

## NLAF Fines and Traffic Law Working Group Report

The Fines and Traffic Law Working Group (FTLWG) met on 14 August 2019.

### Bicycle Fines

Dr Julia Quilter, Associate Professor, School of Law, University of Wollongong gave a presentation to the FTLWG on her bicycle fines research project. The project aims to:

1. Understand how, when and why bicycle fines are imposed by police
2. Evaluate the impacts of bicycle fines on individuals
3. Assess whether there are punitive effects that are disproportionate to the offending

Australia was the first country to introduce mandatory helmet laws in response to safety concerns for children. The offence of riding a bicycle without an approved helmet was introduced in NSW in 1991. It is most commonly dealt with by way of penalty notice. In March 2016, the fine amount for riding a bike without a helmet was raised from \$71 to \$325. With annual indexation, the fine for this offence is currently \$344. NSW now has some of the highest fines for cycling offences in the world.

Revenue NSW data indicates that mandatory helmet laws are heavily enforced with nearly 33,000 penalty notices issued in 7 years equating to \$7.5 million in debt. Enforcement appears to be uneven across NSW with 12 LGAs accounting for nearly half of all penalty notices. There is geographic disparity in the number of penalty notices issued, concentrated in locations such as Blacktown, Cowra, Kempsey and Walgett. Early findings suggest that these fines may be disproportionately impacting young people and Aboriginal communities.

Dr Quilter's research indicates that the issuing of bike helmet fines may lead to the exercise of other police powers, particularly searches. This can have escalation effects leading to more serious charges for goods in custody, drug possession offences, assault police and offensive language. Further concerns arise where the issuing of the fine is used to give bail warnings.

Dr Quilter is interviewing lawyers, field officers and other advocates representing clients (particularly young people) who have received fines for riding without a helmet and other allied offences eg. riding on the footpath. Ethics approval has been obtained.

The quantum and impact of bicycle fines, and related policing practices, are a priority issue for the FTLWG. We will continue to engage with Dr Quilter on this project.

### Fines Amendment Bill 2019

The FTLWG discussed the Fines Amendment Bill introduced into Parliament on Wednesday 31 July 2019. The proposed amendments to the *Fines Act 1996* and *Road Transport Act 2013* were informed by the Fairer Penalty Notice System (FPNS) review in 2018. The FTLWG was consulted for this review.

The amendments include: expanding the digital delivery of fines to include SMS and email (with consent); allowing people to nominate themselves as responsible drivers for traffic fines; allowing overpayments to be reallocated to other penalty notices and enforcement orders (except where the client is a low income earner or uses Centrepay); extending the circumstances in which people can

seek further time to pay; making payment plans available once a penalty notice has been issued without waiting for it to proceed to enforcement; and allowing internal review at any stage, even after enforcement commences.

The FTLWG supported the proposed amendments, noting however that some recommendations of the FPNS review were not included in the Bill e.g. enhancements to the Work and Development Order Scheme.

### **WDO Scheme performance 2018/19**

The Work and Development Order (WDO) Scheme is delivered by Revenue NSW, Department of Communities and Justice and Legal Aid NSW. It assists vulnerable people to clear fines debt by undertaking approved activities or treatment programs.

Revenue NSW presented WDO scheme performance data for 2019/20. Highlights include:

- \$43 million debt resolved (\$167 million in total)
- 32,214 WDOs approved (135,665 in total)
- 390 new sponsors approved (2114 in total)
- Most common ground of eligibility was acute economic hardship (38%) followed by mental illness (27%) and serious addiction to drugs, alcohol or volatile substances (27%)
- Most common WDO activity was drug or alcohol treatment (29%) followed by medical or mental health treatment (26%) or educational, vocational or life skills programs (23%)
- 25% of participants were under 25
- 21% of participants were Aboriginal or Torres Strait Islander
- 15% of participants were from a culturally or linguistically diverse background

The WDO Annual Report 2018/19 will be published shortly.

### **Prisoners and Identification Subcommittee**

The Prisoners and Identification subcommittee chaired by Julianne Evans (Revenue NSW) met on 8 August. The subcommittee was established to assist inmates of NSW Correctional Centres to obtain identification documents such as birth certificates prior to release. Identification supports reintegration into the community by enabling access to benefits, services and a drivers licence.

The Registrar of Births Deaths and Marriages has requested information on the number of free or discounted birth certificates provided to prisoners by government bodies. It is estimated that approximately 3000 birth certificates are organised annually by agencies such as Juvenile Justice, Corrective Services and Legal Aid NSW.

The Register has agreed to consider the viability of approving free birth certificates to vulnerable prisoners. Eligibility criteria are to be determined.

Next meeting: 6 November 2019

### **Meredith Osborne**

Chair, Fines & Traffic Law Working Group