Questions taken on notice

Portfolio:	Attorney-General
Witness:	Ms Rebecca Falkingham
Committee member:	Mr David Limbrick
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Relevant text:

Mr LIMBRICK: Thank you for your answer. I would like to move on to the issue of fines that have been issued under the health and wellbeing Act. Have any of these fines actually been challenged in court?

Answer:

The Magistrates' Court's case management system records initiations of matters under the *Public Health and Wellbeing Act*, however it does not identify what type of infringement they relate to. As a result, the Court cannot identify challenges to fines issued to enforce protective measures to manage COVID-19.

Portfolio:	Attorney-General
Witness:	Ms Jill Hennessey
Committee member:	Mr Danny O'Brien
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Relevant text:

Mr D O'BRIEN: Sorry, could I move on? Secretary, sorry, I have just got to get one last question in. Attorney, you mentioned additional allowances for prisoners I think because of non-visitation happening; you said 'better access to phones and things'. Could you just elaborate on that and whether there was any cost to taxpayers?

Answer:
All personal visits across Victoria have been temporarily suspended since 21 March 2020. The Department of Justice and Community Safety had spent $0.208 million as at 30 April 2020 to implement increased phone and video calls, emails for prisoners and letters to maintain family engagement, including the purchase of supporting technology.

Family and community connections play an important role in rehabilitation and the reintegration of prisoners back into the community. These connections can also help to reduce reoffending by providing prisoners with critical support networks upon their release.

Video call technology has been rolled out to all correctional facilities when it became clear that personal visits could no longer continue in their traditional format. Over 4,000 virtual personal visits are facilitated each week across the prisons.

Virtual visits are conducted in conjunction with strict protocols and prisoners do not have access to video call technology outside their pre-arranged visit. In line with standard operating requirements, virtual visitors must be nominated and vetted before video calls can proceed.

Where virtual visits are not available, calls have been facilitated through in-cell phones (protective quarantine units have access to dedicated mobile phones).

Portfolio:	Attorney-General
Witness:	Ms Rebecca Falkingham
Committee member:	Mr Sam Hibbins
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Relevant text:

Mr HIBBINS: Can I move on to, in terms of offences and people being either stopped or having had fines issued against them for breaking COVID-related rules, and in terms of the data being collected around that, is that being collected to ensure vulnerable groups or minorities are not being stopped disproportionately or being impacted disproportionately? And can you give me any insight into that data?

Answer:

Victoria Police officers exercise discretion in issuing fines. There are review processes and other options available to support people, including vulnerable people, who incur fines.

A person who receives an infringement notice in relation to a failure to comply with a direction under the *Public Health and Wellbeing Act 2008* can request that Victoria Police conduct an internal review of that fine. One ground of review is special circumstances, which includes intellectual disability, mental illness or disorder, a serious addiction to drugs or alcohol, homelessness or family violence.

There are other options available to help people to deal with their fines, including payment arrangements and schemes to provide vulnerable people with non-financial ways to work off their fines.

People can contact Fines Victoria for more information about options to deal with their fines.

Portfolio:	Attorney-General
Witness:	Ms Rebecca Falkingham
Committee member:	Mr Sam Hibbins
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Relevant text:

Mr HIBBINS: Thank you. Can I now move on to renters. One of the issues that has been raised with us by renters is I guess the level of information that they are being compelled to actually provide their landlords to reach an agreement—often confidential and sensitive financial information that they are not actually comfortable in providing. Can you give me any guidance in terms of just where the line is drawn for that sort of information? And if it does get escalated to mediation, what sort of confidentiality is around that information?

Answer:

Q.1 - Can you provide any guidance in terms of just where the line is drawn for that sort of information?

Consumer Affairs Victoria (CAV) is encouraging landlords, agents and tenants to try to reach an agreement for a rent reduction and to register the agreement with CAV. If the parties cannot reach an agreement, they should contact CAV for assistance. The Director CAV will refer the parties for alternative dispute resolution, as part of the new Residential Tenancies Dispute Resolution Scheme.

