

Fare Go:

Myki, Transport Poverty
and Access to Education
in Melbourne's West

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Published by WEstjustice

Melbourne, Victoria, Australia

March 2016

This is a project of WEstjustice Sunshine Youth Office (formerly Sunshine Youth Legal Centre), funded by the Victoria Law Foundation.

WEstjustice Sunshine Youth Office is situated in the Visy Cares Hub in Sunshine, ‘a western regional integrated youth services centre for young people aged 12 to 25 years.’¹ WEstjustice provides free drop-in legal advice and advocacy to youth aged 25 years and under who access the co-located services of the Visy Cares Hub.

Acknowledgements:

WEstjustice would like to thank the following organisations for assisting with access to unpublished information for this project:

Children’s Court of Victoria

Public Transport Victoria

Victoria Legal Aid

Funded by
a grant from

Victoria Law
Foundation

¹ Youth Junction,
<<http://www.youthjunctioninc.net.au/>>.

TL is 16 and in Year 10. His family is Tongan and have been residing in Australia for the past three years. Due to visa restrictions, TL and his family are not entitled to any Centrelink benefits. TL has six brothers and sisters. His father works full-time in the packing industry and his mother is a stay-at-home parent with no income.

At the beginning of Year 10, TL was removed from school by his family for approximately two to three months. When he returned, the school was told by his family that TL had accrued almost \$2000 in Myki fines for travelling without a ticket. Some of these fines were due to travelling to and from school. TL's father borrowed the money from close family members to pay the fines and arranged for TL to repay his debt to them by working as a brickie's labourer for the time he was absent from school. For TL and his family, it was more important to pay the fines using the resources available to them, rather than bring shame on the family by having his property seized.

Like many low-income students, TL's circumstances made him more likely to be chronically absent than other students for reasons beyond his control. In TL's situation it was a combination of financially inaccessible public transport, lack of social and governmental support, and his cultural values about contributing to his family in the ways available to him.

TL's absence from school to assist his family to pay off his Myki debt has resulted in him not being present for important instruction and key learning tasks, causing him to fall significantly behind in his work. He has exhibited poorer behaviour. TL has also experienced decreased motivation to remain in school, weaker social bonds and school friendships, and has missed out on the social life of school and the sporting opportunities available to him.

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Summary

WEstjustice Sunshine Youth Office client data and anecdotal reports show significant problems with public transport fares and fines for young people aged 14 to 17 years travelling to and from school.

The right to education for every young person is a community expectation, a political aim, and a legal requirement. This includes access to school and encouragement to participate.

Travel to and from school on the Victorian public transport system is too costly for a significant proportion of students in the west of Melbourne. This is creating transport poverty.

Transport poverty results in contact with the infringements system, which is complex, ineffective and a source of social hardship for young people. This includes missing school, homelessness and emotional distress.

New thinking about young people and the public transport system is required.

Recommendations

1. Provide free public transport travel to all passengers up to 18 years of age and to any passenger who is a secondary student where their parent, carer or guardian is in receipt of Centrelink income or a healthcare card.
2. Accept identification issued by any authorised educational institution as evidence of age or student status for the purposes of free travel.
3. Authorise educational institutions to issue Myki travel cards to students free of charge.
4. Cancel all outstanding public transport fines related to Myki ticketing issues and fares which were incurred while a young person was under 18 years of age.
5. Abolish the public transport fines system for all young people under 18 years of age.
6. Develop new policy focused on innovative, non-fiscal responses to encouraging positive travelling behaviours.
7. Abolish fines as criminal sanctions for young people under 18 years of age and replace these with innovative, non-fiscal responses to criminal behaviours.
8. Abolish the Children and Young Persons Infringement Notice System ('CAYPINS').
9. Create a new consultation body that works with schools and youth support services to continuously collect data about the transport needs of young people. Use this data to create a new approach to mobility for young Victorians, with a particular focus on travel to and from places of education and the prevention of future transport poverty.

Part 1: Project Explanation

Q: What effects do these fines have?²

Stops them attending school, mental strains and stressors, may be the tipping point for many children.³

Stress, anxiety, anger.⁴

Added stress to their life...Makes them worry about this fine matter following them into adult life and having a large debt they can't pay off.⁵

Homelessness – have had a couple of students thrown out of home.⁶

Fines often put young people further into debt and generate poor respect for the public transport system.⁷

Very stressful, mental health issues...Feel targeted by people in positions of power.⁸

Background

The above quotes are evocative. They represent the lived experience of many WEstjustice clients. These clients present with a wide variety of legal problems, but by far the most common is infringements,⁹ often compounding other legal issues. Even though it is clear that public transport infringements are highly problematic, WEstjustice client data revealed almost no information about the impact of this issue on youth between the ages of 14 to 17 years. Client records showed this cohort of youth were not seeking help from WEstjustice. Yet, constant anecdotal evidence from co-located Visy Cares Hub youth support workers revealed public transport infringements to be just as problematic for younger clients as for older clients.

This project was therefore developed to capture information about experiences of public transport travel, fares and infringements for young people between the ages of 14 to 17 years, travelling to and from school in the west of Melbourne.

² This is Question 4 asked of all of the professionals interviewed for this project. Copies of the questionnaire are available from WEstjustice upon request.

³ Foster parent, July 2015.

⁴ Financial counsellor and youth support worker, April 2015.

⁵ Advocacy worker, April 2015.

⁶ Welfare officer, secondary school, April 2015.

⁷ Youth support worker, May 2015.

⁸ Youth and community development worker, July 2015.

⁹ Approximately 50% of WEstjustice clients in the year 2014/15 presented with public transport, freeway tolls and minor public order fines. This is unpublished data provided by WEstjustice for the purposes of this report.

