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Fines Reform Advisory Board
Department of Justice and Community Safety
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By email to: FinesAdvisoryBoard@justice.vic.gov.au

31 January 2020

Dear Chair of the Fines Reform Advisory Board

SUBMISSION TO THE REVIEW OF FINES REFORM UNDER THE FINES REFORM ACT 2014

We refer to the Fines Reform Advisory Board's (FRAB) request for submissions regarding the fines system since the reforms that were introduced by the Fines Reform Act 2014 (*FRA*), which took effect at the start of 2018.

ABOUT INNER MELBOURNE COMMUNITY LEGAL

Inner Melbourne Community Legal (IMCL) is an independent community legal centre (CLC) working for social purpose. Our vision is an Australia where the law is fair and everyone has access to legal help, a place where there is a shared sense of fairness and wellbeing. We contribute to achieving this by building fairer laws, fairer legal outcomes and improved wellbeing in our local community through the law.

As a CLC, we assist vulnerable members of our local community with a number of legal matters, including fines. We prioritise helping clients who are eligible to have their fines reviewed based on special circumstances. As a result of the hardships they are experiencing, including homelessness, mental illness, alcohol and drug dependency and family violence, our client base also often find it difficult to keep track of their various fines from the time of their imposition and throughout the review process. Our support is therefore vital to assist these clients to navigate and finalise the fines process.

SIGNIFICANT PROCESSING DELAYS AND ERRORS

We refer the FRAB to the Victorian Ombudsman's Report into Fines Victoria Complaints dated April 2019.¹ IMCL confirms that we have experienced the majority of the reported issues concerning processing delays and errors. In our interaction with Fines Victoria, delays and processing issues have occurred across all departments that our centre has interacted with over the last 2 years. Accordingly, we support the continued monitoring of Fines Victoria by the Victorian Ombudsman.

¹ <https://www.ombudsman.vic.gov.au/getattachment/Publications/Parliamentary-Reports/Fines-Victoria-complaints/Fines-Victoria-complaints.pdf.aspx>

a. Debtor Summary Reports

In early 2018, Fines Victoria were unable to process a standard request for a Debtor Summary Report (DSR) to our centre, other CLCs or to clients within a timely manner. This meant we could not get a complete list of a client's outstanding matters in order to provide them with advice and commence casework. In some cases we waited up to six months to receive the summary.

Following vigorous advocacy by the legal assistance sector, Fines Victoria improved their response times. However, problems continue. Up until August 2019, clients were able to provide verbal authority to Fines Victoria for their DSR. Now however, Fines Victoria require written authority to be provided to them before releasing the DSR. These authorities take at least two days to be processed, meaning clients are required to attend our office at least twice before receiving initial advice. This adds to our already vulnerable clients' stress and anxiety, creating additional barriers to resolving their fines.

b. Processing of special circumstances enforcement review applications

i. Long processing delays

Our centre assists clients who are experiencing high levels of vulnerability, including mental illness, homelessness, family violence and alcohol or drug dependency. The majority of our clients therefore experience 'special circumstances', as defined under s 3 of the *Infringements Act 2006* (Vic, *IA*). Prior to the Fines Reform commencing January 2018, we advised these clients to complete an enforcement review application (previously known as a revocation application) on the grounds of their special circumstances. Since the creation of Fines Victoria however, there have been significant delays in processing these applications, in some cases over two years. For example, we currently have a revocation application that was submitted on 16 November 2017 that is still awaiting assessment. Due to these long delays, and other issues outlined below, we are no longer able to advise clients that this process is necessarily the best option for resolving their outstanding fines. Many clients cannot handle the uncertainty caused by lengthy delays.

These processing delays led to our service requesting a formal written update from Fines Victoria in relation to all of our outstanding matters on 4 July 2019. Please find a copy of this correspondence enclosed. We confirm that after this correspondence, a number of our clients' applications were promptly processed. Without taking this measure, it is likely our clients would have remained amongst the significant backlog of applications awaiting consideration.

ii. Impact of long processing delays on client engagement

Despite ongoing issues with unreasonable delays for the processing of applications, CLCs like IMCL are being provided with strict deadlines by Fines Victoria to provide additional supporting material. Most of these requests for additional material are being made more than a year after the initial application has been submitted.

