Remake of Victorian Civil and Administrative Tribunal fees

We welcome the opportunity to provide feedback on the remake of the Victorian Civil and Administrative Tribunal (**VCAT**) fees. This is a key area of reform for the community legal sector in Victoria which regularly advises and represents clients before VCAT in diverse areas. This includes matters relating to residential tenancies, the Disability Act, goods and services, equal opportunity, mental health and financial assistance scheme (**FAS**) for victims of crime.

This submission will focus on the proposed fee structure, new fees, and increase in cost recovery. We recommend:

- extending the concessional rate to seniors health care card holders
- consulting further with providers on the proposed new fees for conferencing, mediation and practice and directions hearings, and staging any rollout to monitor its impact on access to justice.

We also raise concerns about a focus on increasing cost recovery, and would therefore support Option 2 over Option 3.

About the Federation

The Federation of Community Legal Centres (Vic) is the peak body for Victoria's 50 community legal centres (**CLCs**). Our members are at the forefront of helping those facing economic, cultural or social disadvantage and whose life circumstances are severely affected by their legal problem.

For more than 50 years, CLCs have been part of a powerful movement for social change, reshaping how people access justice, creating stronger more equitable laws, and more accountable government and democracy. We want a community that is fair, inclusive and thriving: where every person belongs and can learn, grow, heal, participate and be heard.

Proposed fee structure

The Federation strongly supports the principle that VCAT fees should be structured to enable access to justice, including through concessions for people unable to access fee waivers. As the regulatory impact statement (**RIS**) recognises, there are gaps in the current fee waiver structure and there are a significant number of people who are experiencing financial hardship who do not qualify for fee waivers because they are not represented by a CLC, Victoria Legal Aid (**VLA**) or another recognised provider. There are many reasons CLCs, VLA and other recognised providers cannot take on cases for people who require concessions to access justice.

We support the proposals in options 2 and 3 to expand the availability of concession fees, including increasing eligibility to pensioner concession card holders and veterans' affairs gold card holders (in addition to the existing category of health care card holders). While the definition for concession card in proposed Regulation 5 is an improvement from the current regulations, it still excludes some concession cards, such as the means-tested senior health care card. We recommend that eligibility to concession fees is extended to senior health care cards holders; a

more inclusive definition which aligns with the definition in section 6A of the *Social Security Act 1991* (Cth).

The Federation also strongly supports the proposed fee waiver for victims of crimes applying for review of FAS decisions for the reasons outlined in the RIS, in addition to the continuation of automatic fee waivers for clients of CLCs, VLA and other providers.

The Federation also acknowledges that the structure of commencement fees already reflects the need for access to justice in certain areas, such as housing, family violence, human rights and discrimination, and that in these areas the proposals largely would reduce fees in the areas CLCs often work in.

Proposal for new fees

We express concern, however, that these welcome changes could be offset by the introduction of new fees for compulsory conferencing and mediation, directions hearings and practice day hearings, and injunctions and stays. While we welcome the fact that fees for compulsory conferences or mediation will not apply to people with fee waivers, but as the RIS itself recognises, there are gaps in the fee waiver structure.

It is not easy from the RIS to clearly understand what this impact is likely to be on people who face barriers in accessing justice, and it would have been helpful to have more data (for example, on the current number of hearings in different areas and on the usage of dispute resolution mechanisms) to understand the likely cumulative impact of these changes.

While the RIS indicates that new fees for conferencing and mediation will still be lower than for hearings, thereby encouraging alternative dispute resolution, this fails to recognise that for many people the choice may not be between mediation and a hearing, but rather the choice between taking a case to VCAT or not.

If this proposal is taken forward, we recommend further consulting with CLCs and other providers on the likely impact of these changes, and considering a staged rollout that will allow VCAT to monitor the impact of the fees more closely.

Proposed increase in cost recovery

The Federation recognises that there are significant challenges associated with the under-funding of VCAT, and that resource constraints on VCAT have real impacts on access to justice for CLC clients.

However, we express concern that the focus on increasing cost recovery in Option 3 fails to recognise that VCAT was established for the purpose of providing accessible justice to all Victorians, and that increasing barriers to VCAT will often have flow-on costs both to people and to other government or government-funded services that are not adequately captured in the RIS. For example, if a person cannot resolve a housing dispute fairly and quickly, this often impacts every other area of their lives – their employment, their access to healthcare, their ability to care

for their children. Disputes that are not resolved do not go away, but rather manifest themselves in other areas and all too often escalate, requiring more expensive interventions later on.[1]

We are concerned that an increase in cost recovery, especially during a cost of living crisis, will effectively deny people access to justice. We would therefore support Option 2 in preference to Option 3.

For more information, please contact:

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[1] Victoria Law Foundation, *PULS Volume 1: Everyday Problems and Legal Need* (Report summary, June 2025) <https://cdn.prod.website-files.com/64e6d2582dd4319151be6a26/68535e322f0bca4c49d36079_Summary---PULS-Vol-1---Everyday-Problems-and-Legal-Need.pdf>.