The project interrogates the purpose of the current system of access, fares and fines for young public transport users, especially those travelling to and from school. Why is the system structured this way and does it work to achieve its original design intentions? Two specific public transport fines are focused on: 'no valid ticket', and 'no valid concession card'.¹⁰

Scope and Structure

As a part of this project, WEstjustice took five actions:

1. Design and delivery of a curriculum package for students aged 14 to 17 years at schools in the west of Melbourne. This curriculum covers information about the rights and responsibilities of young people in relation to public transport travel, fares and fines.¹¹
2. Interviews of professionals who have assisted young people aged 14 to 17 years with public transport travel, fares and infringements problems. These professionals included youth workers, youth lawyers, secondary school teachers, school health and well-being officers and other relevant support professionals, working from the inner city to the western metropolitan area of Melbourne.¹²
3. Investigation of the Children and Young Person Infringement Notice System ('CAYPINS'). This involves tracing the way this system works from the issue of an infringement through to the outcome when an unpaid fine makes its way to the Children's Court and a Magistrate orders the issue of a warrant.
4. Research into what underpins public transport fares and infringements systems and possible alternatives.
5. Development of recommendations.

How is This Project Different from Other Projects?

A great deal of research has been undertaken into the impact of fines. While much of this work has made important observations about the effect of infringements on financially disadvantaged community members, there has been very little focus specifically on public transport users aged between 14 and 17 years.

For the purposes of this project, two valuable pieces of research that do discuss young people are relied upon. These were produced by the Sentencing Advisory Council¹³ and

¹⁰ Pursuant to *Transport (Ticketing) Regulations 2006* (Vic) regs 6,7,9,10.

¹¹ This part of the project will not be discussed in detail in this report. Contact WEstjustice for a copy of this curriculum.

¹² Interview questions are available from WEstjustice upon request.

¹³ Sentencing Advisory Council, *Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria Report*, May 2014, <<https://www.sentencingcouncil.vic.gov.au/publications/imposition-and-enforcement-court-fines-and-infringement-penalties-victoria>>.

Youthlaw.¹⁴ Both thoroughly analyse the current fines system in Victoria, but do not challenge the policy underpinnings of this system. Resulting recommendations are focused on retaining the current system with modifications, or suggesting better ways to manage young people through the existing system. Neither looks at the policy underpinnings of the public transport fares structure.

In contrast, WEstjustice's aim is to initiate new ways of thinking about public transport access and equity options for young people in Victoria, with a particular focus on getting to and from school in Melbourne's west.

¹⁴ Youthlaw, Position Paper, *A Fairer Fines System for Children: Key Issues and Recommendations*, July 2013, <<http://youthlaw.asn.au/wp-content/uploads/2013/08/Youthlaw-position-paper-final-July-2013.pdf>>.

Part 2: Public Transport Costs of Education

School is Compulsory

In the late 19th century, compulsory school attendance was introduced for children aged between six and 16 years unless they had a 'reasonable excuse'.¹⁵ It is interesting to note that if there was 'no State school which the child can attend within a distance of two miles',¹⁶ this was a 'reasonable excuse'. This represents an early recognition of the nexus between access to transport and access to education.

In 21st century Victoria no such nexus is recognised. It is a legal requirement that young people up to the age of 17 years attend school and it is the duty of the parent/carer to ensure this is complied with.¹⁷ Distance from school no longer constitutes an excuse for non-attendance.¹⁸

Contemporary government policy, as reflected in the above legislation, is firmly focused not only on completion of secondary education, but movement to tertiary education for the majority of school leavers.¹⁹ Given that the focus for young people in secondary school is their education, the government's policy means that many young people do not have a source of income outside the home. Young people are very unlikely to have their own funds to pay the fines.

In fact, they are also unlikely to be able to independently pay for their public transport, making parents and carers legally responsible for school attendance and the associated cost of public transport travel.

Getting to School Costs Time and Money

Poverty, they don't have money to put on a Myki card. Sometimes they don't have money for food and drink and think they are lucky to be at school. Myki isn't in the budget...

*Life management difficulties...Students often honestly just forget. They can't manage everything, especially money.*²⁰

The first hurdle for the young people of Melbourne's west is access to public transport. Financially speaking, this translates to the cost of Myki travel cards, concession fares, and concession cards. Non-financial costs include the forms and travel required to apply for concession cards, and understanding the complexity of the Myki system.

¹⁵ *The Education Act 1872* s 13,

<http://www.foundingdocs.gov.au/resources/transcripts/vic8_doc_1872.pdf>.

¹⁶ *Ibid*, s 13 (III.).

¹⁷ *Education and Training Reform Act 2006* (Vic) s 2.1.1.

¹⁸ *Ibid*.

¹⁹ State Government Victoria, Department of Education and Training, *Leaving School Early*,

<<http://www.education.vic.gov.au/school/parents/beyond/Pages/leaving.aspx>>.

²⁰ Welfare officer, secondary school, April 2015.

There are many poor families in this school community who can't even feed their children breakfast - they are fed through the school. Many families can't afford the initial payment for Myki.²¹

A lot [of students] stay at home, miss out on school until they can top up [Myki], starting the cycle of educational disadvantage.²²

Table 1 below sets out and explains items which are required for valid concession travel as a secondary student. It also links items to their cost.

Table 1: Current fees applicable to young people using public transport²³

Item	Cost	Comment
Student concession card	\$9.00	Student cards issued by schools cannot be used as proof of eligibility to travel on a concession fare ²⁴
Passport/ID photo	\$16.95	Required for concession card ²⁵
Myki travel card	\$3.00	No access to public transport travel without one
Two-hour fare	\$1.35 - \$1.95	Depending on travel zone
Daily fare	\$2.70 - \$3.90	Depending on travel zone
Student pass	\$285.00 \$546.00	Half year Full year Unlimited travel - must have a student concession card

State parliamentarians, federal parliamentarians and judges are eligible to apply for free public transport travel in Victoria.²⁶ In addition, seniors, disability pensioners and carers are all entitled to both free Myki travel cards as well as free weekend travel.²⁷ Yet, many students in Melbourne's west are having trouble accessing between \$13.50 and \$19.50 each week to travel to and from school.²⁸

²¹ Well-being officer, secondary school, March 2015.

