



Peninsula  
Community  
Legal Centre

# SUBMISSION TO THE FINES REFORM ADVISORY BOARD

February 2020



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## 1. About Peninsula Community Legal Centre

Peninsula Community Legal Centre (PCLC) is an independent, not-for-profit organization that has been providing free legal services to Melbourne's south-eastern communities since 1977.

The Centre helps people use the law to protect and advance their rights, offering free advice on many legal issues including fines and infringements. Since 2016, PCLC has operated a dedicated, stand-alone Fines Clinic that provides specialist advice to clients with unpaid fines debts. In many cases, ongoing legal assistance is provided to clients experiencing disadvantage. This may include assisting clients with enforcement review applications to Fines Victoria or linking clients with Work and Development Permit (WDP) scheme sponsors. The Centre also undertakes a range of community engagement and law reform activities and participates in a number of community and sector networks. PCLC is, therefore, well-placed to provide insights into the experience of fines recipients and in particular the experience of vulnerable Victorians, the effectiveness of the fines system in achieving its intended purposes and to provide recommendations for further reform.

In short, PCLC recommends:

- 1. The Department of Justice and Community Safety (DOJ) and Fines Victoria actively promote CLC services as a first point of contact for people experiencing fines debt**
- 2. Fines Victoria continue working towards the reduction of administrative delays of fines enforcement and review processes**
- 3. The reformulation of the 'nexus requirement' and/or the introduction of a 'good faith' special circumstances application process**
- 4. Further research into the 'hidden costs' of the fines enforcement system**
- 5. The DOJ fund the provision of up to four (4) full-time WDP Project Workers to: a) identify relevant local health and community sector practitioners and assist them to become WDP sponsors; and b) assist metropolitan and regional CLCs to link clients with accredited, local WDP sponsors**
- 6. The WDP scheme be extended to include court fines**
- 7. The introduction of a permanent WDP Committee to annually monitor the scheme's effectiveness and develop ongoing WDP policy**
- 8. Fines Victoria make available to CLCs and other relevant services a list of accredited sponsors**
- 9. Simplified WDP support resources for accredited sponsors (and prospective sponsors)**
- 10. The family violence scheme be available for excessive speeding infringements issued by the Traffic Camera Office**
- 11. The extension of nomination (and rejection of nomination) periods to be available during the enforcement stage**
- 12. Private toll debts should be removed from the fines system and be recovered by the private toll road operators**

The submissions herein provide greater detail of the above recommendations in light of some of the issues highlighted by the FRAB as being central themes within its terms of reference.

## 2. Background

### *The scourge of toll road infringements in the South-East*

Unpaid toll fines have had a devastating impact on disadvantaged communities in the South East. Toll fine data obtained by PCLC shows that 28% of all enforcement infringements issued in Victoria in 2017/18 were in PCLC's catchment. Further, it is people from disadvantaged areas that have been most affected by unpaid toll fines, added penalties and enforcement actions, such as drivers licence suspensions, refusal of vehicle registration renewals and the seizure of motor vehicles.

The 2017/18 data highlights:

The City of Casey had 77,082 toll infringements equating to **\$12,046,050** with a rate of **89%** progressing to enforcement orders.

The City of Frankston had 44,745 toll infringements equating to **\$7,008,920** with an alarming rate of **95%** progressing to enforcement orders.

The work of PCLC's fines clinic is vital in assisting vulnerable and disadvantaged clients to address their fines issues and prevent further costs and penalties. In 2019, the Fines Clinic advised or assisted 669 clients with fines matters and the average unpaid fines debt for PCLC clients with open casework matters is approximately \$12,000.

#### *Who has unpaid toll fines debt?*

68% of the clients accessing the clinic during the 2017/18 reporting period were experiencing financial disadvantage, 53% had a disability and/or mental health issues, 15% were people from a CALD background, 14% had experienced family violence and 5% reported homelessness.

## 3. Recent fines reforms

The current system for the collection of fines and infringements is complex and, in recent years, has been the subject of significant legislative and policy reform. Most significantly, the *Fines Reform Act 2014*, which commenced on 31 December 2017, introduced a new model for the collection and enforcement of fines in Victoria.

