

A guide to the family violence scheme

Fines Victoria



Justice
and Community
Safety

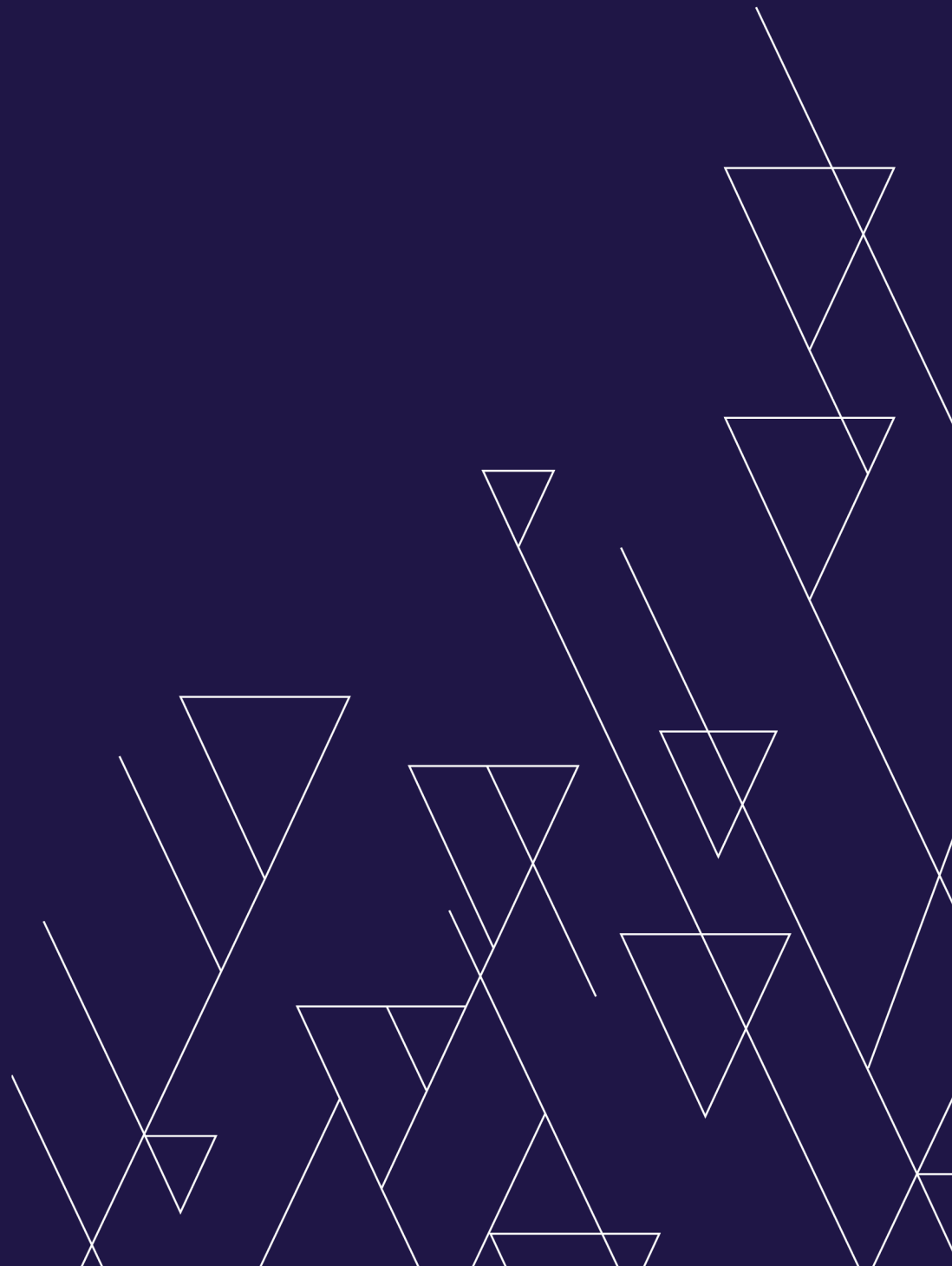




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1. What is the family violence scheme?

The **family violence scheme** (FVS) assists victim survivors of family violence¹ within the fines system. It is administered by Fines Victoria under part 2B of the *Fines Reform Act 2014*.

The scheme helps victim survivors with infringement fines where there is a link between their experience of family violence and the offence committed.

If an FVS application is successful, Fines Victoria will direct the enforcement agency that issued the infringement fine(s) to:

- withdraw the fine(s) and take no further action. Any demerit points associated with the fine(s) will also be withdrawn, or
- if this is what the applicant has requested, keep the fine(s) on hold so they can nominate the responsible person in the next six months.