²² Welfare officer, secondary school, March 2015.

²³ Public Transport Victoria, *Metropolitan Myki fares 2016*, <<http://ptv.vic.gov.au/tickets/metropolitan-myki-fares-2016/>>.

²⁴ Public Transport Victoria, *Victorian Fares and Ticketing Manual 2016*, 20, <http://ptv.vic.gov.au/assets/PTV/PTV%20docs/Ticketing/PTV_Fares-and-Ticketing-Manual-General_2016.pdf>.

²⁵ Australia Post, *Instant passport and ID photos*, <<http://auspost.com.au/travel-id/id-and-passport-photos.html>>.

²⁶ Public Transport Victoria, above n 24, 24.

²⁷ Ibid, 29.

²⁸ This is calculated using the daily rate. None of the young people with whom this report is concerned can afford the outlay required for a half-yearly or yearly pass.

Getting a Concession Card Costs Time and Money

The process of getting the concession card is long-winded. In those few weeks of school they get fines...

*...at the start of the year I see three to four a day for the first couple of weeks...
A lot of students don't even know there is a concession card...²⁹*

Figure 1 shows the steps required to apply for a secondary student concession card.

Figure 1: Applying for a secondary student concession card³⁰



Applying for a secondary student concession card is a complex process. It requires time to complete the four separate trips needed to simply complete and lodge the application, and costs \$25.95. Assuming the young person is using public transport during the completion of this process, there is the further outlay of full fare travel added to the cost.

The student concession card is a separate card to the Myki travel card and must be produced as evidence of entitlement to concession travel.³¹ This is the case even if the young person is travelling to and from school in school uniform with a school issued student card in their possession.

How is Accessible Public Transport Important for Education?

According to a recent expert report launched by the Federal government,³² quality of life is inextricable from access and mobility.³³ Importantly, this report also identified the effect of difficulties in access and mobility, or 'transport poverty', as a particular factor restricting certain Australian families.³⁴ Experiencing stress as a result of a lack of family friendly transport options, on top of the cost of transport, is at the centre of this concept.

²⁹ Welfare officer, secondary school, April 2015.

³⁰ Public Transport Victoria, <<http://ptv.vic.gov.au/assets/PTV/PTV%20docs/Ticketing/2016-Victorian-Public-Transport-Student-Concession-Card-and-Student-Pass-Application-Form-Online-version.pdf>>.

³¹ Public Transport Victoria, above n 24, 20.

³² Jamie Briggs MP Member for Mayo, *Speech – Launch of the Australian Council of Learned Academies report 'Delivering sustainable urban mobility' – Wednesday 7 October 2015*, <<http://www.jamiebriggs.com.au/MayoMedia/Media/tabid/64/articleType/ArticleView/articleId/1693/Speech-Launch-of-the-Australian-Council-of-Learned-Academies-report-Delivering-sustainable-urban-mobility-Wednesday-7-October-2015.aspx>>.

³³ Armstrong, B, Davison, G, de Vos Malan, J, Gleeson, B and Godfrey, B (2015), *Delivering Sustainable Urban Mobility. Report for the Australian Council of Learned Academies*, 38, <<http://acola.org.au/index.php/projects/securing-australia-s-future/8-sustainable-urban-mobility>>.

³⁴ Ibid, 65-66.

This puts into context the transport poverty of disadvantaged young people in the west of Melbourne who need public transport to access education. 'Urban transport availability and transport costs have the potential to contribute to educational opportunities and thus lifetime social status'.³⁵ The information collected by WEStjustice shows that a combination of the cost of fares, the effect of infringements and the operation of the CAYPINS clearly demonstrates this effect.

Armstrong et al state:

An important aspect of accessibility is the affordability of transport modes. Affordable transportation means that people, including those with low incomes, can afford access to basic services and activities (healthcare, shopping, school, work and social activities) without budget strain. For some urban dwellers, even in Australia, the availability of reliable and affordable public transport services can be the difference between being integrated into the economic and social life of a city or not.³⁶

Infrastructure is also connected to fares:

For our students, they rely on bus services from [one of two] stations. At the moment one of the services has been discontinued...[which] has caused an extra leg of the journey to and from school for many of our students. This has also resulted in students having to use more public transport than they had previously done so. Speaking to PTV last year, the reason for the discontinued service was because the data on the route was collected by passengers tapping on and off. As most of the students using the service were not tapping on or off, data showed the service was not viable.³⁷

RECOMMENDATIONS

- 1. Provide free public transport travel to all passengers up to 18 years of age and to any passenger who is a secondary student where their parent, carer or guardian is in receipt of Centrelink income or a healthcare card.**
- 2. Accept identification issued by any authorised educational institution as evidence of age or student status for the purposes of free travel.**
- 3. Authorise educational institutions to issue Myki travel cards to students free of charge.**

³⁵ Ryan, C and Whelan, S (2010), *Locational disadvantage, socio-economic status and mobility behaviour - evidence from Australia*, cited in Armstrong et al, above n 33, Box 3.2, 67.

³⁶ Armstrong et al, above n 33, 70.

³⁷ Staff member, secondary school, March 2015.

Part 3: Fines and Transport Poverty

They do whatever they can to get to school, like getting on a train without a valid ticket, because they don't want to get into trouble at school. But they don't want to get into trouble from home either, when they have to go back and ask for money or they have a fine.³⁸

Some redirect money from buying school textbooks to paying fines.³⁹

The students often feel shocked. They think, 'it's a huge amount of money. It's not possible for me to pay that'.⁴⁰

Current Infringements Policy Does Not Include Young People

Its primary purpose is to improve the community's rights and options in the process and to better protect the vulnerable who are inappropriately caught up in the system.⁴¹

The concept of 'special circumstances'⁴² was introduced in the *Infringements Act 2006* (Vic): legislation with the aspiration of protecting the vulnerable.⁴³ While the Attorney-General specifically referred in his 2nd reading speech to those adult community members who live with mental illness, intellectual disability, substance addiction or homelessness, it is the contention of WEstjustice that the young people who are the focus of this project should also be afforded similar policy forethought. The impact of public transport fines on young people clearly demonstrates the above legislative purpose has not been achieved for these community members. This is evocatively evidenced in the quotes set out at the beginning of this section.

