

27 February 2026

## Submission: Remake of Victorian Civil and Administrative Tribunal fees

### About us

[Council on the Ageing \(COTA\) Victoria](#) is the leading not-for-profit organisation representing the interests and rights of people aged over 50 in Victoria. Celebrating 75 years of service in 2026, we have led government, corporate and community thinking about the positive aspects of ageing in the state.

Today, our focus is on promoting opportunities for and protecting the rights of people 50+. We value ageing and embrace its opportunities for personal growth, contribution, and self-expression. This belief brings benefits to the nation and its states alongside communities, families, and individuals.

[Seniors Rights Victoria \(SRV\)](#) is the key state-wide service dedicated to advancing the rights of older people and the early intervention into, or prevention of, elder abuse in our community.

SRV has a team of experienced advocates, lawyers, and social workers who provide free information, advice, referral, legal advice, legal casework, and support to older people who are either at risk of or are experiencing elder abuse. SRV supports and empowers older people through the provision of legal advice directly to the older person.

### Overview of the proposed options

The Department of Justice and Community Safety has proposed three options for remaking the VCAT fee Regulations:

- **Option 1:** Retain the current fee structure and rates (approximately 6% cost recovery).
- **Option 2:** Introduce a new fee structure that maintains current cost recovery while enhancing access to justice for vulnerable users, including concession card holders and small businesses with low turnover.
- **Option 3:** Adopt the Option 2 structure with increased fee rates to achieve approximately 11% cost recovery.

## Our position

We support Option 3, the government's preferred option, subject to the incorporation of additional safeguards to ensure that vulnerable older Victorians are not deterred or excluded from accessing VCAT in practice.

We acknowledge that Option 3 contains genuine and significant improvements for older Victorians, including the expansion of concession fee eligibility to pensioner concession card holders and Veterans' Affairs Gold Card holders, and the reduction of the concession fee payer's share of tribunal costs from 35% to 11%. These are meaningful steps forward that we welcome.

However, we consider that without further refinement, the proposed Regulations may remain insufficient to address the risks outlined below for older people experiencing vulnerability and cumulative disadvantage. Our recommendations are directed at strengthening Option 3, not at replacing it.

## Key considerations

### 1. Positive features of the proposed regulations that should be preserved

Before identifying areas for improvement, we wish to acknowledge the following features of the proposed Regulations that directly benefit older Victorians and should be explicitly preserved in the remade instrument:

- Proceedings under the Guardianship and Administration Act 2019 and the Powers of Attorney Act 2014 attract no fee for any fee payer. These are among the most significant jurisdictions for older Victorians experiencing vulnerability, cognitive decline, or elder abuse. This protection is critical and must be maintained.
- Proceedings in the residential tenancies division that arise in the context of family violence are subject to automatic fee waiver. This is an important protection that we welcome.
- The expansion of concession fee eligibility to pensioner concession card holders and Veterans' Affairs Gold Card holders represents a significant improvement on the current position, under which only Health Care Card holders qualified for concession rates.
- The reduction of the concession fee payer's share from 35% to 11% of tribunal costs substantially improves affordability for eligible older Victorians.
- Proceedings under the Aged Care Restrictive Practices Substitute Decision-maker Act 2024 are exempt from commencement fees, reflecting the vulnerability of people subject to those proceedings.

## 2. Disproportionate impact on vulnerable older Victorians

Vulnerable older people are more likely to live on fixed or very low incomes, experience disability or cognitive impairment, and face intersecting disadvantages such as language barriers, social isolation, or family violence. Even after the improvements in Option 3, fee settings and fee relief processes can create a material risk of deterrence for this cohort.

Fee settings should therefore be assessed through an equity and vulnerability lens, not solely on aggregate cost-recovery outcomes. Regulations that appear neutral in design may, in practice, have a disproportionate and exclusionary impact on older people experiencing cumulative disadvantage. Critically, this form of exclusion is likely to be invisible in VCAT's data, as deterred applicants do not appear in fee waiver statistics because they never apply.

## 3. Financial abuse and loss of financial control

Many older clients of SRV experience financial abuse, coercive control, or loss of access to their own funds. This can occur even where a person technically owns assets such as a home but is cash-poor or has their finances controlled by another person.

Fee relief criteria that rely primarily on income, assets, or concession card status risk excluding these clients. In practice, discretionary hardship assessments often continue to place significant weight on formal access to assets, which does not reflect the realities of financial abuse or coercive control.

We note that Regulation 13(1)(f) of the proposed Regulations preserves a broad discretion for the principal registrar to reduce or waive fees where there are "special reasons". This is a valuable provision. However, its utility depends on older Victorians and the professionals supporting them being aware of it, and on decision-makers exercising it consistently and with an understanding of elder abuse dynamics.

### **We recommend that:**

- Financial abuse and loss of financial control be explicitly recognised as standalone grounds for fee waiver or reduction under Regulation 13, rather than relying solely on the general "special reasons" discretion.
- Guidance material accompanies the remade Regulations explaining how the special reasons discretion applies to elder abuse situations, for both applicants and decision-makers.
- Decision-makers retain and actively exercise broad discretion to waive fees where payment would exacerbate harm, delay protective action, or undermine the safety of the applicant.