If an FVS application is unsuccessful, the enforcement of the fine(s) will continue. The fine recipient will need to pay or take other action to deal with it.

A diagram of the fines lifecycle and your options at each stage, including the FVS is included in the appendix.

1.1 Who is this guide for?

This guide explains the purpose of the FVS, how to apply, how an application is determined, and the possible outcomes.

If you need help to understand your options or to apply, you should seek legal advice. Section 9 of this guide has a list of organisations that may be able provide you with advice and support.

This guide uses examples for illustrative purposes. These examples are indicative of the types of infringements and circumstances an FVS application could be made. They are high level only and are not intended to be a complete list.

2. Who can apply?

You can apply for the FVS if:

- you have received an infringement notice (a 'fine'), and
- you are a victim of family violence, and
- the family violence substantially contributed to you being unable to:
 - control the conduct for which you received the fine, or
 - nominate the driver that committed the offence in a car registered to you, or
 - reject a nomination for an infringement.

You can authorise a person to apply for the FVS on your behalf, for example, a lawyer, guardian, financial counsellor, friend or family member.

¹ The terms victim and victim survivor of family violence are used in this document. Where the reference relates to the legislative provisions for the FVS, the term victim of family violence is used to align more closely with the *Fines Reform Act 2014*.



3. When can you apply?

You **can** apply for FVS as soon as you have received an infringement notice.

You **cannot** apply if:

- you have **paid** your fine in full
- your fine is for:
 - drink-driving
 - drug-driving, or
 - excessive speed (which means speeding more than 25 km/h over the speed limit, or more than 130 km/h)
 - an offence against local council laws (other than parking fines)
- your fine was issued to a **company** (not an individual)
- your fine was issued by a **court**
- **court proceedings** have commenced or have been determined by a court
- a **sheriff's officer** has served you with a **seven-day notice** and seven days have passed, or you've waived the seven-day period
- the Director has made an **attachment of earnings** direction against you to deduct money from your salary
- the Director has made an **attachment of debts** direction against you to deduct money from your bank account, or other money that is owed to you
- the Director has recorded a **charge over land** that you own, or
- a Sheriff's officer has **seized your vehicle** under a vehicle seizure and sale notice.

4. How to apply?

The easiest way to apply is complete the FVS application form available at fines.vic.gov.au/fvs and attach any supporting documentation.

You can submit your application and supporting documents by:



Email

Fines Victoria
fvs@justice.vic.gov.au



By mail:

Fines Victoria
PO Box 14487
Melbourne Victoria 8001



In person

Fines Victoria
Ground Floor, 277 William Street
Melbourne, Victoria
Opening hours: 9am to 5pm
Monday to Friday (except public holidays)



5. What do you need to include in your application?

Your application must:

- be in writing
- provide your current address
- refer to the fine(s) to which your application relates
- explain why you think you are eligible for the FVS by showing:
 - that you are a victim of family violence, and
 - how family violence substantially contributed to you getting the fine
- provide evidence to support your application.

We understand that providing evidence of family violence can be distressing and difficult to obtain.

Please remember that you only need to provide enough information to show why you think you are eligible based on the criteria in [5.1](#) and [5.2](#). However, the Director needs sufficient information to determine whether you meet the eligibility criteria of the FVS.

Usually applicants do not need to provide lots of personal details of their relationship with the perpetrator, or all instances of family violence they have experienced.

We only need **information that is directly relevant to you incurring the fines**. If we need more information to determine your application, we will ask you for it.

You should only provide information that is true and correct in your application. It is an offence to knowingly provide false or misleading information as part of an application or supporting evidence provided with it. If you do, you could be liable for a penalty of more than \$1600.

5.1 Your application needs to show that you are a victim of family violence

You should include the following information:

- the time period when you experienced family violence
- your relationship to the perpetrator at the time of the family violence (for example, husband / wife / parent / child / ex-partner)
- the general nature of the family violence you experienced (for example, physical / financial / emotional).

You do not need to include a detailed history of your relationship or description of the violence, only enough to help us understand the nature of your experience, in as far it is relevant to you getting the fines.



What is family violence?

Family violence is behaviour by a person towards a family member that:

- is physically or sexually abusive
- is emotionally or psychologically abusive
- is economically abusive
- is threatening or coercive
- in any other way controls or dominates the family member and causes them to fear for their safety or wellbeing of that family member or another person, or
- causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to above.

Family violence can occur in current or past relationships, between domestic or intimate partners, siblings, across generations, regardless of whether you live with the perpetrator or not.