While adults are now able to use the concept of 'special circumstances', and various processes in the *Infringements Act*, to reduce or clear fines, such options are not available in the same way to young people.⁴⁴ Despite this, government information states that children are treated the same as adults in terms of rights and responsibilities.⁴⁵ To the contrary, the position of Youthlaw is that 'children should be treated as children' in relation to infringements.⁴⁶ WEstjustice concurs. Simply being a young person who is financially dependent on others is, in and of itself, a circumstance which should underpin more compassionate policy approaches to young people and infringements.

³⁸ Welfare officer, secondary school, April 2015.

³⁹ Welfare officer, secondary school, March 2015.

⁴⁰ Well-being officer, secondary school, March 2015.

⁴¹ Victoria, *Parliamentary Debates*, Legislative Assembly, 16 November 2005, 2186 (Rob Hulls, Attorney-General).

⁴² *Infringements Act 2006* (Vic) s 160.

⁴³ See discussion in *Victorian Toll & Anor v Taha and Anor; State of Victoria v Brookes & Anor* [2013] VSCA 37, especially at [96] – [97] per Tate JA.

⁴⁴ *Ibid*, 14.

⁴⁵ Fines Victoria, *About Fines: Fines and Young People*, <<http://online.fines.vic.gov.au/fines/Content.aspx?page=11&s=1&l=85-11>>.

⁴⁶ Youthlaw, above n 14, 2.

Fines for Young People Were Justifiable in the Past

Historically, fines were introduced as an alternative sanction to prison, mainly for minor criminal infractions. Eventually fines became a cost effective civil obedience administrative tool without criminal wrongdoing being attached to a person.⁴⁷ Thus, in Victoria infringement penalties were first introduced in 1959 and applied only to parking offences.⁴⁸ Now, the use of infringements as a 'sanction for those who are in and of the market'⁴⁹ is commonplace, applied pursuant to more than 50 Victorian statutes.⁵⁰ The introduction of the CAYPINS aligns with this, moving non-payment of fines by children from being a criminal offence to an enforceable penalty managed by the Children's Court of Victoria.⁵¹

The Children's Court was established in 1906.⁵² This is not long after the introduction of compulsory education,⁵³ but also at a time when most young people were working for a living. Fines as sanctions made sense at that time, especially as a way of avoiding criminal convictions.

It is also interesting to note that who pays the fine is of no consequence to the success of an infringements system; it is simply enough that the fine is paid to bring each matter to conclusion.⁵⁴ This raises an interesting point in relation to the participation of young people in the marketplace and, therefore, the question of who actually pays their public transport fines.

The Enforcement of Fines Adds to Young People's Problems

Can snowball...the officers don't see the effects after the ticket.

I have had a couple of students thrown out of home...

Some sleeping on couches for a few nights until their Dad cools down....

Won't come to school until they get it sorted, so missing school.⁵⁵

The CAYPINS was set up and operates pursuant to the *Children, Youth and Families Act 2005* (Vic)⁵⁶ and sits within the Criminal Division of the Children's Court. It is a *legislated* system to enforce *executive* sanctions. This report compares the CAYPINS with the criminal law system for children, which makes *legislative* sanctions.

⁴⁷ O'Malley, P. 'Theorizing Fines', *Punishment & Society*, 2990 11, 69 - 73.

⁴⁸ Sentencing Advisory Council, above n 13, 52.

⁴⁹ O'Malley, above n 47, 79.

⁵⁰ Sentencing Advisory Council, above n 13, 52.

⁵¹ *Ibid*, 354.

⁵² Pursuant to the *Children's Court Act 1906* (Vic).

⁵³ Above n 15.

⁵⁴ O'Malley, above n 47, 69.

⁵⁵ Welfare officer, secondary school, April 2015.

⁵⁶ Schedule 3.

The contrast between legislative sanctions and executive sanctions specifically on the young people in WEstjustice's research is stark in two ways:

- *Policy approach:* executive punishment (fines issued by enforcement officers) is not required to take the child's well-being into account, whereas legislative punishment (sentencing in the Children's Court) explicitly requires the Court to consider 'the need to strengthen and preserve the relationship between the child and the child's family, the desirability of allowing the child to live at home and continue education'.⁵⁷
- *Nature of penalty:* the most common legislative criminal sanction imposed is a good behavior bond, followed by fines.⁵⁸ Very few young people under 16 years are sentenced to fines.⁵⁹ As for executive sanctions, fines are the only option. This report shows that they are regularly issued against young people.

They think they might go to jail. They see something formal in English, a language they can't understand. They are sometimes too scared to go to their parents.⁶⁰

WEstjustice research traced statistics that reveal some interesting information about the way that fines initiate and then travel through the CAYPINS. Many types of infringements are managed in a number of different ways via the CAYPINS, but this report is focused only on how the system works in relation to public transport Myki travel card fines.

Data has been collected from many sources and covers different timeframes across the period 2011-2015. While this makes it challenging to paint a clear picture of the whole system in operation at any specific point in time, Figure 2 sets out a system which requires attention.