#### 4. Accessibility and usability of fee relief mechanisms

The fee relief process requires applicants to demonstrate eligibility and, in some cases, to provide a summary of their personal financial situation. For older people experiencing cognitive impairment, trauma, social isolation, or language barriers, this process can itself constitute a barrier to justice irrespective of whether they would ultimately qualify.

We are concerned about the scope of the automatic family violence fee waiver in Regulation 13(1)(d) (“special reasons”). While this waiver is valuable, it applies only to proceedings in the residential tenancies division. Older Victorians who are victims of elder financial abuse and who need to bring civil claims or other proceedings outside the tenancies division, for example, under the Property Law Act 1958, are not covered by this automatic waiver and must instead rely on the general hardship discretion.

##### **We recommend that:**

- Fee relief processes be simple, timely, and trauma-informed, with plain-language guidance developed in consultation with community legal centres and specialist elder abuse services.
- The automatic fee waiver for family violence matters be extended beyond the residential tenancies division to cover all VCAT proceedings where the applicant is a victim of family violence or elder abuse.
- Presumptive or automatic fee relief be introduced for certain elder-abuse-related or protective application types, to remove the need for vulnerable individuals to self-identify or navigate administrative processes at a time of crisis.

#### 5. Concession coverage gaps

While the expansion of concession fee eligibility to pensioner concession card holders is a significant and welcome improvement, important gaps remain. Holders of a Commonwealth Seniors Health Card, issued by Services Australia to self-funded retirees who do not qualify for the age pension, are not included in the definition of "concession fee payer" under the proposed Regulations. This card is specifically designed to reflect limited capacity to pay among older Australians who are asset-rich but income-poor, and its exclusion creates an anomaly that directly affects older Victorians.

Other gaps include recent retirees who have not yet established concession card entitlements, some migrants, and people who fall just outside existing eligibility thresholds.

**We recommend that:**

- The Commonwealth Seniors Health Card be included in the definition of "concession fee payer", consistent with its recognition in other Commonwealth and state concession frameworks.
- Eligibility for fee relief extend beyond automatic concession card status to include broader hardship and vulnerability indicators, such as evidence of financial abuse, receipt of crisis services, or representation by a community legal centre.
- The Regulations avoid rigid eligibility thresholds that fail to reflect the diversity of lived experience among older Victorians.

**6. New fees for mediations and compulsory conferences**

The proposed Regulations introduce fees for compulsory conferences, mediations, and injunction applications, proceedings that do not currently attract fees. We are concerned about the impact of these new fees on older Victorians involved in protracted disputes, including elder abuse matters and disputes with retirement village operators.

Mediation and compulsory conferencing are frequently used as steps toward resolution in VCAT. Where an older person is subject to financial abuse or coercive control, their ability to meet fees at multiple stages of proceedings may be severely compromised. The prospect of ongoing fees at each step could discourage older Victorians from pursuing legitimate claims to resolution.

**We recommend that:**

- Fee waivers and concession rates available for commencement fees be automatically available for mediation and compulsory conference fees, without requiring a separate application.
- The cumulative impact of multi-stage fees on vulnerable applicants be monitored as part of any post-implementation review.

**7. Monitoring and review**

The access-to-justice impacts of the remade Regulations on vulnerable older Victorians are unlikely to be fully captured by quantitative data alone. Fee waiver approval rates and application numbers do not reflect the deterrence effect on people who never apply. There is also a risk that higher fees may shift costs onto community legal centres and specialist services as unresolved matters escalate.

**We recommend that:**

- Impacts on vulnerable cohorts be monitored using both quantitative data and qualitative evidence gathered from community legal centres and specialist services.
- A post-implementation review be conducted within two years of the remade Regulations taking effect, with findings reported publicly.

## Conclusion

VCAT plays a critical role in protecting the rights, safety, and autonomy of older Victorians, including in guardianship and administration matters, retirement village and residential tenancy disputes, and civil claims that directly affect their wellbeing and independence.

We support Option 3 as the government's preferred approach, and we acknowledge the genuine improvements it contains for older and vulnerable Victorians. We urge that these improvements be strengthened further, by:

- explicitly recognising financial abuse as a ground for fee waiver;
- extending the automatic family violence fee waiver beyond the residential tenancies division;
- including Commonwealth Seniors Health Card holders in the concession fee payer definition;
- ensuring new fees for mediations and conferences do not create additional barriers for vulnerable applicants; and
- committing to robust post-implementation monitoring that captures deterrence effects.

We welcome the opportunity to engage further on the design and implementation of the remade Regulations.

**For further information, contact:**

Marshida Kolthoff  
Policy & Advocacy Manager  
COTA Victoria and Seniors Rights Victoria  
[mkolthoff@cotavic.org.au](mailto:mkolthoff@cotavic.org.au)