The *Residential Tenancies Act 1997* and supporting Regulations do not regulate information requests made by landlords or agents in relation to private negotiations between landlords, agents and tenants. When a tenant is negotiating a rent reduction, the type of supporting information that will be reasonable will depend on the tenant's individual circumstances. It will be necessary for a tenant to provide some supporting evidence of their changed circumstances, as part of negotiating a request for a rent reduction – for example, a letter of termination of employment or evidencing reduced hours, or an application for Centrelink payments.

However, landlords and agents should not be making intrusive and unnecessary requests for financial or personal information from tenants. If tenants have concerns about the information being requested, they should contact CAV.

Q.2 - If it does get escalated to mediation, what sort of confidentiality is around that information?

The *Residential Tenancies Act 1997* (the Act), supporting Regulations and Victoria's privacy and data protection laws protect the information disclosed by parties through the new Residential Tenancies Dispute Resolution Scheme (the Scheme).

Section 499 of the Act prevents the Director CAV from disclosing information obtained by reason of his or her statutory office, unless it is permitted in accordance with a function or power under the Act. The Residential Tenancies (COVID-19 Emergency Measures) Regulations 2020 are made under the Act and establish the Scheme. The Regulations provide the Director CAV with the functions to assess eligible disputes, and refer the dispute to VCAT or the Chief Dispute Resolution Officer (CDRO) as appropriate. The Regulations also provide the Director CAV with the power to request information and documents for the purpose of making a referral.

The Regulations also establish the functions, powers and processes of the CDRO. These include providing that the CDRO may request information and documents for the purpose of deciding whether to accept a dispute for alternative dispute resolution (ADR). The Regulations explicitly provide that the CDRO must not disclose any information obtained in the course of carrying out the Scheme, unless the disclosure is made for a specific function or power, or the disclosure is to the Director CAV, to VCAT, or with the written consent of each person to whom the information relates.

In addition, any information collected by the Director CAV or the CDRO under the Scheme is subject to Victoria's *Privacy and Data Protection Act 2014*. This means that, consistent with the Information Privacy Principles, parties applying for dispute resolution will only be required to provide documents and information where it is considered necessary to assist in the resolution of the dispute. The CDRO will only request documents and information where it will assist in the resolution of the dispute and will not disclose financial or health-related information to the other party without the consent of the party who provided it. If verification of a party's circumstances is an issue in the dispute, the CDRO will look for a solution that respects the parties' privacy but provides each with adequate assurance as to the situation.

Portfolio:	Attorney-General
Witness:	Ms Jill Hennessey
Committee member:	Brigid Vallence
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Relevant text:

Ms VALLENCE: you said a lot of matters are being put through videoconferencing, but of course videoconferencing is not available at VCAT, so we think it is directly related because there is a bit of a backlog through this coronavirus situation. Could you please provide wait times for FOI case hearings then, Attorney?

Answer:

The average time from initiation to first hearing for matters under the *Freedom of Information Act* is currently 23 weeks.

Portfolio:	Attorney-General
Witness:	Ms Jill Hennessey
Committee member:	Brigid Vallence
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Relevant text:

Ms VALLENCE: Attorney, I am just conscious of time. On notice, please, and given court delays being managed through the coronavirus situation, using videoconferencing, what is the target percentage for Victorian courts and tribunals to 30 May 2020—

Answer:

It is assumed that the question is asking whether the Victorian Courts and VCAT are managing delay through applying a target as to hearings conducted by video conferencing:

For the relevant period, Victorian courts and VCAT aim to hear 100 per cent of the cases by utilising video conferencing, telephone conferencing, on the papers without recourse to an in-person hearing. The reliance on video conferencing differs across the Courts and VCAT, and the percentage using video conferencing ranges from 40 to 100 percent.