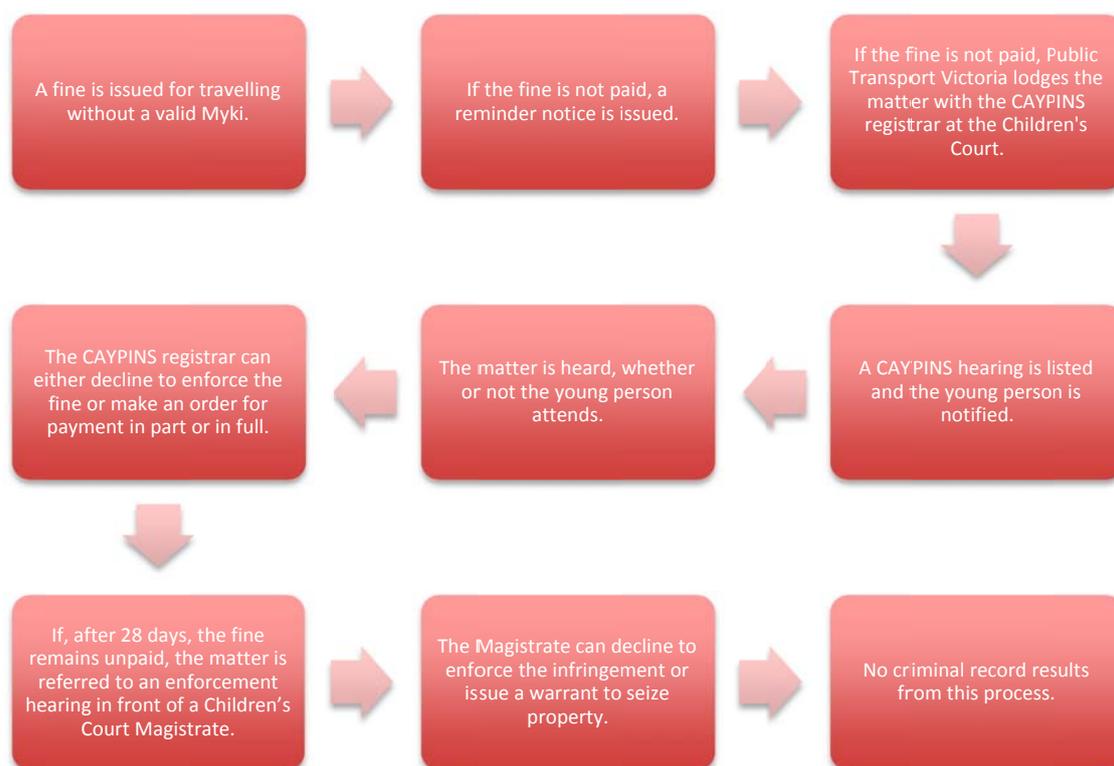
⁵⁷ *Children, Youth and Families Act 2005* (Vic) s 362.

⁵⁸ Sentencing Advisory Council, above n 13, fig 49, 308-9.

⁵⁹ *Ibid*, par 10.2.11.

⁶⁰ Student well-being leader, secondary school, March 2015.

Figure 2: The CAYPINS process⁶¹



From 2011-2012 approximately 54% of young people did not pay fines before enforcement, no different than the response rates for adults.⁶²

There are 13 CAYPINS registries in Victoria, eight of which are urban. Two of the urban registries are located in the west – Sunshine and Werribee. As Werribee is managed from Sunshine, statistics for that court are included in the Sunshine data.

Over the four-year period from July 2009 to June 2013, 42.8% of the CAYPINS hearings⁶³ concerned use of public transport without a valid ticket.⁶⁴ There is clearly a further significant proportion of CAYPINS hearings devoted to other types of public transport fines. This is clearly a significant use of public resources for little return, given that approximately 54% of young people's public transport fines proceed to enforcement on the basis of non-payment.

Table 2 sets out the total number of CAYPINS matters initiated according to Court catchment areas over 2012/13 and 2013/14.

⁶¹ This is a modified flow chart produced for this report. The information used is drawn from the Sentencing Advisory Council, above n 13, fig A2, 372-3.

⁶² Sentencing Advisory Council, above n 13, par 10.3.13, 318.

⁶³ Sentencing Advisory Council, above n 13, table 16, 315.

⁶⁴ Pursuant to *Transport (Ticketing) Regulations 2006* (Vic), various.

Table 2: CAYPINS matters initiated by Court catchment areas⁶⁵

Court location	2012/13	2013/14
Melbourne	562	670
Grampians	302	235
Loddon Mallee	287	238
Broadmeadows	1,082	861
Dandenong	1,105	1,243
Frankston	1,951	1,873
Barwon South West	294	227
Heidelberg	1,199	1,089
Gippsland	315	225
Ringwood	1,127	1,471
Hume	321	207
Sunshine	2,201	1,766
NJC - Collingwood	175	177
Total	10,921	10,282

Figure 3 below illustrates the data in Table 2 in bar graph form.