Given our clients' high levels of vulnerability and the significant processing delays, it is common that we have lost contact with these clients, meaning it is difficult to obtain the required additional material within the specified period.

For those clients we have been able to remain in contact with, the impact of the delay has been profound, with clients experiencing distress and shock that their matters remain unresolved and that further work is required to progress them.

Recommendation:

1. Increase resourcing to Fines Victoria's assessments team to improve processing timelines for all requests/applications made to Fines Victoria.

POOR CUSTOMER SERVICE

IMCL experiences constant frustration with the lack of consistency and competency of Fines Victoria phone operators. The ad hoc approaches of individual operators and time delays over the phone provide a poor level of customer service, both impacting our own service provision and the experience of our clients.

These issues are particularly concerning when our clients are required to be involved in the call for identification and authorisation purposes. A number of these interactions with Fines Victoria operators have left our clients feeling unnecessarily frustrated, overwhelmed and with an eroded sense of confidence in the process. These persistent issues mean that we are now required to make critical decisions about our clients' ability to manage the stress and frustration that it is likely to ensue prior to contacting Fines Victoria.

Recommendation:

2. Develop clear policies and procedures in relation to all Fines Victoria processes and ensure that all phone operators are provided with consistent training in relation to them.

THRESHOLD FOR SPECIAL CIRCUMSTANCES

As outlined above, our centre assists a large number of people experiencing mental illness, homelessness, family violence and/or alcohol or drug dependency. The majority of our clients would therefore meet the definition of 'special circumstances', under s 3 of the *IA*. This was the same definition that was previously enforced by the Infringements Court and Civic Compliance Victoria (CCV) prior to the creation of Fines Victoria.

Accordingly, if our clients experienced special circumstances at the time they incurred their fines, they are able to make an application for enforcement review once the matter is lodged with Fines Victoria. This 'nexus' must be established between the individual's circumstances and the offending behaviour.

Currently however, Fines Victoria's practice is to enforce an especially high and, in IMCL's opinion, inappropriate threshold to establish special circumstances in these applications. This practice is far stricter than that which was previously required by the Infringements Court and

CCV. This is particularly frustrating for IMCL, and other CLCs, as there has been no legislative change in the definition of special circumstances during this reform process and no intention from parliament to engage in a stricter review process.

In particular, Fines Victoria are requiring doctors, psychologists, social workers or housing workers to establish their clients' circumstances were 'likely to have' (as opposed to 'may have') resulted in them being unaware of their offending or unable to control their offending behaviour.

The system to prove special circumstances for Fines Victoria is arduous and inappropriate for those who may already be lacking social supports. People's experiences with homelessness, mental illness, family violence and alcohol or drug dependency are complex and often clouded by feelings of shame, which prevent them from asking for assistance. This complexity means that people may be experiencing special circumstances and incurring fines long before accessing any support services that will be able to confirm and 'sign off' on these circumstances to satisfy Fines Victoria.

Case Study

YONAS - NOT HOMELESS ENOUGH.

In 2016, Yonas' public housing unit was ruined in a fire, which meant that he lost all his possessions, became homeless and experiences post-traumatic stress from the incident. Yonas has been engaged with numerous crisis and transitional housing facilities since 2016. Yonas has been trying to get his life back on track, by working towards training and acquiring long-term accommodation.

Yonas had been issued with a number of fines since becoming homeless. IMCL advised Yonas that an enforcement review on the grounds of his special circumstances might be a good way to manage these fines. In the social worker's letter, they explained that the fines were "due to Yonas' transience and lack of support networks in Australia... his depressed mental state and general personal disorganisation induced by homelessness."

However, Fines Victoria did not cancel the fines as they concluded that the 'link' between Yonas' homelessness and the offences was not satisfied. They advised that we had failed to outline that he "was unable to understand or control the behaviour that led to the offences as a result of his living conditions".

Yonas could try to make another application to Fines Victoria but he currently does not have enough fines outstanding to make him eligible for a grant of legal assistance through Victorian Legal Aid. Without a grant of aid, IMCL cannot afford to pay for a retrospective psychologists report or other support material and Yonas has no financial ability to pay for these materials either.

