

PUBLIC STATEMENT ON THE GOVERNMENT'S STRATEGY FOR COMPLIANCE AND ENFORCEMENT OF PUBLIC TRANSPORT TICKETING

This policy comes into effect on 1 January 2017

INTRODUCTION

This document summarises the Victorian Government's approach to the compliance and enforcement of public transport ticketing requirements. It outlines how the Government balances the need to maximise fare compliance – to help fund and support the public transport system in Victoria – with objectives relating to fairness in the enforcement of ticketing requirements.

Legislation and other documents that are relevant to the compliance and enforcement of public transport ticketing in Victoria include:

- *Transport Integration Act 2010*;
- *Transport (Compliance and Miscellaneous) Act 1983*;
- *Transport (Ticketing) Regulations 2006*;
- *Transport (Infringements) Regulations 2010*;
- *Infringements Act 2006*;
- The Victorian Fares and Ticketing Manual;
- Attorney General's Guidelines to the *Infringements Act 2006*;
- *Charter of Human Rights and Responsibilities Act 2006*; and
- City of Melbourne's *Special Circumstances Infringement Review: Model Operating Policy for Enforcement Agencies*.

THE IMPORTANCE OF FARE COMPLIANCE TO THE PUBLIC TRANSPORT SYSTEM

A well-funded and functioning public transport system is vital to the efficient movement of people around Victoria. It provides people with mobility and access to employment, education, retail, recreational and community facilities. It plays an important role in relieving urban traffic congestion and provides environmental benefits. Meanwhile, a reliable and affordable public transport system increases the attractiveness of Victoria as a place to visit and study, and improves the international reputation of the State.

Historically, around 30 per cent of the cost of operating public transport services in Victoria is funded through fare revenue, with the balance coming from a taxpayer-funded subsidy. To maintain and improve service provision, and prevent an undue burden being placed on taxpayers, the Victorian Government seeks to protect fare revenue by maximising the number of passengers who travel with a valid ticket. The compliance and enforcement of ticketing is therefore an important element of the public transport system.

THE GOVERNMENT'S OBJECTIVES IN RELATION TO COMPLIANCE AND ENFORCEMENT

Tickets are required to use Victoria's public transport system "with the intention of supporting the collection of revenue for that system and reducing fare evasion and the consequential revenue losses incurred by public transport operators and the State"¹

In seeking to protect fare revenue for the public transport system, the Victorian Government's compliance and enforcement strategy seeks to balance efficiency and fairness and equity objectives.

The key elements of the Government's compliance and enforcement strategy are:

- making it easy for public transport users to comply with ticketing requirements;
- undertaking enforcement activities to penalise those who do not comply with these requirements. These enforcement efforts are particularly focussed on deliberate and recidivist fare evaders because it is recognised that:
 - certain groups in the community face special circumstances that affect their ability to comply with ticketing requirements; and
 - there are cases of inadvertent non-compliance where it may be appropriate to exercise some leniency in enforcement activities.

This strategy is depicted in the compliance and enforcement pyramid shown in Figure 1, which demonstrates that the chief focus of the strategy is on facilitating compliance, with the forms of sanctions for non-compliance escalating in severity as part of enforcement efforts.