Figure 3: CAYPINS matters initiated by Court catchment areas

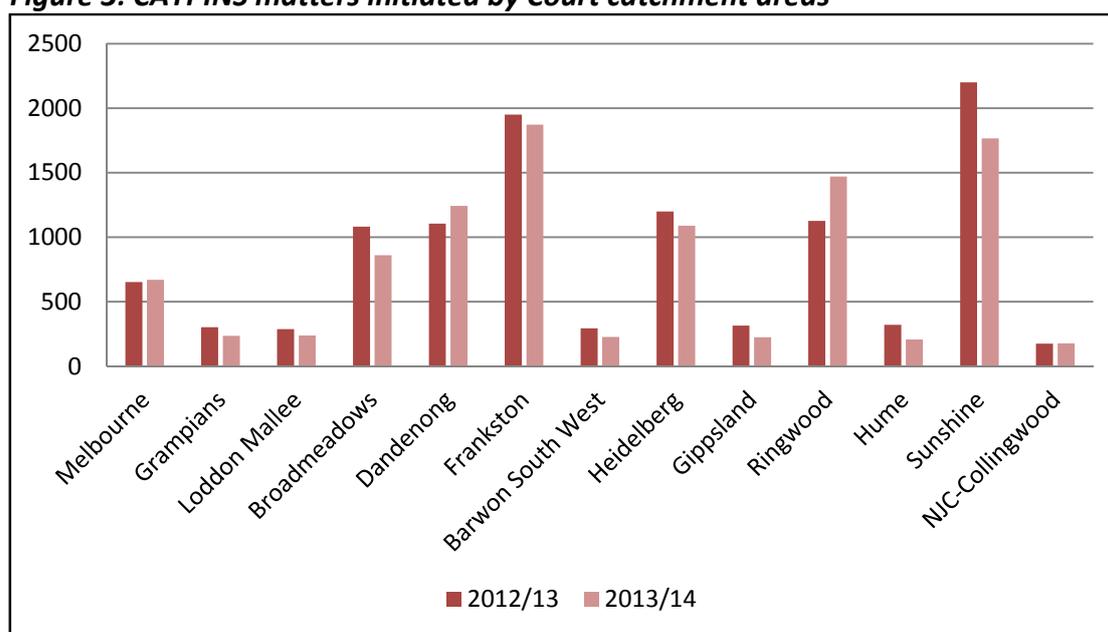


Figure 4 shows that in 2012/13, 20% of the total CAYPINS matters initiated in Victoria were listed at Sunshine Children’s Court, the highest of any of the CAYPINS registries for that year.⁶⁶ In 2013/14, this same statistic was 17%, second only to Frankston. This can be seen in Figure 5. Given that the percentage of the population aged 10 to 19 for LGAs in the western suburbs ranges from 8.92% in Maribyrnong to 13.95% in Melton (compared to 12.57% for the state of Victoria), this demonstrates an over-representation of young people from the west in the CAYPINS system.

⁶⁵ Children’s Court of Victoria, *Annual Report 2013-2014*, Table 2, 16.

⁶⁶ *Ibid.*

Figure 4: CAYPINS matters initiated at Sunshine Children's Court compared to the rest of Victoria in 2012/13

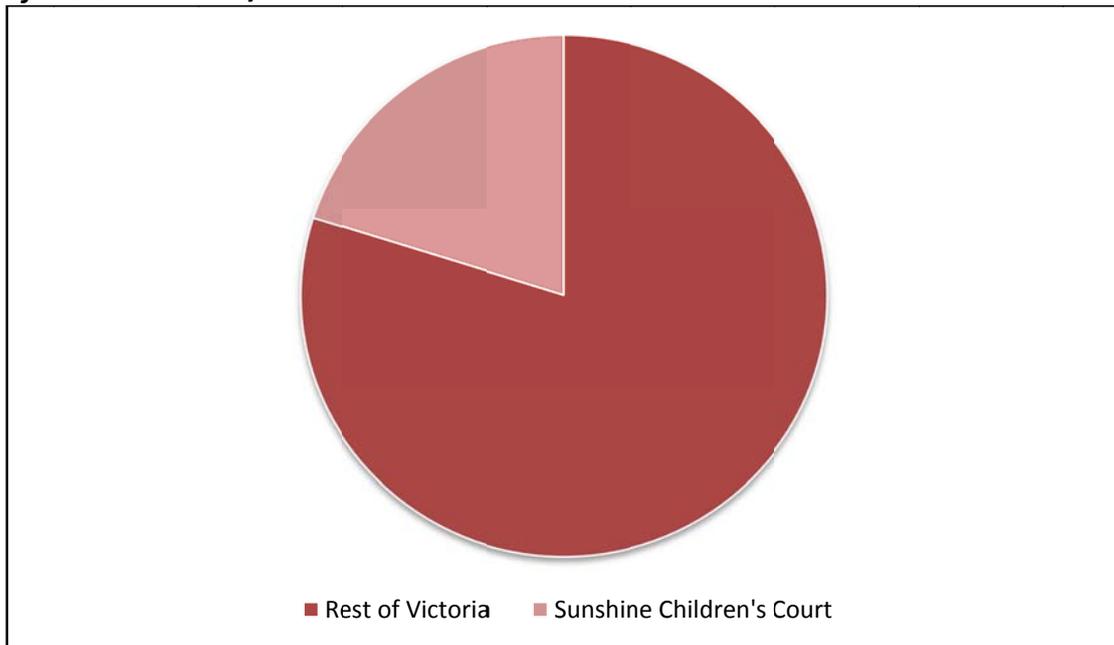
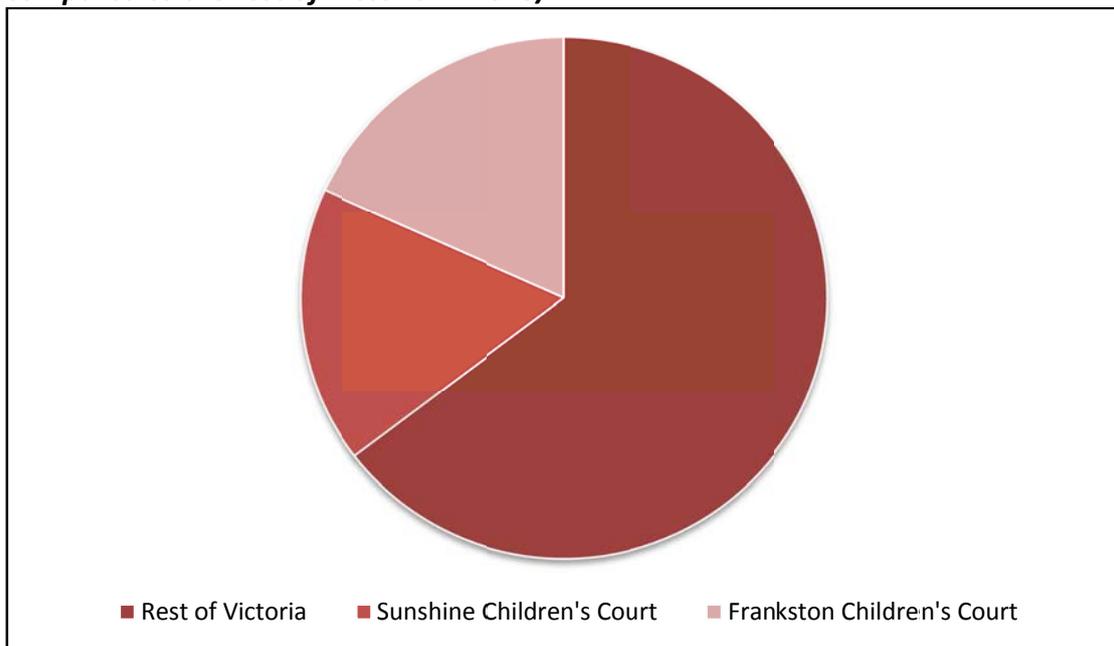