### *Fines Reform Act 2014*

The reforms introduced by the *Fines Reform Act 2014* included (not an exhaustive list):

- The introduction of a new administrative body, Fines Victoria, (replacing the Infringements Court) responsible for managing and enforcing fines.
- The inclusion of Court fines to Fines Victoria's procedures
- The introduction of the Work and Development Permit Scheme
- The introduction of the Family Violence Scheme (FVS)

- An emphasis on internal review by Fines Victoria and enforcement agencies (before court)
- New application for Enforcement Review procedure

These reforms sought to strike an appropriate balance in what the Sentencing Advisory Council identified in 2014 as:

*‘the tension in the infringements system between the desire to ensure that it does not oppress, or operate unfairly against, vulnerable people and, at the same time, ensuring that recalcitrant offenders do not escape its effect.’<sup>1</sup>*

The primary focus of the reforms was to ensure that repeat offenders who incur large amounts of fines and seek to evade punishment can be more effectively held accountable whilst recognizing that some people cannot pay their fines because they are (or were) experiencing some kind of incapacity or hardship.

In general, PCLC supports the reforms introduced by the *Fines Reform Act 2014* (FRA) and the notional shift away from imprisonment as the ultimate response to the non-payment of court fines. There remains, however, significant, entrenched inequities within the fines and infringements system that disproportionately affect vulnerable people in the community. The recommendations below seek to ameliorate these inequities.

## 4. Recommendations in detail

### **1. Fines Victoria actively promote CLC services as a first point of contact for persons with unpaid fines**

In our view, CLCs (or alternative legal service providers, including Victoria Legal Aid) should always be the first point of contact for people experiencing fines debt because CLCs are independent and have the appropriate skills in advising persons on the best options for dealing with unpaid fines. Getting timely legal advice is a crucial to vulnerable people achieving the best possible outcome for their fines matter. Before engaging with PCLC, many clients have no detailed knowledge of the various options available to them and in our experience, almost all were unaware of the WDP Scheme.

CLCs are also well-placed to assist clients with other legal issues and typically have established relationships with local health and community services, making it easier for lawyers, advocates and project workers to link eligible persons with suitable accredited sponsors within the WDP scheme.

For these reasons, information regarding CLC or other legal aid services, together with contact details, should be more prominently placed on Fines Victoria’s (and other relevant government agencies i.e. VicRoads and Department of Transport) website and publications. Fines Victoria should also, in relevant circumstances, directly refer fines recipients to appropriate legal services via their telephone advice services. This is a very simple recommendation to implement which could positively affect people’s experience with the fines enforcement system.

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<sup>1</sup> Sentencing Advisory Council, *The Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria: Report*, May 2014, (4.2.1 p76), [https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Imposition\\_and\\_Enforcement\\_of\\_Court\\_Fines\\_and\\_Infringement\\_Penalties\\_in\\_Victoria.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Imposition_and_Enforcement_of_Court_Fines_and_Infringement_Penalties_in_Victoria.pdf)

## ***2. Fines Victoria urgently address delays in processing fines and review applications***

PCLC welcomed the introduction of an administrative (rather than judicial) body to manage the payment and enforcement of fines. The referral of most court fines to Fines Victoria has also been a positive step. PCLC, however, remains deeply concerned about the functioning of Fines Victoria, in particular the long delays in processing review applications. PCLC is also troubled by the evidentiary requirement/threshold (often referred to as the 'nexus requirement') as applied by Fines Victoria in determining special circumstances review applications.

The speedy and efficient resolution of infringements matters was clearly a major impetus for the FRA reforms and the new system was expected to realize shorter collection and enforcement timeframes. Sadly, due to well-publicized troubles with Fines Victoria's IT systems, the expected efficiencies have not eventuated. Further, it remains unclear when these issues, which have significantly delayed Fines Victoria's processing of infringement payments, as well as review applications will be resolved.

In our experience, some Special Circumstances and Family Violence Scheme review applications have taken up to 2 years for Fines Victoria to process.

Fines are intended to be a fair, effective and efficient sanction for relatively minor offences and lengthy delays can have detrimental effects on our clients' well-being. Many PCLC clients experience various forms of hardship including mental health issues, family violence, substance addiction, physical and intellectual disability and poverty. The stress and anxiety caused by having matters unresolved for lengthy periods is different in each individual case and therefore difficult to assess. Nevertheless, PCLC remains concerned about the potential, negative impacts administrative delays may be having on the well-being of already vulnerable people. The stress associated with processing delays is compounded when Fines Victoria request further supporting documentation, at times on relatively trivial grounds.

