

## Fines and Traffic Law Working Group Report to NLAF Third Quarter – August 2018

The working group met on 15<sup>th</sup> August 2018.

Below is a summary of the key issues discussed.

### **Driver Disqualification Reform Implementation update**

The Legal Aid NSW Driver Reform Implementation Team is continuing with activities to educate both the general community and legal practitioners in the Driver Licence Disqualification Removal Scheme that commenced in October 2017. The Team, along with Legal Aid and CLSD partners, attends outreach and community legal education events across regional and remote NSW to promote the reforms and to advise and assist potential applicants under the scheme. The Team can assist clients upon referral and often are able to do so remotely. This provides an avenue for advice and assistance for people who live regionally and do not reside close to a Legal Aid NSW office. Under new Legal Aid policy coinciding with the introduction of the reforms, provided a person is eligible to apply under the scheme and eligible under the Legal Aid NSW means test, they will be eligible for legal representation on a duty basis when their application is heard.

Upon a successful application under the new scheme, all existing disqualifications (with the exception of *mandatory interlock orders*) will be removed immediately. So long as there are no other impediments to being issued with a drivers licence, the day after the order removing disqualifications is made, a successful applicant may make an application for a driving licence. Any person who obtains a provisional licence after a period of licence disqualification will be subject to an additional passenger restriction condition. This additional condition restricts the driver from carrying any more than one passenger for the first 12 months. This restriction applies 24 hours a day and regardless of the age of the passenger. This additional condition applies regardless of whether the provisional licence is issued after disqualifications were served in full or after they were removed under section 221B of the *Road Transport Act 2013*. The FTLWG is concerned that this restriction will result in compounding the incidence of fines being issued to new drivers who are unaware of the restriction. Members questioned whether the Roads and Maritime Service is informing new drivers of this restrictions on their licence, and will report back to the next meeting on whether or not the RMS is averting new drivers to this requirement.

### **Bicycle Fines update**

Members of the FTLWG prepared a letter to the Minister of Roads, Maritime and Freight raising concerns about the disproportionate impact of fines on young people. The Minister asked Kevin Anderson, Parliamentary Secretary for Regional Roads, Maritime and Transport to respond on her behalf. The response notes that the government does not have any current plans to scale cycling offence fines. The letter in reply notes that the Transport for NSW's Centre for Road Safety's review of cycling penalties was developed with input from the Justice cluster. The letter states individual police officers, when issuing penalty notices, are bound by a framework, and cites the Caution Guidelines under the *Fines Act 1996*.

The FTLWG highlighted that, although the Justice cluster was consulted, there was no input in the review from NLAF FTLWG members. The review did not consult with Legal Aid NSW or NGO Justice partners such as the Aboriginal Legal Service or Community Legal Centres such as Shopfront Legal Centre. The Members noted that the Caution Guidelines do not apply to NSW Police, and that the

Parliamentary Secretary's reply does not address the working group's concerns. The NLAFTWG will prepare a reply to the Parliamentary Secretary's letter, noting that consultations with NGO Justice agencies and Legal Aid NSW did not occur. In the response, FTLWG will include the research from Dr Julia Quilter on the disproportionate impact of fines on young people and in Aboriginal communities, and of the prevalence of bike fines in particular communities.

### **Sentencing Council**

The Policy Manager of the Law Reform and Sentencing Secretariat of the Department of Justice spoke to the FTLWG about the terms of reference of an upcoming review into recidivist traffic offenders who may pose an ongoing risk to the community. The aim of the review is to promote road safety and to focus on offending behavior and sentencing where there is an ongoing risk to the community. The focus of the Inquiry is on offences that cause death and/or serious injury. Members provided their views on the four focus questions which were tabled by the Secretariat for discussion. The Sentencing Council will release their discussion paper at the end of September. FTLWG will provide a submission before the end of the year.

The next FTLWG meeting will be held on Wednesday 7<sup>th</sup> November 2018.

### **Paula Novotna**

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