

D25/112053

Ms Marian Chapman
Deputy Secretary, Courts, Civil and Criminal Law
Department of Justice and Community Safety
121 Exhibition Street
MELBOURNE VIC 3000

27 November 2025

Dear Ms Chapman

REGULATORY IMPACT STATEMENT FOR THE VICTORIAN CIVIL AND ADMINISTRATIVE (FEES) REGULATIONS 2026

I would like to thank your staff at the Department of Justice and Community Safety (the Department) for working with the team at Better Regulation Victoria to prepare a Regulatory Impact Statement (RIS) for the proposed Victorian Civil and Administrative (Fees) Regulations 2026 (the proposed Regulations).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received on 26 November 2025 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background and Problems

Within Victoria's justice system, the Victorian Civil and Administrative Tribunal (VCAT) operates as an independent body aimed at dispute resolution. Within the Victorian court hierarchy, VCAT sits below the Magistrates', County, and Supreme Courts, and operates as a less-formal dispute resolution body intended to provide quicker and more cost-effective conflict resolution. VCAT makes legally binding rulings related to over 150 pieces of Victorian legislation, covering legal practice, review and regulations, civil claims, building and property, owners corporations, guardianship, human rights, planning and environment, and residential tenancies.

VCAT is established under the *Victorian Civil and Administrative Tribunal Act 1998*, which also enables the making of regulations to set fees for hearings or lodgement of matters at VCAT. VCAT fees are currently set in the Victorian Civil and Administrative Tribunal (Fees) Regulations 2016 (the current Regulations), which sunset on 28 June 2026. The Department explains that if fee regulations are not remade, VCAT will no longer be able to charge fees. Therefore, the costs of operating VCAT, which are currently recovered from fees, would need to be fully sourced from general tax revenue.

The Department argues that, in the absence of lodgement and/or hearing fees, VCAT would also experience increased demand for its services. This is because, unlike other cheaper dispute resolution services such as the Victorian Ombudsman, VCAT has the ability to make legally binding decisions. This power, which directly benefits its users and not taxpayers more broadly, makes VCAT's services a more attractive avenue of dispute resolution. Therefore, the Department argues, fees should remain in place so to incentivise the efficient usage of VCAT's services, and to ensure that costs are borne by those who benefit most from them.

The Department explains that cost recovery through fees has significantly decreased since the current Regulations were made, with the current Regulations recovering 6 per cent of costs in 2024–25. The Department explains that lower cost recovery has strained VCAT's operational capability and has made VCAT reliant on other sources of Government funding to maintain its level of service.

The Department also explains that there are currently three fee categories (or bands), which are intended to account for the ability to pay of VCAT's users, and to strike an appropriate balance between the efficient use of VCAT's services and ensuring access to justice. These bands are the:

- corporate fee band
- standard fee band. Fees for these users are currently set at 70 per cent of corporate user fees
- concession fee band. Fees for these users are currently set at 35 per cent of corporate user fees.

Options

In the RIS, the Department considers three options to enable VCAT to collect fees, which are assessed against a base case of the current fees expiring.

- **Option 1 – Continue with Current Fees and Structure.** This option remakes the current Regulations and achieves approximately 6 per cent cost recovery.
- **Option 2 – Introduce a New Fee Structure but maintains the existing fee rates.** This option maintains existing fee rates (and the level of cost recovery as per Option 1) but proposes several structural changes to enhance access to justice by vulnerable groups, such as concession card holders and small businesses with low annual turnover. The structural changes proposed include:

- expanding eligibility for the concession fee tier from 80,000 users to 700,000 users
 - raising the corporate fee tier's minimum annual turnover for small businesses from \$200,000 to \$300,000
 - decreasing the relative fee for the concession and standard tiers (from 35 per cent to 11 per cent, and from 70 per cent to 33 per cent respectively)
 - introducing fees for compulsory conferences, mediations, non-urgent injunctions and certain hearings.
- **Option 3 – Introduce a New Fee Structure and Increased Fee Rates.** The fee structure is amended as per Option 2, however fee rates are increased to achieve 11 per cent cost recovery.