Figure 5: CAYPINS matters initiated at Sunshine and Frankston Children's Courts compared to the rest of Victoria in 2013/14



As the Sunshine Court geographical boundaries changed, equivalent data is not available for 2014/15. In that year, 1,244 listings or 13.5% of the CAYPINS matters are recorded as finalised at Sunshine. In the same year, numbers for Melbourne Children's Court increased by 150%, reflecting inclusion of matters that may previously have been initiated in Sunshine.⁶⁷

⁶⁷ Children's Court of Victoria, *Annual Report 2014-2015*, 12.

Table 3: CAYPINS non-attendances⁶⁸

Year	Location	Listings	Attendances or paid fines prior	Non-attendances	Enforcement Orders
2014/15	All suburban	8,778	1,024	7,754	7,390

The data in Table 3 shows that 88% of suburban CAYPINS hearings resulted in the non-appearance of the young person. This means that nearly 90% of these matters are managed without input from the young person concerned. The vast majority of outcomes result in an enforcement order.

If the young person does not engage with the CAYPINS, their circumstances cannot be taken into account by the system. The most common decision made by a CAYPINS registrar in relation to a young person who does not attend their hearing is to enforce the fine in full.⁶⁹ Enforcement orders that are not complied with then proceed to a hearing in front of a Children’s Court Magistrate.

The experience of WEstjustice, and a motivating factor for this project, is that those young people who do not pay their fines also do not engage with the CAYPINS. The reason for non-payment of the fine is the same reason for not having a valid ticket in the first place. They do not have access to the necessary funds.

Warrants Do Not Achieve the Policy Objective

For the period from July 2009 to June 2013, matters dealt with by Magistrates resulted in warrants being issued but not executed in 59.1% of CAYPINS fine default cases, and no warrant being issued in 36.8% of fine default cases.⁷⁰ During the same period, Sentencing Advisory Council data reveals between 71-93% of CAYPINS cases had not resulted in completed payment.⁷¹

Effectively, at the end of a complex and costly process, a young person who has been fined for not having a valid public transport ticket and does not pay the fine or engage at all with the CAYPINS is unlikely to suffer any *formal* financial detriment.⁷² Yet, the very small percentage of young people who do actually engage at some point in the process will be punished financially.

I helped one boy to contest fines...I made numerous phone calls...tried to explain that he had a mental illness...also had an insecure home life...I spoke to three different people three times, got the same response, then someone said, ‘go and plead the mercy of the Magistrate’. Going to court then causes much stress and anxiety. In fact, this boy was struggling to speak in sentences. I can’t imagine him going to court. I haven’t heard from him, so I don’t know what happened to him.⁷³

⁶⁸ Unpublished data supplied by the Children’s Court of Victoria for the purposes of this project. This data is for suburban listings only and also includes all infringements matters, not just public transport fines.

⁶⁹ Unpublished information supplied by the Children’s Court of Victoria for the purposes of this report.

⁷⁰ Sentencing Advisory Council, above n 13, 319.

⁷¹ Ibid, 10.3.16, fig 55, 317-18.

⁷² Of course, there are many other detriments, both macro and micro, exposed by this project.

⁷³ Welfare officer, secondary school, March 2015.

Does the CAYPINS Enforcement System Work?

The Sentencing Advisory Council casts doubt on the effectiveness of both fines and property seizure in the case of children,⁷⁴ noting how unlikely it is that children have property that can actually be seized.

In line with this, information provided publicly by Youthlaw to young people seeking help with the CAYPINS states:

Will the Sheriff come and take away my stuff?

*The Sheriff does not generally take action on warrants to seize property for unpaid CAYPINS...fines.*⁷⁵

It is interesting to note that from May 2009 to May 2015, Public Transport Victoria reports estimate fare compliance across the metropolitan network of between 86-95%.⁷⁶ This means that over a six-year period only 5-14% of passengers are estimated to fare evade. While this data does not reveal what percentage of fare evaders are young people, even if it were the majority, the CAYPINS seems to be a very complex, expensive and ineffective way of managing fare evasion for a very small number of the young travelling public. At the same time, the effect of this system on the young people with whom this report is concerned is major.

RECOMMENDATIONS

- 4. Cancel all outstanding public transport fines related to Myki ticketing issues and fares which were incurred while a young person was under 18 years of age.**
- 5. Abolish the public transport fines system for all young people under 18 years of age.**
- 6. Develop new policy focused on innovative, non-fiscal responses to encouraging positive travelling behaviours.**
- 7. Abolish fines as criminal sanctions for young people under 18 years of age and replace these with innovative, non-fiscal responses to criminal behaviours.**
- 8. Abolish the Children and Young Persons Infringement Notice System ('CAYPINS').**

⁷⁴ Sentencing Advisory Council, above n 13, 317.

⁷⁵ Youthlaw, *Getting a Fine when you are under 18*, <<http://youthlaw.asn.au/wp-content/uploads/2012/05/FinesforUnder18sFINAL2013.pdf>>.

⁷⁶ Public Transport Victoria, *Official Fare Compliance Series*, May 2015, <http://ptv.vic.gov.au/assets/PTV/PTV%20docs/research/PTV_MACA-Patronage-and-Revenue-Report-Fare-Compliance_May-2015.PDF>.