MEASURES TO FACILITATE COMPLIANCE

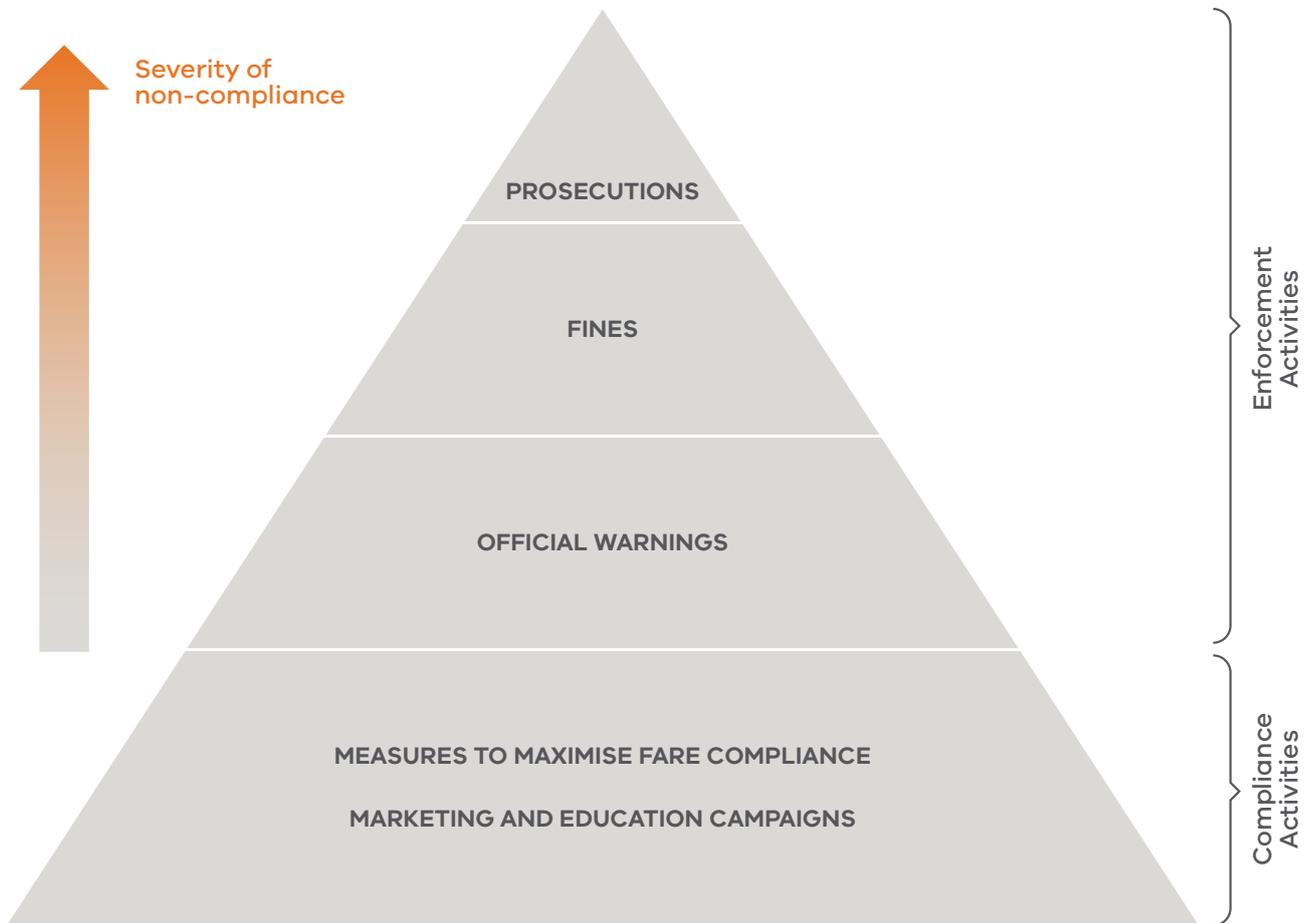
Public transport ticketing requirements are inextricably attached to the *Transport (Ticketing) Regulations 2006* and set out in the Victorian Fares and Ticketing Manual, which can be downloaded from the Public Transport Victoria (PTV) website (www.ptv.vic.gov.au). The Manual sets out information on types of tickets, fares, concession arrangements, conditions of travel and how to use and manage your myki.

A number of strategies are pursued to promote compliance with the ticketing requirements, including:

- the RONC is passed to DEDJTR, which may then issue an infringement notice to the passenger, which carries a minimum fine of \$229 (or \$78 for those aged under 18) as at 2016-17
- ongoing attempts to make the ticketing system easier to use – including:
 - increasing the number of retail outlets and myki vending machines that sell myki cards;
 - improved signage;
 - increasing the number of next generation myki reader machines at train stations and on trams;
 - the ability to top-up myki cards online in a timely way; and
 - automatic myki top-up arrangements;
- marketing and education activities, including information campaigns designed to encourage and 'normalise' fare compliance, and continually educating public transport users on how to use the ticketing system;
- the use of ticket barriers at major train stations; and
- enforcement activities.

¹ See regulation 1(a) of Transport (Ticketing) Regulations 2006.

Figure 1: The compliance and enforcement 'pyramid'



Authorised officers represent the 'front line' of public transport enforcement measures. They are granted powers by the Victorian Government – via an authorisation process undertaken by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) pursuant to the *Transport (Compliance and Miscellaneous) Act 1983* – and are employed by public transport operators to check tickets on trains, trams and buses across Victoria.