It is currently exceptionally difficult to prove a link between the offender's acts and their homelessness to Fines Victoria. This process has taken Yonas 18 months and he is now in

the same position he was when he first met with IMCL despite providing support material that was, in IMCL's opinion, completely satisfactory to demonstrate his homelessness.

Recommendation:

3. Immediately reduce the threshold for proving special circumstances in enforcement review applications to reduce pressure and strain on people experiencing special circumstances and the community services that support them. This would also dramatically improve processing timelines.
4. Reduce or abolish the 'nexus' requirement for all special circumstances applications.

FAMILY VIOLENCE SCHEME

The *FRA* introduced the Family Violence Scheme (FVS) application for individuals experiencing family violence at the time of incurring fines in their name.

The FVS was meant to act as a specialised scheme that supported people affected by family violence who had become caught up in the fines system. However, our experience is that this system is not operating in a manner which supports these individuals or acknowledges the impact and nuances of family violence.

The entire process, starting with the 11 page application form, is onerous and acts to re-traumatise the very individuals the scheme is meant to be assisting in a specialised jurisdiction. There have also been significant pre-processing delays in relation to these applications, causing anxiety and frustration for our clients.

IMCL understands that at the commencement of the FVS, there was a dedicated family violence team which handled these applications. Whilst IMCL did not receive a single outcome under this scheme during 2018, early positive outcomes for other CLCs reflected this team's level of family violence specialisation.

IMCL understands that this specialised FVS team has now ceased and the applications are being dealt with by the 'special circumstances' team at Fines Victoria. Similar to the inappropriate threshold being enforced for 'special circumstances', the threshold of 'substantially contributed' is now being applied in a manner that reflects a clear lack of training and understanding of the impact of family violence on victims/survivors.

Case Study

HELEN – FOUR FVIO'S AND STILL NOT ACCEPTED.

Helen had experienced family violence at the hands of her ex-husband and her daughter. As a result of the behaviour that Helen was subjected to, she had obtained four separate family violence intervention orders over the last decade of her life.

Helen's experience with family violence had a significant impact on her mental health and left her homeless on a number of occasions. The constant fleeing and chaos that this caused her resulted in toll fines, parking fines and minor speeding offences whilst she was living in and traveling through unfamiliar suburbs across greater Melbourne. Due to the instability of her housing, her mail was being sent to addresses that she could not get access to, she had no idea that she was incurring most of the fines that ended up in her name.

Once Helen secured safe and stable housing away from the perpetrators of family violence, she presented to IMCL to discuss her fines. After hearing about her long and significant history of family violence, we assisted her by completing a Family Violence Scheme Application.

IMCL completed the large application and statutory declaration setting out how the family violence had significantly contributed to her incurring the fines. We provided this to Fines Victoria with a copy of the four separate FVIO's, and support letters from Helen's doctor and Psychologist.

After nearly 12 months of consideration, Fines Victoria refused Helen's application for the scheme. Fines Victoria stated that although Helen was a victim of family violence she had failed to establish that it directly contributed to the incurring of the fines. We have continued to advocate to Fines Victoria that Helen does meet the criteria to be eligible for the Family Violence Scheme however they have continued to refuse her eligibility.

Recommendation:

5. Restrict consideration of FVS applications to assessors who have received appropriate family violence education and training and who therefore understand the impact of family violence on applicant behavior.
6. Reduce or abolish the 'substantially contributed' threshold requirement for FVS Applications.

WORK AND DEVELOPMENT PERMIT SCHEME

Since the commencement of the Work and Development Permit (WDP) scheme, IMCL has been unable to engage any clients in the program due to the unavailability of sponsor organisations. IMCL is acutely aware that the number of sponsor organisations is extremely limited and that the scheme is unduly burdensome on the organisations that are providing the service. This has resulted in a scheme which is not accessible to the majority of our clients and which is resource intensive for organisations that are not receiving additional funds to administer it.

Recommendation:

7. Fund existing sponsor organisations for the substantial and time consuming work they are undertaking on behalf of their highly vulnerable clients.