Part 4: Human Rights Law

The rights of the child have long been recognised by international treaties, national legislation, and state legislation. To quote just a few with the focus of this report in mind:

*State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall...take measures to encourage regular attendance at schools.*⁷⁷

*Every person has the right to enjoy his or her human rights without discrimination.*⁷⁸

*Every person...has the right to move freely within Victoria.*⁷⁹

*For the purposes of this Act the best interests of the child must always be paramount.*⁸⁰

Moreover, United Nations research into a better urban future states:

*The underlying premise within a human rights perspective - is that mobility is not simply about reaching destinations; in the final analysis, it is about accessing opportunities.*⁸¹

So, public transport policy should aim to ‘increase mobility opportunities, especially for people at risk of transport-related social exclusion by provision of reasonable base public transport service levels’.⁸² At the core of such a policy approach is a fare structure that aims to prevent transport poverty.

In relation to economically and geographically disadvantaged children trying to access education, this can be achieved by giving free access to public transport, at least for movement to and from school, but it is argued here this should be extended to all areas of life as a child’s right to development is not solely about education. Recreation is central to this premise.

⁷⁷ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 28, emphasis added.

⁷⁸ *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 8(2), emphasis added.

⁷⁹ *Ibid*, s12, emphasis added.

⁸⁰ *Children, Youth and Families Act 2005* (Vic) s 10(1), emphasis added.

⁸¹ UN-Habitat, *Planning and Design for Sustainable Urban Mobility: Global Report on Human Settlements* (2013), cited in Armstrong et al, above n 33, 77.

⁸² Armstrong et al, above n 33, 100.

Part 5: Public Transport for Young People in Other Places

Q. What do you see as the main cause for these fines?⁸³

Financial barriers experienced by young people (cost of tickets).⁸⁴

The following examples highlight some national and international approaches to public transport access for students. This is not an exhaustive list, but these examples clearly demonstrate government policy recognition of the need for young people to have supported transport mobility, especially when travelling to and from school.

London

Young people aged between 11 and 16 years travel free on all buses and trams in the Transport for London network. Young people living in a London borough aged between 16 and 17 years can access free bus and tram travel. Free bus and tram travel is also available to 18 year olds who are full time students. An application process is required for all of these free travel options.⁸⁵

Students have cards but don't or can't top them up with funds. This is usually because they do not have internet access at home to do so...⁸⁶

Western Australia

Secondary schools can register with the Western Australian public transport body, Transperth. 'A participating school automatically processes a Student SmartRider application for all new students, receives the cards and issues them to students.'⁸⁷

The process of getting the concession card is long winded. In those first few weeks, they get fines. A lot don't even know there is a PTV concession card.⁸⁸

New South Wales

Students attending secondary school whose homes are more than two kilometres from school are provided with free or subsidised public transport travel between home and school on trains, buses, ferries and long distance coaches.

⁸³ Question 6, asked of all professionals interviewed for this project.

⁸⁴ Youth and community development worker, local council, July 2015.

⁸⁵ Transport for London, *Zip Oyster Photocards*,
<<https://tfl.gov.uk/fares-and-payments/travel-for-under-18s/zip-oyster-photocards?intcmp=25258>>.

⁸⁶ Principal, secondary school, March 2015.

⁸⁷ Transperth, *Student SmartRider*,
<<http://www.transperth.wa.gov.au/SmartRider/Types-of-SmartRider/Student-SmartRider>>.

⁸⁸ Welfare Officer, Secondary school, April 2015.

Initial applications for travel cards are lodged at schools. Each year, students who are already registered are automatically sent their new travel card to be picked up at school.⁸⁹

Canberra

Free public transport is provided to and from school for eligible secondary students living outside a two-kilometre radius of their school. To be eligible the student or their parents/guardians must hold a valid pensioner concession or healthcare card. School verification is required each year.⁹⁰

In contrast to all of the above, every Victorian student must pay for access to public transport, regardless of their socio-economic status. Victoria also has a complex fare and concession system for which there is no official assistance at school. Yet, all of the school professionals interviewed for this project reported diverting already limited school resources⁹¹ to support students with travel cards and fares.

We can assist them with part or full purchase of valid Myki through Welfare budget.⁹²

RECOMMENDATION

- 9. Create a new consultation body that works with schools and youth support services to continuously collect data about the transport needs of young people. Use this data to create a new approach to mobility for young Victorians, with a particular focus on travel to and from education and the prevention of future transport poverty.**

⁸⁹ Transport NSW, *The School Student Transport Scheme*, <<https://apps.transport.nsw.gov.au/ssts/>>.

⁹⁰ ACT Road Transport Authority, *Student Transport Program*, <<http://www.rego.act.gov.au/more/student-transport-program>>.

⁹¹ Budget and/or staff resources.

⁹² Teacher, secondary school, March 2015.

Part 6: Conclusion

A total of 23 professionals were interviewed for this project. This is just a small sample of a large cohort of dedicated workers in daily contact with young people in schools, youth support agencies and community legal centres in Melbourne's west. In every case, they cited financial disadvantage as a central issue for young people experiencing problems with public transport. This related to both fares and fines. When asked about the impact of getting a fine, every professional discussed stress, anxiety and negative emotional well-being together with material deprivation.

It is easy to extrapolate from this. As a group, these professionals would deal with hundreds of student clients each year. To cite just one example, a youth lawyer dealing directly with school students in Melbourne's west reported 10 open cases for Myki infringements related to fares in the second half of 2015, from just one school.⁹³

It is clear that the problems this project seeks to expose are not minor, both in terms of numbers and impact on the lives of young people. Added to this is the economic cost of this system. It is time to get imaginative to prevent Victoria's young people from continuing to be victims of transport poverty.

⁹³ Unpublished data provided by WEstjustice for the purposes of this report.