Authorised officers may work in uniform or plain clothes, and are identified by carrying a State of Victoria Authorised Officer badge, photo identification, and portable myki ticket readers. They have the authority to request inspection of tickets and concession entitlements, where appropriate, even when passengers have left the vehicle or the paid area of a station.

ENFORCEMENT STRATEGY

The Victorian Government's public transport ticketing enforcement strategy is guided by the following key principles:

- targeted – enforcement efforts are targeted towards deliberate and recidivist fare evaders;
- proportionate – enforcement activity is proportionate to the seriousness of the non-compliance;
- consistent – a consistent approach is undertaken in similar situations/circumstances to achieve consistent outcomes;
- fair and reasonable – the Government seeks to strike a balance between assisting compliance and undertaking enforcement action. It may be appropriate to exercise leniency in some circumstances of inadvertent non-compliance.

Public transport ticketing enforcement sits within Victoria's broader framework for infringements, as set out in the *Infringements Act 2006*. In Victoria, a system of infringements is used to address the effect of minor law breaking with minimum recourse to the machinery of the formal criminal justice system. The infringement system includes:

- recourse to an internal review process in cases of appeal against an infringement notice; and
- safeguards for persons with special circumstances (eg, a mental or intellectual disability, a serious addiction to drugs or alcohol, or homelessness).

Figure 2 provides a simplified overview of the public transport infringement process, which involves the following key steps:

- if an authorised officer believes an offence has been committed, a report of non-compliance (RONC) is completed, requiring the name and address details of the passenger.² The authorised officer can arrest the passenger until the police arrive if the passenger refuses to comply; and/or seek surrender of tickets for use as evidence if necessary;

- the RONC is passed to DEDJTR, which may then issue an infringement notice to the passenger, which carries a minimum fine of \$229 (or \$78 for those aged under 18) as at 2016-17;³
- the infringement notice includes details of how to apply for an internal review where passengers want to appeal against the infringement;
- internal reviews are conducted by DEDJTR (see below); and
- if appeals are rejected, passengers have the options of either following the infringement process timeline (which include the opportunity to apply to have an infringement notice revoked by the Infringements Court), or escalating the matter to the Magistrates' Court.