5.2 Your application needs to show how family violence substantially contributed to you getting the fine

You will need to explain how the family violence and getting the fine are linked.

The family violence does not need to be the only reason for your getting the fine. However, cases where family violence has contributed in a way that is less than substantial (for example, in only a minimal or nominal way) will not meet this criterion.

When the family violence occurred in relation to the fine may be a relevant factor depending on the circumstances of each case.

5.2.1 If you committed the act(s) that resulted in the fine

You need to show the link between the family violence and how it contributed in a considerable way to you being unable to control the behaviour that led to the infringement.

Your application should include information on:

- the particular action(s) or behaviour(s) that you were unable to control
- the particular situation(s) or circumstance(s) in which you were unable to control those action(s) or behaviour(s)
- how the family violence contributed in a real and significant way to your being unable to control those particular actions(s) or behaviour(s).

The information you provide may be different for each offence, or for each type of offence, for which you have received a fine.

The link between the family violence and the inability to control the behaviour must be a real and considerable one and be substantiated by evidence (see section 5.3 for further details of what to include in your application).



Examples

- overstaying in a parking spot while sleeping in a car because it was not safe at home
- speeding (less than 25 km/h over the speed limit) to get home because the perpetrator threatened to harm your child or pet if you arrived late
- forgetting to put on your seatbelt while escaping from an immediately dangerous family violence situation
- failing to vote because the perpetrator prevented you from leaving home, or because you forgot due to being distressed after a recent family violence incident
- driving on a toll road without a registered account because you did not know the account had lapsed as the perpetrator was controlling the finances and/or access to mail
- failing to purchase a train ticket due to the perpetrator controlling finances
- not realising you were committing an offence, because your anxiety / PTSD / trauma linked to your experience of family violence was triggered in that situation.

5.2.2 If someone else committed the act(s) that resulted in the fine

This relates to 'operator onus' **driving offences**, where the registered operator of a vehicle is responsible for offences involving that vehicle, unless they name ('nominate') another person that was driving the vehicle at the time of the offence.

You need to show how the family violence substantially contributed to your being unable to:

- nominate the person who drove the car registered to you, or
- reject a nomination made by a person stating that you drove the car.

Your application should include information on:

- the particular circumstances in which you were unable to make or reject a nomination, and
- how the family violence substantially contributed to your being unable to make or reject a nomination.

The link between the family violence and the inability to make the user statement must be a real and considerable one and be substantiated by evidence (see section 5.3 for further details of what to include in your application).

Examples

- the perpetrator of family violence was the driver and nominating them might result in further family violence
- the perpetrator fraudulently nominated you as the person responsible for the fine, but it was not safe to reject the nomination
- you could not nominate in time because you did not know about the fine(s) as the perpetrator was taking your mail.



5.3 Evidence to support your application

You should attach **at least one** supporting document to your application. This can be either:

- a document prepared by a relevant authority or professional, or
- a statutory declaration by you if you do not have any other relevant document.

If you are unable to provide the types of evidence suggested above, please contact the Fines Victoria FVS team to discuss your options via email (fvs@justice.vic.gov.au) or phone (1300 019 983).

Together, your application and the attached document(s) need to show how you meet the eligibility criteria set out in sections [5.1](#) and [5.2](#). This means that:

- your application form does not need to repeat information that is included in a supporting document
- your application can include added pages that cover the information that is not included in a supporting document

The type of information and supporting document(s) required depends on the basis on which you apply. This is because each application is considered on the facts and evidence relevant to the fine(s) included in the application, and the circumstances in which you got the fine(s).

For example, if your application is based on **mental health and substance abuse** issues linked to family violence, providing a report by a relevant professional is generally required.

The report might be from a psychologist, psychiatrist, a general practitioner, or from a drug and alcohol counsellor. It should explain how your mental health or substance abuse issues are linked to family violence, and how they significantly contributed to you getting the fine.

Providing a report when you first make your application may reduce the time it takes to determine your application.

For more information about reports by a relevant professional, see section [5.3.1](#).

5.3.1 Document prepared by a relevant authority or professional

If you already have, or can get, evidence prepared by a relevant authority or professional, you should attach it to your application.

This evidence may include all, or only some, of the information required to address the eligibility criteria. If it does not include all the information, your application should provide what is missing. If the evidence covers all the information set out in sections [5.1](#) and [5.2](#), you do not need to repeat it.

Further information about suitable evidence prepared by a relevant authority or professional is set out below.

Court order or notice issued by police

This can be, for example:

- a family violence intervention order (FVIO)
- a family violence safety notice (FVSN).

