

Fines and Traffic Law Working Group Report Quarter 1 | January to March 2022

1. Meeting of the Fines and Traffic Law Working Group (FTLWG)

The Fines and Traffic Law Working Group met on 23 February 2022.

2. Public Health Order (PHO) Fines presentation (Sam Lee, RLC)

Public Health Order fines have been flagged as a priority for this group for 2021-22. Outreach and advocacy for legal services remain limited and as these fines are now overdue the impact on clients in hardship increases.

The presentation by Redfern Legal Centre provided Government data on PHO fines for the period July 2020 to October 2021, highlighting:

- that very few applications for internal review of PHO fines have been successful. These applications have resulted in only 6% of penalties being withdrawn. As of October 2021, there were a substantial number (around 3,000) still pending assessment.
- many PHO fines remain unpaid and have gone into enforcement. From over 50,000 fines issued more than one (1) in three (3) around 18,000 in total remain unpaid, with 99% of these in the process of being escalated to enforcement.

Further data obtained from NSW Police relating to PHO fines issued to children, showed that in the same period there were around 3,000 fines totalling \$2.1 million issued to children aged 10-17. Of these, 17 fines issued for \$5000, 39 for \$3000 and around 1700 for \$1000, the remainder being for fines for not wear mask etc which are of a lower dollar value. Alarming, these fines issued exceed the jurisdictional penalty limits that exist in the NSW Children's Court. This was an aspect taken into consideration by Victoria where fines for children were capped, based on the Young Offenders Act.

Geographic data was then provided and notably the areas with a higher percentage of Aboriginal population and socio-economic disadvantage, were much higher in the ratio of fines issued against population, than other suburbs. These areas include Walgett, Brewarrina, Wilcannia, Coonamble, and Bourke which were in the top five (5). Mount Druitt was also high with 24 fines per 1000 population compared to the state average of 6 fines per 1000.

A number of contributing factors were outlined including housing stress, however what remained prevalent was:

- That the fine amounts are not means tested, so disproportionately impact those on lower incomes and become a punishment for the poor, notwithstanding the offence does not differ for those with financial capacity.
- The complexity of the fines, they were not strict liability offences and the Issuing Authorities needed to navigate complex terms in a rapid changing environment.
- As mentioned, the impact on young people with no cap applied on the fine amounts.
- Limited hardship options

3. **Aboriginal Legal Service – PHO fines response** (Lauren Stefano, ALS)

The Aboriginal Legal Service also spoke to these issues and the prevalence of Aboriginal clients with PHO fines coming through the court system without legal advice, to try and resolve the debt, believing it was their only option for leniency. This potentially leaves them exposed to a larger fine, up to a maximum penalty of \$11k or six (6) months imprisonment, as well as a criminal record. ALS also confirmed the impacts on young people noting many of their clients were young people in out of home care (OOHC).

More recent data from Revenue NSW's website was also provided to 1 February 2022 showing that 60k PHO fines have been issued totalling just over \$55 million in fines debt. The distribution of this being overwhelmingly disproportionate in low socio-economic areas and areas with a significant population of Aboriginal People.

ALS also confirmed that the biggest challenge remains reaching clients with PHO fines and trying to ascertain an achievable way to manage these debts; noting the large amounts, the issuing of multiple fines in a short space of time and how the impact of large debts diminishes any prospects of these clients actively engaging in realistic debt reduction.

4. **Fairer Fines Update** (Revenue NSW)

Revenue NSW reported on the period June 2021 to February 2022 showing the 50% reduction being applied to 188 fines against 588 applications. A significantly low proportion compared to the number of fines issued each year.

Revenue NSW has confirmed that one recommendation from the review of the Ministerial Guidelines has been approved to date, being the expansion of the timeframe to apply for the 50% reduction to include overdue fines.

5. **Work and Development Orders** (Department of Communities and Justice, Revenue NSW and Legal Aid NSW)

The Department of Communities and Justice reported there was still no update on the amendments to the WDO Guidelines and they were currently with the Attorney General's Office.

Revenue advised that communications has been sent to affected sponsors advising them of the interjurisdictional operation of the WDO Scheme is not authorised under the *Fines Act* and how they intend to manage existing WDOs. It was noted the WDO Governance Group is pursuing legislative amendment to allow interstate participation in the WDO Scheme.

The WDO Governance Group are establishing a Sponsor Operations Advisory Group (SOAG) and they are in the process of finalising the Terms of Reference. The purpose of the SOAG is to provide feedback to the Governance Group regarding on the ground experiences of sponsors and stakeholders referring into the

WDO Scheme. The meetings will be held twice a year with the first in April. An expression of interest will be extended to members of the FTLWG.

Next meeting

The **next meeting** of the FTLWG is 11 May 2022.

Kirsty Harrison

A/Chair, Fines & Traffic Law Working Group

March 2022