INTERNAL REVIEWS

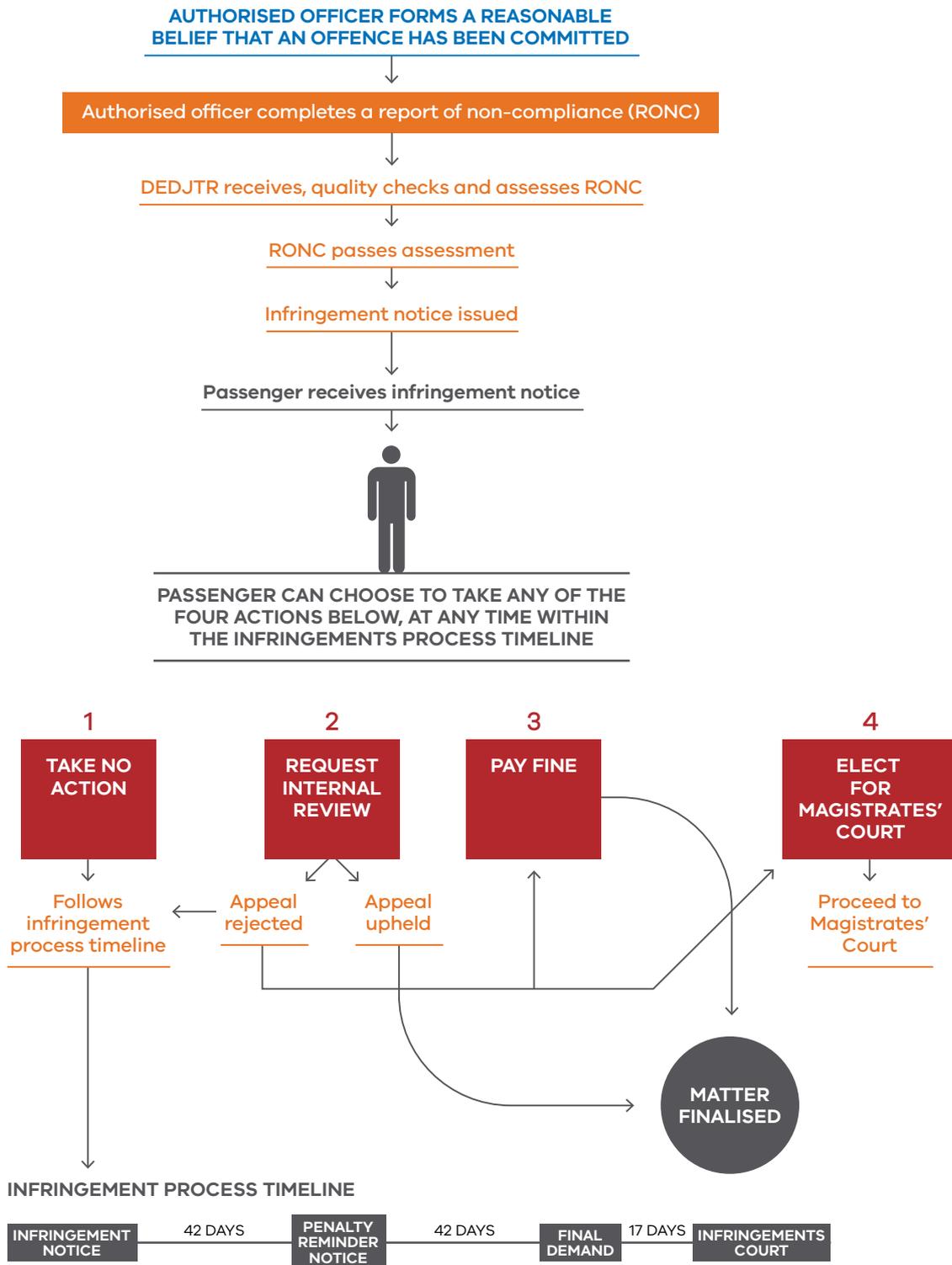
Following the receipt of a Ticket Infringement Notice, an application for an internal review of the infringement notice may be made on one of the following grounds:

- there has been a defect or mistake made in issuing the infringement notice – for example, the wrong details have been put on the notice;
- there has been a mistake of identity – evidence to support this claim can include: evidence that the infringement notice recipient was not in the location at the time of the offence; an incident number from a police report of stolen identity, loss of wallet etc; proof of absence overseas (eg, transcript from an immigration authority showing entry/exit dates); a completed statutory declaration certifying the circumstances;
- the passenger has special circumstances (**Special circumstances**); or
- ticketing non-compliance was inadvertent under specific circumstances (**Review on the basis that non-compliance was inadvertent**).

² Note that the option of an 'on-the-spot' penalty fare, which has no right of formal appeal, will no longer be available from 1 January 2017.

³ Infringement fines are subject to an escalation process, depending on when action is taken to pay them. Infringement fines are subject to annual indexation.

Figure 2: Simplified overview of the infringement process



Special circumstances

The Victorian Government acknowledges that the infringements system can be complex to navigate for those persons with special circumstances and seeks to divert from the criminal justice system people who cannot control or understand the nature or consequences of their behaviour. To help to achieve this aim, DEDJTR has adopted the City of Melbourne's Model Operating Policy for Enforcement Agencies when considering an application for internal review on the grounds of special circumstances.⁴

This policy includes details of the type of evidence and information that has to be provided so that DEDJTR is reasonably satisfied that an internal review applicant has special circumstances (eg, reports from relevant practitioners attesting to the special circumstances).

Review on the basis that non-compliance was inadvertent

Public transport users must take all reasonable steps to comply with ticketing requirements. These steps include carrying a myki card which has a sufficient balance in order to travel, touching on before travel (using an alternative myki machine if one is non-functioning), and, where relevant, carrying evidence of an entitlement to concessionary travel. Not leaving sufficient time to undertake these steps is not a defence against a ticketing offence. Where it is provided with sufficient evidence that demonstrates that all reasonable steps have been taken, DEDJTR will withdraw the infringement notice.

The Department may also withdraw the infringement notice and instead issue an official warning in other cases of inadvertent non-compliance where the Department assesses that, despite ticketing requirements not having been observed, the matter should not proceed.