These documents usually confirm that you are a victim of family violence, but not how it substantially contributed to you getting the fine(s). If you attach this kind of document, your



application should explain how your experience of family violence substantially contributed to the fine (see [section 5.2](#) for details of this second eligibility criterion).

A report by a relevant professional

This can be a report, letter, or statement by:

- a lawyer
- a financial counsellor
- a case worker or social worker
- a family consultant or counsellor
- a psychologist
- a medical practitioner, a nurse, or other health practitioner
- a family violence practitioner from a family violence service (such as a women's refuge, or an outreach, crisis or counselling service)
- an officer of a child welfare authority or child protection authority
- a school principal or school welfare coordinator
- a police officer, or a witness statement by someone other than you to a police officer, in the course of a police investigation
- any other person that the Director, Fines Victoria considers to be appropriate (please contact Fines Victoria FVS team to discuss via email: fvs@justice.vic.gov.au or phone 1300 019 983).

If a professional is writing a report to support your FVS application, you should ask them to include:

- their full name, title, qualifications, and their employer
- an outline and period of their service's working relationship with you
- whether a family violence risk assessment and management plan (MARAM) has been completed with you
- their understanding and opinion of:
 - the period when you have experienced family violence
 - relevant ongoing impacts of the family violence, such as mental health or substance abuse issues
 - how the family violence substantially contributed to your inability to control the offending conduct, to nominate the actual driver, or to reject a nomination.

Generally, the report should be completed within the 12 months of you getting the fines or applying to the FVS.

5.3.2 A statutory declaration by you

If you cannot get a suitable document written by a relevant authority or professional, you can provide a statutory declaration instead.

The statutory declaration should explain how you meet the eligibility criteria, as set out in sections [5.1](#) and [5.2](#).

Your statutory declaration should be on the correct form and be signed in the presence of an authorised witness.

You can find further information on how to complete a statutory declaration at www.justice.vic.gov.au/statdecs, or from the Fines Victoria FVS team (email: fvs@justice.vic.gov.au or phone 1300 019 983).



6. We may request additional information

If your application and supporting evidence does not include enough information, we will ask you for additional information.

If we ask you for additional information, you must:

- provide it within 14 days, or
- ask for more time to provide it by emailing fvs@justice.vic.gov.au or calling us on 1300 019 983.

If you ask for more time, we can give you up to three months to provide the additional information.

If you do not provide the additional information within the required time, we can determine your application without it.

7. Outcome of an FVS application

Once we have considered your application and the evidence provided, we will let you know of the outcome and the reasons for the decision in writing. We will send a letter to your preferred address in the mail, or via email, or to your authorised representative.

We will determine that in relation to each fine included in the application, you are:

- an FVS eligible person – this means that your application in relation to those fines was successful, or
- not an FVS eligible person – this means that your application in relation to those fines was unsuccessful, and you need to take other action to deal with your fine.

Depending on the facts of the case, we may determine that you are eligible in relation to some of your fines but not others.

We aim to consider your application within four months, but sometimes it can take longer before we can determine the outcome. You can help us process your application faster by addressing both of the eligibility criteria and including appropriate evidence in your application (for details see [section 5](#)).

7.1 If you are an FVS eligible person

If you are an FVS eligible person in relation to some or all fines included in your application, the fine(s) will either be:

- Withdrawn by the enforcement agency. Any demerit points associated with the fine will also be withdrawn. You will not have to take any further action for that fine.
- Put on hold so you can nominate the responsible driver later, if this is what you request, and the fine is for an 'operator onus' driving offence (see [section 7.1.1](#)).

7.1.1 Deferred nomination option

If you apply in relation to offences where your vehicle was used in the offence (operator onus offences), but you were not the driver, you can ask to:

- have the fine withdrawn, because you will not be nominating the driver, or
- nominate the driver later. This is called a 'deferred nomination'.



If you asked for deferred nomination on your application form and are found FVS eligible, we direct each enforcement agency that issued your fine to put it on hold for up to six months. You can make a nomination at any point during that time.

The outcomes of a deferred nomination can vary, and you are encouraged to seek legal advice before making a deferred nomination.

7.2 If you are not an FVS eligible person

If you are not found eligible for the FVS, it means that your FVS application was unsuccessful.

Within 21 days of being notified that you are ineligible you need to take action to deal with your fine. This can be by paying your fine (and any related fees). Other options are also available, including:

- applying for an instalment arrangement or for more time to pay; or
- applying for a work and development permit (a non-financial option to deal with fines, subject to certain eligibility criteria); or
- applying for enforcement review if you can provide evidence that one or more of the following grounds applies to your circumstances:
 - **person unaware:** you did not know about the fine – it was not sent to you or handed to you by an officer
 - **special circumstances:** homelessness, mental illness, family violence, alcohol or drug addiction or an intellectual disability
 - **exceptional circumstances:** you did the wrong thing, but you have an exceptional reason for breaking the law
 - **contrary to law:** you believe the decision to issue you with the fine was unlawful and you should not have been fined
 - **mistaken identity:** the fine was issued to you in error and should have been issued to someone else instead.