8. Expand the number of available sponsor organisations to make the WDP scheme a meaningful option for clients.

SEVEN DAY NOTICES

Prior to the fines reforms, a seven day notice did not prevent an individual from lodging a revocation application or entering into a payment plan after the expiry of seven days. People that had received a seven day notice were able to try to resolve their fines issues up until a sheriff had executed the warrants and provided them with a court hearing date for a penalty enforcement review. This would often leave people with approximately 2-3 months to make arrangements for their outstanding fines prior to the warrants being executed.

Post fines reforms a client is unable to do anything about their fines after the expiry of the seven day notice's time period. IMCL's clients can live exceptionally chaotic lives; seven days is not a reasonable time period for clients experiencing special circumstances. This requires them to be able to engage a lawyer, receive adequate legal advice and then have the matter actioned within the seven day period, otherwise they are unable to do anything until the sheriff returns to execute the warrants.

This strict timeline is particularly frustrating for individuals that have clear special circumstances to satisfy an enforcement review application but are now forced to go to court under s 165 of the *FRA*, as they were unable to action the matter within seven days.

Case Study

NATASHA – WAITING AFTER AN EXPIRED SEVEN DAY NOTICE.

Natasha is a single mother of three children in public housing. She is dependent on Centrelink payments to support herself and her children. With school fees, internet, other bills and general household expenses, she was experiencing significant financial hardship. Natasha is from a refugee background with a clear history of trauma, and the subsequent mental health impacts it brings. She has limited English and a clear reluctance to seek interpretation assistance for verbal and written correspondence.

Natasha had a number of outstanding fines, mostly in relation to parking matters, when the sheriff intercepted her vehicle and wheel clamped it. She is reliant on her vehicle to care for her children and had to pay over \$1000 upfront to get the vehicle unclamped. She still owes a friend this money because she was unable to cover the cost herself.

After Natasha's interaction with the sheriff's office, she was issued with a seven day notice. For some reason, the sheriff's office only made half of her fines subject to the seven day notice.

Natasha was exceptionally confused about what she was required to do to address the fines; her limited English and lack of interpreter undoubtedly contributed to this confusion. She

thought that because she had paid the upfront cost, she had some breathing time to manage the rest of them later. IMCL met Natasha two months after her seven day notice had expired. At the time, all of her options had expired – other than paying the amount off in full.

Natasha now has half her fines in limbo as she waits for the sheriff to arrest her for a court hearing and has placed the other half of her fines in an unrealistic payment plan that will last until at least 2025.

Recommendation:

9. Legislative change to ss 10B(2), 100, 32(4) and 42(3)(b)(i) of the *FRA*, so that people are not locked out of applying for a WDP, a payment arrangement, or lodging an enforcement review or FVS application after seven days expires.

FEE WAIVER APPLICATIONS

Under s 9 of the *FRA*, Fines Victoria have the power to waive or reduce any enforcement costs or other fees if it is satisfied that, in all the circumstances, it is appropriate to do so. Prior to the fine reforms, CLCs would often use this application to provide some form of relief to clients experiencing high levels of vulnerability, either at the time of incurring the fines or at the time of seeking legal assistance.

This application does not require proof of a nexus between a person's circumstances and incurring the fines. As such this application would be made for people that were unlikely to satisfy the nexus requirement to prove special circumstances in a revocation/enforcement review application but who clearly required relief from the excessive outstanding debts that Fines Victoria were seeking to recover.

Since the fines reform there have been a number of issues with these applications. Firstly, Fines Victoria have clearly stated that a person's experience of significant financial hardship would not be considered sufficient for a successful fee waiver application. Subsequently, it is clear from application outcomes, Fines Victoria have now placed an unlegislated nexus requirement on these applications. There is a clear legislative intent that there be a different threshold consideration for fee waiver applications in comparison to enforcement review applications. However, this is not being reflected in Fines Victoria's current consideration of these applications.

These fee waiver applications are an option of last resort for most people struggling to manage large outstanding debts to Fines Victoria. Accordingly, it is inappropriate to place a strict nexus and evidentiary burdens on people to obtain successful outcomes.

Case Study

CANDACE – REFUSED FEE WAIVER APPLICATION.