Specific fees proposed under Options 1-3 are contained in Appendices A-C in the RIS.

Impact Analysis

The Department uses multi-criteria analysis (MCA) to analyse the options. The Department uses four criteria in the MCA, which are **fiscal sustainability** (weighted at 35 per cent), **equity** (weighted at 40 per cent), **efficiency** (weighted at 15 per cent) and **simplicity** (weighted at 10 per cent).

Option 3 scores highest overall in the MCA and is the Department's preferred option.

The Department explains that all three options are preferable to the base case in supporting **fiscal sustainability**, as they ensure that VCAT can collect revenue through fees. The Department explains that while Options 1 and 2 set out that VCAT will continue to collect the same level of revenue as current levels, Option 3 delivers VCAT a higher level of revenue. As such, the Department assesses that Option 3 performs better than the base case, and Options 1 and 2.

The Department explains that the **equity** assesses factors such as the number of concession card holders that are eligible for the concession fee tier and the proportion of businesses eligible for the standard fee tier. The Department explains that the structural changes proposed under Options 2 and 3 allow more Victorians to access the concession fee tier, a larger proportion of businesses to access the standard fee tier, and decreases relative fees for individuals and small business. As such, the Department assesses that Options 2 and 3 perform equally well, and perform better than Option 1.

The Department explains that **efficiency** assesses whether corporate payers cross-subsidise other different fee payers. The Department argues that, as standard and concession fees are set as a percentage of corporate fees, a higher proportion of fee revenue collected from corporate fee payers indicates a higher level of cross-subsidisation between corporate users and other users. The Department indicates that Option 3 increases revenue collected from corporate users from 43 per cent to 53 per cent. Therefore, this cross-subsidisation means Option 3 scores the lowest for efficiency.

The Department explains that in the base case, where there are no fees at all, each option will receive a negative score for **simplicity** given a fee structure would exist. As Option 1 maintains the structure of the current Regulations, the Department explains that the new fee structure under Options 2 and 3 would be less simple to understand than Option 1, due to additional eligibility criteria for the concession tier and additional automatic waivers.

The Department explains that Option 3 is expected to raise **\$11.5 million in annual fee revenue**, and that increasing cost recovery from 6 per cent to 11 per cent represents an annual fee revenue increase of \$5.1 million. In the RIS, the Department explains the structural and fee level changes will result in a **slight increase in the proportion of revenue collected from concession users** (as significantly more users are eligible for concession fees), a **decrease in the proportion of revenue collected from standard users** and an **increase in the proportion of revenue collected from corporate users**.

Appendix F of the RIS summarises the fee differences across the three tiers between the current and proposed Regulations.

Implementation and Evaluation

The Department explains that the proposed Regulations will take effect before the current Regulations sunset on 28 June 2026, and that VCAT will inform the public of these changes through its website and through stakeholder engagement channels.

The Department commits to completing a mid-term evaluation of the proposed Regulations in 2031. This evaluation will assess the revised fee structure against its objectives, including whether the revised cost structure maintains adequate levels of cost recovery and ensures access to justice for all Victorians. The Department explains it will rely on data collected from VCAT relating to application volume, fee band distributions, case outcomes and processing times to carry out these evaluations.

In 2022, the Department committed to a mid-term evaluation of the Guardianship and Administration (Fees) Regulations 2022. In the RIS, the Department outlines that a summary of this review will be provided through the Statement of Reasons that will be published before the Department makes the proposed Regulations.

Should your team wish to discuss any issues raised in this letter, please do not hesitate to contact Better Regulation Victoria on (03) 7005 9772.

Yours sincerely



Katrina McKenzie

Commissioner for Better Regulation