Long delays also affect the legal centre's ability to effectively advise and support our clients. Legal practitioners are expected to act expeditiously and effectively communicate with clients about the status of their matter. Many of our clients have unstable housing and can change address and phone numbers on a frequent basis. The longer matters take to resolve, the greater the opportunity for the legal centre to 'lose contact' with the client making it, at times, difficult or impossible to receive their further instructions.

PCLC understands that Fines Victoria is working to address these issues.

## ***3. The 'nexus requirement' and 'good faith' special circumstances applications***

People who have received an infringement notice and have been served a **notice of final demand** from Fines Victoria in relation to that infringement can apply for an enforcement review. If the application is successful, Fines Victoria cancels enforcement and refers the fine back to the relevant enforcement agency to decide what further action to take. In most cases, the infringement is withdrawn and the enforcement agency takes no further action (the enforcement agency may, however, issue an official warning or elect to commence court proceedings for the alleged offence).

One of the grounds for applying for enforcement review is for 'Special Circumstances'. A person can apply for Special Circumstances review if s/he either:

- Has a mental or intellectual disability, disorder, disease or illness
- Has a serious addiction to drugs alcohol or a volatile substance
- Is homeless
- Is a victim of family violence

If applicable, the person must then address how their special circumstance lead the person to:

- Not be in control of his/her behaviour when they offended, or
- Not understand that s/he had broken the law

Establishing this causative link between the special circumstance and the offending is often referred to as the 'nexus requirement'.

Whilst there exists no legislative requirement for applicants to provide documentary proof of special circumstances, Fines Victoria requires applicants to provide documentary evidence to show this nexus. In practice, this typically involves the provision of a report from a person's treating medical practitioner (e.g. general practitioners, psychiatrists, psychologists etc) and/or social support worker. At first glance, the provision of a report does not seem particularly onerous but, in practice, it provides significant barriers to vulnerable persons and, in many cases, becomes a significant drain on their financial resources and on CLC services.

In PCLC's experience, clients often present with multiple infringements spanning several months or even years. In some cases, clients may find it difficult to establish the nexus as they may not have been engaged in treatment or services at all times relevant to the offending. Further, medical practitioners and service providers are often reluctant to attest to the nexus between their client's particular condition (or mental state) and a specific offence that may have occurred prior to the person seeking treatment.

Compounding the evidential problems associated with the 'nexus' issue is the fact that health practitioners commonly request a fee of up to approximately \$400 for the provision of a medical report. In one matter, the practitioner requested over \$1,000 to provide a letter of support. When added to the underlying fines debt potentially owed by the person, such fees for supporting material are prohibitively expensive and may ultimately prevent otherwise eligible persons having their fines matters withdrawn or cancelled.

For the above reasons, PCLC recommends either a reformulation of the 'nexus requirement' so as to avoid making the nexus between the person's condition and each individual offence or, alternatively, for Fines Victoria to accept special circumstances applications on a 'good faith' basis, without the need for supporting documentary evidence. We note, here, the interpretation of Justice Tate in *Taha*, in which she found that s160 of the *Infringements Act 2006* (regarding the courts powers to discharge fines in part or in whole in cases of 'special circumstances) did not require documentary proof of special circumstances.<sup>2</sup>

Removing the administrative requirement for documentary evidence to satisfy the nexus accords with Parliament's intention to exit people from the infringements system. PCLC, however,

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<sup>2</sup> *Victorian Toll & Anor v Taha and Anor; State of Victoria v Brookes & Anor* [2013] VSCA 37 (4 March 2013) – see also VLA *vulnerable people and fines position paper*, October 2013.

anticipates that some may be resistant to a 'good faith' special circumstances regime on the basis that it may open the 'flood-gates' to meritless or spurious applications. In responding to this 'flood-gates' argument, PCLC notes that applicants are already required to make a declaration in respect of the truth of the content of the application and that if a person knowingly provides false or misleading information s/he could be liable for a penalty of more than \$1,600. Further, it could be possible for Fines Victoria to accept 'good faith' applications at first instance but with the option of requesting further evidence of special circumstances (including documentary proof) in situations where Fines Victoria has reason to believe that an applicant is trying to abuse the process.