Candace incurred a number of parking fines during an episode of depression and anxiety after the death of her brother. Candace regularly saw a local doctor for anti-depressants and Valium to manage her mental illness. She completed a mental health care plan with her doctor and attended a few sessions with a psychologist for assistance. However, due to financial hardship, Candace became homeless and started living out of a hostel in St Kilda. Her life became chaotic and she was unable to continue to see the psychologist and struggled to remain engaged with her doctor.

We met Candace in relation to a separate criminal matter, where IMCL believes that she was racially profiled and discriminated against by Victoria Police. Candace advised us that she also had a number of fines outstanding that she wanted help with. At this time, she hadn't seen the psychologist or the doctor for over two years and neither where in a position to write a support letter as she was not a current client.

IMCL knew that Candace would not be able to prove her special circumstances to Fines Victoria due to their strict nexus threshold currently being enforced. Accordingly, we assisted her to complete an application for fee waiver under s. 9 of the *FRA*. The application showed Fines Victoria that Candace had a long history of mental illness (we provided the doctors case notes from the time she incurred the fines), an experience of homelessness, clear financial hardship, a recent traumatic experience of family violence and confirmed that she was about to become a single mother to her first child.

This application was refused as Fines Victoria were not satisfied that there was a nexus between Candace's circumstances and the fines being incurred. This is despite there being no legislated nexus requirement under s 9 of the *FRA*.

Recommendation:

10. Fines Victoria consider fee waiver applications under s 9 of the *FRA* in line with the legislation and not require a nexus between a person's circumstances and incurring the fines to be proven.
11. Fines Victoria consider that financial hardship on its own is sufficient for a successful application under s 9 of the *FRA*.

SPECIAL CIRCUMSTANCES LIST

The former Special Circumstances List (SCL) provided our fines clients with a therapeutic setting to deal with their fines, which carefully took into account their 'special circumstances' when determining sentencing outcomes. For over a decade, the SCL functioned to provide fair, efficient and rehabilitative sentencing outcomes for people experiencing special circumstances.

Case Study

STEVE - FINES DISMISSED THROUGH THE SPECIAL CIRCUMSTANCES LIST.

Steve had been experiencing long term homelessness and was living out of his car. Whilst accessing crisis accommodation, he incurred multiple parking fines in the thousands of dollars. He wasn't eligible for a local parking permit given his impermanent residential status and was forced to park in one and two hour parking.

A financial counsellor at Ozanam helped him write to the local council to have the fines waived because he'd received them as a consequence of his homelessness. The council rejected his application, questioning the connection between the fines and his homelessness. As a result, Steve was sent to the SCL of the Melbourne Magistrates' Court.

Before his court date, Steve's counsellor referred him to IMCL's services to seek legal advice. Steve was facing many challenges in securing accommodation and managing his day to day life, and the multiple fines added increased stress and complications.

At the hearing, we had an opportunity to put Steve's case to a Magistrate who agreed that Steve's fines were indeed caused by his homelessness, and for that he shouldn't be penalised. As a result, the fines were waived, enabling Steve to focus on finding stable accommodation.

Since the establishment of Fines Victoria and the commencement of the *FRA*, there have been significant processing delays in relation to fine matters that would subsequently be referred to the Magistrates' Court. Due to these processing delays and lack of referrals to Court, the Magistrates' Court decided to abolish the List. Matters are no longer heard within this specialist jurisdiction; instead they are listed on 'open court' mainstream criminal lists.

Without a SCL, fines matters are being listed across numerous Magistrates' Court on a variety of dates. This process inevitably places an enormous administrative burden on the Courts and lawyers involved. It also results in multiple findings of guilt for the highly vulnerable individual and a complete disregard for the principle of totality in sentencing.

Case Study

DYLAN – POST FINES REFORM WITHOUT THE SPECIAL CIRCUMSTANCES LIST.

We met Dylan at our office after his housing worker contacted us for assistance. Dylan had been homeless for three years at that point, living with depression, an intellectual disability, as well as alcohol and cannabis dependency. Dylan was a person experiencing a very high level of vulnerability due to his 'special circumstances'.

