to apply to have the amount of the infringement reduced by 50%<sup>6</sup>.

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<sup>6</sup> Ibid.

The introduction of a concession-based fines scheme in Victoria would significantly benefit the infringements system.

VCOSS proposes the government use this review as an opportunity to introduce into the Regulations an exemption from liability of all fees for low-income fine recipients, like the Covid-19 Concessional Scheme.

By way of example, fine recipients who provide evidence of a Services Australia Health Care Card, Pension Concession Card, Department of Veterans' Affairs Health Care Card (Gold Card) or protection-related visa should be exempt from all fees in an acknowledgement of their limited financial circumstances. (This is not an exhaustive list of potential eligibility. VCOSS would welcome the opportunity to discuss eligibility with the Department in greater detail.)

The introduction of concession-based infringements provides an opportunity for Victorians experiencing financial hardship to get fairer outcomes and exit the system earlier without exorbitant fines debt.

**Plain language information is paramount to ensure fine recipients understand all options available to them:**

**Recommendation 2: That the Department of Justice and Community Safety meaningfully consults with the Infringement Working Group to update notices to an 'easy to read' format in plain English, with visual aids and options for different languages to ensure they cover all options available to them to address fines.**

Victoria's infringement system is confusing and convoluted, especially for communities facing systemic marginalisation and disadvantage. It is essential that fine recipients receive timely and accessible information regarding their fines – this clear correspondence is particularly critical because pathways to rectify the fine are reduced over time.

Frontline services that work with Victoria's most vulnerable fine recipients report clients often have trouble with the volume of paperwork that they have received, particularly those who have low literacy levels or are not proficient in English.

Providing plain language information on the options available to address fines will encourage fine recipients to engage with fines earlier in the process. This will help prevent late fees and reduce anxiety and stress that is associated with enforcement activity later in the process.

The proposed Regulations include various amendments to the required information in the notes to provide clearer information to fine recipients – and to support recipients deal with their fines more easily, including:

- Clarifying that the recipient of the notice can take action other than paying the fine to avoid further enforcement being taken.
- Adding legal and financial advice referral information to the correspondence (this is discussed further below in the submission).
- Including clearer information for how someone can apply for the Work and Development Scheme<sup>7</sup> (WDP) or the family violence scheme.

VCOSS supports efforts to provide fine recipients with more accessible correspondence regarding their fines and ensure they understand the various pathways to deal with them.

However, VCOSS notes:

- There is no reference to the WDP scheme in the infringement notice, penalty reminder notices or notice of demand.
- There is no reference to the ability to apply for a review, or a WDP, in a notice of final demand.
- There is minimal detail on the review process to enable fine recipients to understand whether this may be an option for them, which limits its utility.
- The proposed Regulations should include detail on social justice initiatives<sup>8</sup> in all correspondence, not just at more critical points like when receiving the seven-day notice and the notice of intention to charge land. By providing clear and detailed information on social justice initiatives in all correspondence – there are more opportunities for earlier intervention.

There is a clear economic argument to support the inclusion of all options to resolve fines in plain language in all fines correspondence – the sooner a fine recipient takes steps to resolve their fines, the more money the Department will save on unnecessary enforcement activity.

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<sup>7</sup> The Work and Development Permit (WDP) scheme is a non-financial option to help vulnerable and disadvantaged people address their fine debt. The scheme supports an eligible person to work off their fine debt by participating in certain activities and treatment.

<sup>8</sup> Social justice initiatives in this context refer to the alternative pathways particular fines recipients can access to expiate their fines. These initiatives include the Worker Development Scheme and the Family Violence Scheme.

### Community Legal Centres must be funded to meet rising demand levels:

*Recommendation 3: The Victorian Government should increase funding to community legal centres, Victoria Legal Aid, and financial counsellors to enable services to meet the increase in demand resulting from changes to referral information on correspondence.*

VCOSS members report debt enforcement is a common legal issue, and amidst a cost-of-living crisis, financial legal problems and demand for legal and financial community services continue to rise<sup>9</sup>.

The infringements system is incredibly complex. Access to timely legal advice is critical to those facing marginalisation and disadvantage as this support can help seek the best options for dealing with their unpaid fines<sup>10</sup>.

From VCOSS' perspective, legal and financial community services should be the first point of contact for people experiencing fines debt because they are independent and have the appropriate skills to support Victorians out of fines debt.

VCOSS supports the regulatory proposal to add legal and financial referral information to the prescribed correspondence for unpaid fines (a recommendation long advocated for by social and community sector organisations).

Strengthening referral pathways between Fines Victoria and the services that support individuals to expiate their fines is critical – but it must also be backed with commensurate funding to respond to the demand uptick these pathways create.

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<sup>9</sup> Justice Connect 2024, 'Navigating financial legal problems in Victoria: Understanding help-seeking behaviour to enhance early intervention', <https://justiceconnect.org.au/wp-content/uploads/2024/10/Navigating-Financial-Legal-Problems-in-Victoria-Understanding-help-seeking-behaviour-to-enhance-early-intervention.pdf>.

<sup>10</sup> Peninsula Community Legal Centre 2020, 'Submission to the Fines Reform Advisory Board', <https://pclc.org.au/wp-content/uploads/2020/02/PCLC-FRAB-Submissions-Feb-2020.pdf>.