Whilst acknowledging the possibility for some people to attempt to 'game' the system, PCLC believes that most fine recipients would be unlikely falsely claim special circumstances simply to avoid paying a fine. This would be particularly so for special circumstances applications on mental illness grounds where there is a likelihood that VicRoads will require the person to undergo a medical assessment to ensure the person is fit to drive. Another safeguard already in place is that a person can only apply for special circumstances twice for any particular fine.

Abolishing an administrative necessity for documentary proof of special circumstances would be particularly appropriate for less serious offences (ie those without a public safety element) including toll-road infringements and parking infringements which disproportionately constitute a significant amount of overall fines debt. Offences involving direct public safety matters ie excessive speeding, phone use whilst driving, drink/drug driving may be differentiated.

#### ***4. Further research into the 'hidden costs' of special circumstances applications and fines enforcement***

Satisfying the 'nexus requirement', as it is currently applied by Fines Victoria, can also be a significant drain on the resources of CLCs, as well as private health practitioners and Fines Victoria itself.

PCLC suspects government (and the general public) does not fully appreciate the true, underlying costs associated with the provision of documentary evidence and the current fines enforcement system more broadly. Bearing in mind that it is various levels of government that predominantly fund, not only the fines enforcement administrative regime but also, the community legal sector, VLA, medical/mental health services, the social services sector, financial counselling, the courts system and law enforcement agencies, all of which play significant roles.

In the case of CLCs, lawyers and advocates working on fines matters (together with their administrative assistants) can spend many hours corresponding with clients and their medical practitioners/support workers in order to obtain documentary material to support a claim for special circumstances. This work is almost entirely funded by government. Sometimes the supporting material is rejected by Fines Victoria and the applicant is given the opportunity to provide further or more particularised evidence adding further costs.

Further research is needed to fully identify the work undertaken by CLCs, financial counsellors, medical practitioners (general practitioners and psychologists), social support services as well as government agencies (Fines Victoria, PTV, VicRoads, local councils, Victoria Police) and to quantify the true cost of the fines enforcement system.

Added to this is the great costs associated with matters that, for various reasons, ultimately proceed through to the courts/criminal justice system (usually by virtue of the prosecutorial discretion given

under s38 of the FRA) at even further expense. Where matters do proceed to judicial determination, PCLC strongly supports the re-introduction of the Special Circumstances list in circumstances where fines recipients are experiencing vulnerability, rather than the current practice of having vulnerable persons appear before the general list of the Magistrates Court.

The true cost to government in funding CLCs to perform this work remains unquantified. Nonetheless, PCLC suspects that this considerable 'hidden cost' of the fines enforcement system is under-appreciated by government and policymakers.

Ultimately, the costs associated with the work done by community legal centres (CLCs), medical professionals, financial counsellors, community service organisations, courts and sheriffs department (DOJ) administrative/support staff needs to be quantified and better understood if we are to engineer an efficient and cost-effective fines enforcement architecture.

***5. Fines Victoria/DOJ fund a minimum of four (4) additional WDP Project Workers to work on an ongoing basis within CLCs in other regions of Victoria.***

PCLC has supported the introduction of the Work and Development Permit (WDP) scheme and, with the support of a grant of funding from the Legal Services Board, has since March 2019 employed a full-time Project Worker to help integrate the WDP scheme in Melbourne's southern region.

Although not a panacea for the problems with the broader fines enforcement system, the WDP scheme works well and should be further supported and expanded across regional areas of Victoria.

PCLC's WDP Project Worker has three key roles:

1. To link eligible clients with appropriate accredited sponsors;
2. To support sponsors (and potential sponsors) in the accreditation and integration process;  
and
3. To advocate for legislative and policy change

In less than 12 months, our WDP Project Worker has:

- assisted linking over 50 clients (with in excess of \$90,000 of unpaid fines) with sponsors
- assisted more than 50 service providers to become accredited sponsors
- published more over 20 articles in various journal and publications of peak bodies

PCLC believes this success in getting sponsors to participate in the WDP scheme and linking vulnerable people with these services can easily be replicated in other areas across Victoria.

The Project Worker meets regularly with service providers to discuss WDP issues and has strengthened the legal centre's relationships with the health and community sector with real benefits to our vulnerable clients. The Project Worker also meets with representatives of Fines Victoria's WDP Operations Team on an ongoing basis to streamline processes.