Dylan had incurred a large number of fines, mostly consisting of fines relating to being drunk in a public place. IMCL submitted a revocation application to the Infringements Court for Dylan on the grounds of his special circumstances in November 2017. At that time the Melbourne Magistrates' Court Special Circumstances List was fully operational and hearing all referrals to court from successful revocation applications.

Whilst the application was being processed, Fines Victoria was created and significant processing delays occurred in relation to the new enforcement review applications. Due to the lack of court referrals, the special circumstances list was significantly reduced and later abolished.

In August 2018, IMCL was advised that the enforcement of Dylan's fines was cancelled due to his clear special circumstances. However this does not finalise the matters. They were referred back to the issuing agencies, in Dylan's matter we received 29 notices from Victoria Police outlining their intention to proceed to open court in relation to this matter.

These matters would previously have all been listed on the one occasion in Melbourne Magistrates' Courts Special Circumstances List where Dylan would have had a fair and rehabilitative court experience. Instead, Dylan received six charges and summons for six completely different dates across three different metropolitan Magistrates' Courts in their mainstream criminal courts.

IMCL were able to have these matters administratively adjourned to the one location for Dylan. Without our help Dylan would have been forced to attend each court date for each individual hearing. For a person that has already demonstrated that he has significant special circumstances, this is a complex, confusing and anxiety-inducing experience.

Recommendation:

12. Legislate for the reinstatement of the Special Circumstances List at Melbourne Magistrates' Court and expand the Special Circumstances List to a larger number of Magistrates' Courts across Victoria to improve access to the therapeutic jurisdiction.

PROPORTIONAL FINES SYSTEM

Fines for various types of offences, from public transport ticketing offences to low-range driving offences, place a disproportionately large burden on those without the means to pay off such debts. For people on little to no income, a fine of a few hundred dollars can drastically impact their lives, causing severe financial strain and resulting psychological stressors.

The Victorian fines system disproportionately impacts those who are experiencing special circumstances, receiving a Centrelink benefit or are on a low income. Such a system highlights the inefficiency of demanding high fine debts be paid by people experiencing social and financial disadvantage. Often, fines are simply too large to conceivably be paid off and result in large administrative costs to government funded bodies and lost revenue for the State.

Large scale reforms to make all fines proportional to an individual's income level would seek to ease this disproportionate burden that the current system places on our community's most vulnerable. Until such time, a set fixed reduction system for people on nil or low income and/or experiencing special circumstances would strengthen the fairness of, and compliance with, the fines system, ensure that more fines are paid, and reduce unrecoverable enforcement costs.

Recommendation:

13. Undertake large scale reforms to the fines system whereby the penalty imposed is proportionate to an individual's income level.
14. In the meantime, introduce a set fixed reduction system to allow people experiencing special circumstances and financial hardship to access a concession reduction on their outstanding infringements.

ECONOMIC VIABILITY

People experiencing special circumstances often receive a large number of fines for repeated minor offences such as drunk in public offences, public urination, riotous behaviour, offensive language, parking fines, toll fines and fare evasion.²

International research has demonstrated that the cost of issuing and enforcing fines, such as begging, far outweighs the payments received in relation to these infringements.³

In 2013, Justice Connect Homeless Law (formerly Homeless Persons' Legal Clinic) noted that the average time to resolve a fines matter was 14 months, with an average cost of \$19,825.⁴ This costing only encompasses the legal costs and does not consider the greater economic costs to Victoria Police (and other issuing agencies), CCV (now Fines Victoria), Courts Victoria, support workers, medical practitioners and housing workers. Since the fine reforms, this average cost would have undoubtedly increased due to the significant delays and stricter threshold for proving special circumstances increasing the workload of IMCL and other CLCs.

Therefore, it is important to consider whether State funds could be better spent facilitating support for people experiencing special circumstances, as opposed to seeking to enforce fines that the State is unlikely to ever recover.

Recommendation:

15. Undertake appropriate evaluation and economic research to determine if there is any economic argument in support of pursuing fines debts against people experiencing homelessness, mental illness and alcohol or drug dependency.