Factors that may be taken into account by DEDJTR in an internal review before deciding to exercise leniency include whether the person committing the offence has:

- experienced exceptional circumstances – these are not defined in the legislation, but may include emergencies, sickness, incapacity, traumatic events, and events outside the control of the transport user;
- a demonstrated history of ticketing compliance;
- a positive balance on their myki card at the time of interception;
- attempted to take all reasonable steps to travel with a valid ticket; and/or
- not received an official warning or fine for another ticketing offence in the last three years.

The onus is on the passenger to provide DEDJTR with sufficient evidence to support a case for leniency.⁵ Table 1 below summarises the type of evidence that is required, depending on the circumstances.

After considering all the available evidence, DEDJTR may exercise discretion to withdraw an infringement notice and replace it with an official warning.

If the passenger's version of events varies considerably from the evidence held by DEDJTR, infringement notices are not normally withdrawn. It is the role of the Magistrates' Court to resolve factual inconsistencies. The option of having the matter considered in the Magistrates' Court is available to all people who receive infringement notices.

⁴ City of Melbourne, Special Circumstances Infringement Review: Model Operating Policy for Enforcement Agencies, February 2014 – available from: www.melbourne.vic.gov.au/SiteCollectionDocuments/special-circumstances-model-operating-policy.pdf

⁵ Registering a myki card will facilitate access to this evidence.

Table 1: Types of supporting evidence required for a review based on inadvertent non-compliance

What are my circumstances?	What evidence do I need to provide?
<p>There was no vendor or functional machine available to purchase a ticket or top-up my myki card</p> <p>Note: It is your responsibility to have a valid ticket or sufficient funds on your myki card before travelling.</p>	<p>Supporting evidence must include:</p> <ul style="list-style-type: none"> the time and station/stop you travelled from; a demonstrated history of regular fare payments (eg, myki transaction statement which is available for those who have registered their myki cards); and a positive myki balance.
<p>I could not validate my myki due to faulty equipment</p> <p>Note: You must take all reasonable steps to validate a myki before travelling. If a myki reader is not working, it is your responsibility to 'touch on' at another machine.</p>	<p>Supporting evidence must include:</p> <ul style="list-style-type: none"> the time and station/stop you travelled from; a demonstrated history of regular fare payments (eg, myki transaction statement which is available for those who have registered their myki cards); and a positive myki balance.
<p>I was travelling on a concession ticket but did not present the appropriate form of identification to prove entitlement.</p> <p>Note: It is your responsibility to carry the appropriate form of identification to provide your entitlement to a concession ticket.</p>	<p>Supporting evidence must include:</p> <ul style="list-style-type: none"> the time and station/stop you travelled from; a photocopy of the front and back of your concession entitlement; and a positive myki balance.
<p>I am a regular fare-paying customer on public transport in Victoria, and travelled without a valid ticket on this one occasion because of exceptional circumstances. I have not received a fine or official warning for a ticketing offence in the last three years.</p>	<p>Supporting evidence must include:</p> <ul style="list-style-type: none"> the time and station/stop you travelled from; a demonstrated history of regular fare payments (eg, myki transaction statement which is available for those who have registered their myki cards); a positive myki balance; and details of the exceptional circumstances (with any supporting evidence – eg, medical certificate, police report, statutory declaration).

PROSECUTIONS POLICY

In keeping with the overarching aim of Victoria's infringement system, it is the intention of public transport ticketing enforcement policy to avoid matters proceeding to court. However, as part of the Government's strategy of targeting deliberate and recidivist fare evaders in its enforcement efforts, DEDJTR will pursue fare evaders through the court system where offences appear blatant or unexplained or persistent or systematic or where fines are repeatedly not paid.

Those who are unable to pay an infringement fine by the due date may ask for an extension. A 90-day extension may be granted. Payment extensions are usually only granted once.

Payment extension may be requested via email (tia@transport.vic.gov.au) and must include the following information:

- infringement number;
- name;
- address (only if changed since offence);
- reason for extension; and
- contact number.

More information

Further information about the project can be found on the Department of Economic Development, Jobs, Transport and Resources website at economicdevelopment.vic.gov.au/fairer-fare-enforcement

Authorised by the Victorian Government, 1 Treasury Place, Melbourne.



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