



Blind Citizens Australia  
(Tasmania Branch)

# Submission on the Aviation Customer Rights Charter

## About Disability Voices Tasmania

Disability Voices Tasmania (DVT) is a cross-disability organisation building the collective voice of Tasmanians with disability.

Our purpose is to advance a Tasmanian community in which people with disability understand their rights, have opportunity to engage with decision makers and have access to pathways to have their authentic voices heard.

We work toward a Tasmania where the equal and inherent dignity and rights of people with disability are respected and promoted.

## Overview

Disability Voices Tasmania (DVT), along with our colleagues from COTA Tasmania, Blind Citizens Tasmania, ParaQuad Tasmania and Speakout Advocacy welcome the opportunity to provide comment in response to the *Aviation Customer Rights Charter: Consultation Paper* (the Draft Charter).

Accessible airline travel is of great importance to people with disability. This is particularly the case in Tasmania because of the lack of readily accessible alternative means of travelling throughout, from and to the State. It is hoped that the development of the Draft Charter along with the related work being

undertaken through the Interim Aviation Industry Ombudsman Scheme will result in swift and effective positive reforms to the airline industry in Australia. For too long, and despite the approval of the Australian Parliament of the *Disability Standards for Accessible Public Transport 2002 (Cth)*, the right to non-discriminatory airline transport services for people with disability has remained unfulfilled.

Case example:

Consider Emma, a highly placed senior executive who is blind. In early 2024 Emma was traveling from Hobart to Melbourne to conduct workshops for her workplace. Whilst at Hobart airport the Meet and Assist service was exemplary, in Melbourne, she was left waiting for over ninety minutes, sitting on an uncomfortable seat in a noisy, unfamiliar environment without access to food, water or a toilet. Emma was forced to contact her travel agent for assistance - The travel agent followed up with the airline and airport. In the end, not only was Emma subject to the indignity of having passers-by witness this debacle, she was also forced to miss an afternoon of work.

Emma made a complaint to the Australian Human Rights Commission (AHRC) which took 10 months to settle. The airline in question argued that they did not breach their duty of care as there was no specific limit placed upon timeframes or guarantee of service. As well, they argued that as they were a "low-cost" airline, they were not required to make their services accessible to disabled people.

Emma, a very experienced advocate, successfully prosecuted the case but it has caused significant travel anxiety, loss of dignity, loss of earnings owing to time taken out of work for the process, and significant embarrassment. However, as a direct result, the airline has now implemented a telephone number where disabled people who have been left without meet and assistance at airports can alert the airline to the problem and have it remedied. It is too early at this stage to assess its effectiveness.

A charter, along with a minimum service guarantee, would have prevented this situation or at least provided a direct mechanism for redress without having to resort to confrontational methods such as the AHRC. The burden of achieving rights, in terms of emotional and financial cost and time, must not be placed on the individual who is frequently ill-equipped to advocate effectively and is simply attempting to participate in travel just like anyone else

A charter of aviation customer rights is an important development but, without more, will be insufficient to achieve the promise of accessible public

transport services. While the Draft Charter refers to rights, there are several overarching aspects of the Draft Charter that should be remedied to ensure the rights of travellers with disability.

First and foremost, the Draft Charter should more clearly impose obligations on providers – airlines and airports – to remedy breaches of the Charter. The idea of rights connotes something more than mere expectations. It is true to say that rights are not rights at all if there is no remedy when they are breached.

Second, it is not clear from the Draft Charter whether it is intended that the brief commentary and the bullet points under the 'What this right could mean for customers' headings in each section is intended to be included in the final Charter. Both are important to understanding the intention of the inclusion of each particular right and scope of obligations of providers in respect of that right.

DVT submits that without such content, most customers, including people with disability, will have to make the argument to providers that the right encompasses the situation they have experienced. This is an unnecessary and, for many people, insurmountable barrier to having these rights fulfilled.

The inclusion of the detail will also be of assistance to providers, some of which may not have the awareness or understanding of the inadvertent barriers to equality that many in our community experience.

Third, the Draft Charter does not clearly deal with the obligations of airports and airlines in respect of third-party providers or agents of the airport or airline. For example, the vast majority of the people employed at airports in Tasmania are not employees of the airport owner/operator. A customer should not have to deal with third parties/agents where there has been a failure to fulfil rights set out in the Charter.

Finally, two further rights should be included.

### **Right X: Aviation industry customers have the right to expect airlines and airports to work proactively to remove barriers to accessible and inclusive airline travel experiences.**

The suggested details of what can be expected of airlines and airports is as follows:

- Airports and airlines will renew or develop Accessibility Action Plans in line with the requirements under the *Disability Discrimination Act 1992* (Cth) in consultation with representatives from Disabled Peoples Organisations and other groups that experience barriers. Such plans will set out timetable for address barriers to access identified through a community consultative process.

- Airports and airlines will register their Accessibility Action Plans with the Australian Human Rights Commission and make them publicly available in a readily identifiable location on their websites in accessible formats.