² <https://www.lawcouncil.asn.au/files/web-pdf/Justice%20Project/Final%20Report/People%20who%20are%20Homeless%20%28Part%201%29.pdf>

³ <https://www.abc.net.au/religion/criminalising-homelessness-why-enforcement-is-not-the-answer/10095534>

⁴ <https://justiceconnect.org.au/wp-content/uploads/2018/08/Sentencing-Advisory-Council-Fines-and-Infringements-Project-Submission-October-2013.pdf>, p 6, citing What's the Cost? Infringements System Review

CONCLUSION

We acknowledge that Fines Victoria and the Department of Justice and Community Safety have been acting to address a large number of processing and IT issues. However, a number of these problems are not simply IT based. Rather, they are human operator and assessor driven issues which are separate from the prolonged IT complications.

SUMMARY OF IMCL RECOMMENDATIONS

To address a large number of issues in relation to the fines system since the reforms that were introduced by the *FRA*, IMCL recommends:

SIGNIFICANT PROCESSING DELAYS AND ERRORS

1. Increase resourcing to Fines Victoria's assessments team to improve processing timelines for all requests/applications made to Fines Victoria.

POOR CUSTOMER SERVICE

2. Develop clear policies and procedures in relation to all Fines Victoria processes and ensure that all phone operators are provided with consistent training in relation to them.

THRESHOLD FOR SPECIAL CIRCUMSTANCES

3. Immediately reduce the threshold for proving special circumstances in enforcement review applications to reduce pressure and strain on people experiencing special circumstances and the community services that support them. This would also dramatically improve processing timelines.
4. Reduce or abolish the 'nexus' requirement for all special circumstances applications.

FAMILY VIOLENCE SCHEME

5. Restrict consideration of FVS applications to assessors who have received appropriate family violence education and training and who therefore understand the impact of family violence on applicant behavior.
6. Reduce or abolish the 'substantially contributed' threshold requirement for FVS Applications.

WORK AND DEVELOPMENT PERMIT SCHEME

7. Fund existing sponsor organisations for the substantial and time consuming work they are undertaking on behalf of their highly vulnerable clients.
8. Expand the number of available sponsor organisations to make the WDP scheme a meaningful option for clients.

SEVEN DAY NOTICES

9. Legislative change to ss 10B(2), 100, 32(4) and 42(3)(b)(i) of the *FRA*, so that people are not locked out of applying for a WDP, a payment arrangement, or lodging an enforcement review or FVS application after seven days expires.

FEE WAIVER APPLICATIONS

10. Fines Victoria consider fee waiver applications under s 9 of the *FRA* in line with the legislation and not require a nexus between a person's circumstances and incurring the fines to be proven.
11. Fines Victoria consider that financial hardship on its own is sufficient for a successful application under s 9 of the *FRA*.

SPECIAL CIRCUMSTANCES LIST

12. Legislate for the reinstatement of the Special Circumstances List at Melbourne Magistrates' Court and/or expand the Special Circumstances List as smaller lists sitting at a larger number of Magistrates' Courts across Victoria.

PROPORTIONAL FINES SYSTEM

13. Undertake large scale reforms to the fines system whereby the penalty imposed is proportionate to an individual's income level.
14. In the meantime, introduce a set fixed reduction system to allow people experiencing special circumstances and financial hardship to access a concession reduction on their outstanding fines.

ECONOMIC VIABILITY

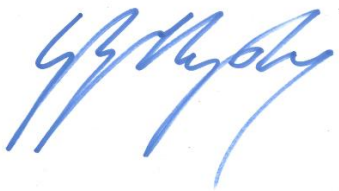
15. Undertake appropriate evaluation and economic research to determine if there is any economic argument in support of pursuing fines debts against people experiencing homelessness, mental illness and alcohol or drug dependency.

We hope that this submission allows the FRAB to clearly understand the issues that have arisen due to the reforms introduced by the *FRA* for IMCL and our clients.

We look forward to your independent review of how the fines system has been operating since the reforms and how to build a fair and just fines system into the future.

Feel free to contact our office on 9328 1885 or IMCL lawyer Lloyd Murphy at Lloyd.Murphy@imcl.org.au if you wish to discuss these issues further.

Yours sincerely



Lloyd Murphy
Lawyer



Nadia Morales & Jessica de Vries
Acting Co-Chief Executive Officers