In PCLC's experience, sponsors (and bodies considering becoming accredited sponsors) benefit enormously from direct 'on the ground' assistance with the accreditation and integration process. In particular, sponsors have appreciated guidance with understanding their record-keeping obligations, applying the appropriate 'work-off' rates and defining the parameters of an 'eligible activity'. Key stakeholders in New South Wales have confirmed that 'on the ground' support has been essential to the success of its WDO scheme.

PCLC also supports the further funding of sponsors and relevant non-legal service providers insofar as such providers can comply with the administrative and regulatory requirements of the WDP scheme.

#### ***6. Expanding the WDP scheme to include court fines***

PCLC strongly recommends the WDP scheme be expanded to include eligibility for court fines as is the case in NSW. Court fines are not currently eligible under the Victorian WDP Scheme which severely limits the non-financial options available to vulnerable people.

#### ***7. Establishing a permanent WDP Advisory Committee***

PCLC recommends the establishment of a permanent WDP Advisory Committee to play an oversight role similar to the WDO Committee operating in NSW. Such a committee could include representatives from key stakeholders such as Fines Victoria, the Department of Justice, Legal Aid and Community Legal Centres. The committee would be responsible for the ongoing monitoring and reporting annually on the efficacy of the scheme as well as identifying areas of potential reform. In particular, the committee could review and advise government on issues including administrative compliance, sponsor engagement and make recommendations regarding policy and legislative reform.

#### ***8. Fines Victoria maintaining a register of accredited sponsors***

Many sponsors and CLCs have identified the need for a list of sponsors within their region. PCLC believes CLCs would be more likely to advise clients to engage in the WDP Scheme if they had improved access to sponsors in their local area. This would also enhance the capacity of CLC to develop operational relationships with sponsors and understand sponsors' capacities before making a referral. Such a register would also assist project-workers further develop sponsor networks in their respective localities. Furthermore, existing sponsors could more easily refer clients to new sponsors where service or treatment has ended but the client's fines debt is still outstanding.

To be clear, PCLC recommends that any register or list of sponsors not be made publicly available as this may lead to individual fines debtors contacting sponsors directly, before obtaining legal advice.

#### ***9. Improved WDP support material for sponsors***

Sponsors have reported that Fines Victoria's WDO Guidebook and Handbook is long and difficult to read. PCLC recommends Fines Victoria develop more 'user-friendly' resources.

To address this issue, PCLC has developed its 'WDP Information Package' to provide clear and concise guidance to sponsors and PCLC is willing to assist Fines Victoria in developing these resources.

#### ***10. Excessive speeding infringements issued by the Traffic Camera Office be eligible under the Family Violence Scheme***

The recently introduced Family Violence Scheme allows victim survivors to have eligible fines withdrawn if family violence substantially contributed to the offence or where it is not safe to

nominate the person responsible. Importantly, for eligible offences under the Family Violence scheme the applicant is not required to name the person who was driving the vehicle.

Not all infringements, however, are eligible for enforcement review under the Family Violence Scheme. In particular, offences viewed as a high level risk to public safety such as drink and drug driving and excessive speed (25km/h over the speed limit or more than 130km/h) are excluded from the FVS scheme.

Of particular concern to PCLC is the ineligibility of excessive speeding infringements (ESI) where the only evidence relied on is traffic camera images and data. Thus, there is no direct evidence of the identity of the driver which under the *Road Safety Act 1986*, and in the absence of a timely nomination, is deemed to be vehicle's registered owner. This raises the possibility for a family violence victim survivor, with a car registered in his/her name, receiving an excessive speeding fine when the driver actually responsible for the offence is the perpetrator of family violence.

The Royal Commission into Family Violence expressly recognized the difficulties faced by victims of family violence in nominating perpetrator drivers or having a fine discharged when they incur a fine or infringement in circumstances of family violence.<sup>3</sup>

The continuing ineligibility of the FVS for excessive speeding infringements means the only option for the family violence victim to avoid liability and harsh penalties (including a heavy fine and licence suspension) is to nominate the driver which would likely place her/him in danger. This practice of deeming is unfair on family violence victims and ESIs should be made eligible under the FVS.

PCLC appreciates the importance of deterring unlawful and unsafe driver behaviour through infringements, however, requiring victims of family violence to identify and nominate the perpetrator driver places such victims at unacceptable risk of retribution. PCLC therefore recommends law enforcement agencies consider developing traffic camera technologies that can take images that clearly identify offenders. Alternatively, police officers could consider anonymously targeting vehicles repeatedly subject to speed camera infringements and Family Violence Scheme applications so that offenders can be apprehended directly by police and then identified with certainty.