If you do not take any action within 21 days, enforcement of the fine may resume.

7.2.1 Fee waiver

In some situations, we may waive or reduce some fees imposed on a fine included in an FVS application.

When deciding whether to waive or reduce fees, we will consider whether:

- the enforcement agency or Fines Victoria made an administrative error that meant that you were not notified of the fine, or
- there are any other circumstances that meant that you were not notified of the fine or were not able to deal with your fine by the due date.

We generally will not waive or reduce fees just because you claim to have financial hardship or dispute the offence. Other options may be available to you in those circumstances, such as seeking internal review or enforcement review, a work and development permit, or a payment arrangement.

If we waive or reduce fees, you must pay or take other action to deal with the outstanding amount within 21 days.



7.3 Referral to enforcement agency in exceptional circumstances

In rare cases, we may refer the fines in your FVS application back to the enforcement agency for consideration.

We may consider doing this in exceptional situations if:

- you have made several FVS applications in the recent past for particularly serious offences, or for a substantial number of offences
- the enforcement agency's specialist expertise should be applied, or
- it appears that you would benefit from the matters being considered by a court.

We will provide you with at least 14 days advance notice of our intention to refer your fines to the enforcement agency. In that time, you can withdraw your application (to pay the fines or to enable enforcement to continue), let us know why we should not refer your fines to the agency, or request more time to respond.

If we refer your fines to the enforcement agency, the agency may either:

- withdraw the fines
- issue an official warning, or
- prosecute the matter in court.

You may wish to seek legal advice if you receive a notification that Fines Victoria may refer your fines to the enforcement agency (see [section 9](#)).

7.4 What if you are not happy with the decision?

You can elect to have your fines heard in court if a Notice of Final Demand has not been issued by Fines Victoria. To do so, please contact the enforcement agency that issued the fine. If your fine was issued by Victoria Police, you can make your Go to Court application online at online.fines.vic.gov.au/Go-to-court

If you are not happy about the way in which your application has been handled, you can provide feedback to Fines Victoria at online.fines.vic.gov.au/Contact-Us/Feedback-Form

If you are not happy with the decision, you may wish to seek legal advice (see [section 9](#)).

8. How we handle your information

We collect personal information for the purposes of dealing with and enforcing your outstanding fine(s). We handle all applicants' information confidentially and in accordance with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

We will not share your information with the perpetrator of the family violence.

We are required to provide your name, contact details, and fine details to the enforcement agency that issued the fine(s) when we receive your application, and again when we determine it. This is necessary for the administration of the FVS.

If we are concerned there is a serious threat to your or someone else's life, health, safety, or welfare, we may release your information to police or child protection for protection purposes. We will attempt to obtain your consent first and will let you know if we have disclosed your information for this purpose.



9. Do you need more information?

For more information about your fines and your options to deal with them, visit fines.vic.gov.au or call Fines Victoria on (03) 9200 8111.

If you need help to understand your options, including help to decide whether the FVS is a good option for you, you can seek independent advice from:

- a lawyer
- the Federation of Community Legal Centres: fclc.org.au
- Justice Connect: justiceconnect.org.au
- Victorian Aboriginal Legal Service: vals.org.au
- YouthLaw: youthlaw.asn.au
- Victoria Legal Aid: legalaid.vic.gov.au, 1300 792 387
- Financial Counselling Victoria: fcvic.org.au/find-a-financial-counsellor/
- National Debt Helpline ndh.org.au/debt-problems/fines/, 1800 007 007 (a free hotline).

Appendix - The fines lifecycle



Infringement stage

49 days¹



+ \$26.20*

Enforcement stage

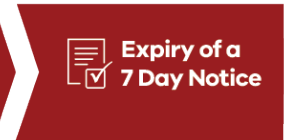
28 days¹



+ \$135.40*

Warrant stage

Warrants do not expire



+ \$59.20*

Your options available during the 3 stages of the fines lifecycle



¹ These are minimum statutory requirements. In practice, these timeframes may be longer, depending on if/when an enforcement agency registers a fine, and if /when the Director, Fines Victoria applies for an enforcement warrant.

² Enforcement agency includes government agencies, councils, education and health organisations.

* Adjusted each July