### ***11. Driver nomination periods be extended***

Persons issued with an infringement for driving offences can usually nominate another driver as the person responsible for committing the infringement offence.<sup>4</sup>

For many offences under the *Road Safety Act 1986* (RSA), the registered owner of a vehicle is deemed liable for an offence<sup>5</sup> unless they nominate the driver responsible by submitting a prescribed nomination statement to the Traffic Camera Office (TCO) of Victoria Police. Once a fine progresses to the Notice of Final Demand stage, nominating another driver is no longer an option

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<sup>3</sup> State of Victoria, Royal Commission into Family Violence: Summary and Recommendations, Parl Paper No 132 (2014–16), Vol IV, p120.

<sup>4</sup> S84 RSA

<sup>5</sup> See pt 6AA RSA

and the recipient of the infringement notice is liable for the fine and demerit points may be applied to his/her licence.

PCLC is particularly concerned about the strict deadline that applies to offences often referred to as 'Excessive Speeding Infringements' (ESIs). S89A of the RSA provides that a traffic infringement notice issued for an ESI (as well as drink and drug driving infringement offences) takes effect as a conviction for the offence 28 days after the date of the notice unless the recipient of the notice elects to have the matter determined by a court or makes a valid nomination statement.

Once the 28 day nomination period has expired, the only review options available are the usual grounds for enforcement review specified in the *Fines Reform Act 2014* which may not be relevant. There may be good reason for a person not nominating another person as the person liable for an offence within time. Further, there are circumstances (ie family violence situations) in which a person may put themselves at risk of harm by nominating another person. (Francois' story)

#### Francois' story

Francois is 21 years of age and is from a CALD background. His brother fraudulently used Francois' identity documents (a learners permit) to purchase a motor vehicle and register it in his name. The brother then used the car in the commission of various crimes and also incurred various toll road infringements. PCLC has assisted the client in making applications to have almost all of the fines revoked. In a complicated twist, however, the previous owner of the vehicle (who was known to the brother) nominated Francois for an ESI. Francois only sought legal advice after the 28 day nomination period had expired. The client was not aware of the strict deadlines regarding nominations and rejection of nominations and was otherwise afraid of potential retaliation by his violent brother and his associates. The client has evidence that he could not have been the offending driver and PCLC is now advocating for the client with local police who are aware of the brother's criminal behaviour. As the matter stands, however, Francois is liable to significant penalties, including the cancellation of his learners permit, an ongoing criminal record and no formal rights of review.

PCLC has encountered clients who have had their Nomination Statements rejected by the TCO due to errors or omissions in completing the form. In one case, the person had failed to properly date the nomination form and the nomination was rejected. Consequently, the client was automatically convicted of an ESI offence and due to the expiration of the 28 day time limit, lost their opportunity to successfully nominate the person actually responsible for the offence. This offence will now appear on the client's criminal record in perpetuity.

For these reasons, PCLC recommends the 28 day time-limit for ESIs be extended to 60 days.

### ***12. Private toll debts be removed from the fines system and be recovered by private toll road operators***

PCLC supports recent legislative changes that effectively limit the frequency of unauthorised toll road use offences from one per day to one per week. Despite this improvement, the legal centre remains concerned that the state government continues to act, ultimately, as debt collector for private toll road operators (TROs).

*Unpaid toll fines*

In a shift generally welcomed by CLCs, TROs are coming to understand the enormous impact of toll fines on vulnerable people and are now working constructively with CLCs to find ways of improving their hardship policies and to assist people before their tolls transition into fines. Unfortunately, however, hardship is often difficult to identify early in the process and once matters are referred to Fines Victoria there is currently no mechanism for TROs to 'claw back' these infringements. This means that vulnerable people are limited to the usual review processes (and the WDP scheme) in dealing with their fines.

One pertinent and common example is when the registered user of a vehicle is reluctant to nominate the actual driver of a vehicle for fear of family violence repercussions.

PCLC believes a fairer, less punitive approach would be to amend the Fines Reform Act to allow TROs, once satisfied hardship exists, to recall relevant toll infringements from Fines Victoria at any stage during the enforcement process. The TRO can then work with toll road users to find appropriate solutions having considered the person's individual circumstances.