## **Right Y: Aviation industry customers have the right to a safe, respectful and dignified whole-of-journey experience.**

The suggested details of what can be expected of airlines and airports is as follows:

- Airports and airlines will work together in consultation with customers to ensure a complete, seamless experience from the point of arrival at an airport, including parking/Taxi zones, to departure on an aeroplane – and of course, the reverse upon arrival.
- Customers can expect airports and airlines to ensure a co-ordinated whole-of-journey experience that does not result in disruption of journey arising from different entities having responsibilities for particular segments of the journey.

In the following sections, DVT sets out brief commentary on each of the proposed rights and the explanatory information provided.

## **Proposed right 1: Aviation industry customers have the right to be treated with dignity and respect, in an accessible and inclusive environment**

The introductory commentary refers to customers being able to ‘access airlines and airports safely and free from discrimination, regardless of their abilities’. While this language seems to highlight the experience of people with disability, it suggests that there is a problem with the customer rather than with the service and excludes the diversity of people who are customers. More inclusive and right respecting language would be ‘regardless of their personal characteristics and circumstances’.

The focus on ‘specific assistance’ perpetuates the medical model of disability, a model that locates the ‘problem’ within the customer. Developments in disability rights, including within the international human rights framework recognise that the need for ‘specific assistance’ arises out of the design and implementation of policies, procedures and environments that fail to take account of the diversity of personal characteristics of the community. Reference in the commentary to recognising the impacts of systems and environments on the travel experiences of people with disability in particular would be beneficial to those with obligations under the Charter.

The commentary could also usefully refer to the adoption of universal design principles to guide the fulfillment of rights under the Charter. The seven principles of universal design, which apply not only to the built environment but also to system and service delivery design, are:<sup>1</sup>

Principle 1: Equitable use: The design is useful and marketable to people with diverse abilities.

Principle 2: Flexibility in use: The design accommodates a wide range of individual preferences and abilities.

Principle 3: Simple and intuitive use: Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.

Principle 4: Perceptible information: The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.

Principle 5: Tolerance for error: The design minimizes hazards and the adverse consequences of accidental or unintended actions.

Principle 6: Low physical effort: The design can be used efficiently and comfortably and with a minimum of fatigue.

Principle 7: Size and space for approach and use: Appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.

Proposed right 1 refers to 'the right to be treated with dignity and respect, in an accessible and inclusive environment'. The first bullet point detailing what the right could mean for customers refers to 'safe and dignified' and 'free from discrimination'. These different texts are not synonymous. Fully accessible and inclusive is not simply the absence of discrimination (whether using this term in its legal sense or more broadly). As noted already, the right (Right 1), the commentary and the bullet points need to expressly address the impact of systems on access and on dignity and respect.

As customer service is so often dependent on effective staff training programs are essential and these should be co-designed with people with disability and delivered by people with disability.

In respect of the specific content of the right, DVT suggests the following amendments to the text, with new content underlined and deleted content struck through:

- Airlines and airports will have a Customer Service statement or charter, which outlines their commitment to provide their services in a safe, respectful and dignified manner, and free from ~~discrimination~~ any barriers to equal and equitable access.

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<sup>1</sup> North Carolina State University, *Centre for Universal Design* (1997) <<https://design.ncsu.edu/research/center-for-universal-design/>>.

- Customers/members of the public ~~They~~ will be communicated with in a respectful and accessible non-discriminatory manner, regardless of their circumstances.
- Their personal identity, cultural dress or religious practice (including clothing) of all customers/members of the public will be respected during the whole travel experience.
- ~~For a person with disability,~~ Airlines and airports will comply with the *Disability Discrimination Act 1992* and Disability Transport Standards across their aviation journey and will actively work to improve accessibility above the level mandated in those Standards (which are minimum standards).
- All information provided by airlines and airports ~~must~~ will be available to passengers in a range of accessible formats without delay, including in languages other than English.
- Airport and airline staff will be aware of how best to assist customers/members of the public if you who have accessibility requirements that are not met by the usual airport or airline practices or have medical conditions issues that may requireing specific consideration, including people with implants, and prostheses, and people who need to travel with therapeutic devices or personal assistants.
- Airlines and airports will provide assistance ~~will be provided~~ in a timely way and by staff trained to provide such assistance.
- Security screening at airports will be delivered respectfully and with dignity, free from bias and in line with requirements set by the Department of Home Affairs.
- Wayfinding will assist in the easy navigation of airports; this will be achieved through signage provided in multiple languages and accessible formats, and buildings designed to be easy to navigate ~~assist those with accessibility needs.~~
- Signage will:
  - be provided at all decision-making points including entry and exit points as well as along continuous accessible paths of travel;
  - identify each area by name or purpose both at the entry points and overhead across the path of travel where possible
  - be clearly visible to, and set at an appropriate height for reading for people when standing or seated;
  - use a consistent, clear colour palate, style and layout throughout buildings and related facilities;
  - have sufficient luminance contrast and use low-reflective materials;
  - make consistent use of international symbols, including for access and inclusion;
  - have concise and unambiguous content, for example, using common terms, names and colours rather than obscure or technical terms or names;

- o use appropriate inclusive language: 'accessible' entry or toilet rather than 'disabled' entry or toilet;
- o use title case, eg, Gate Lounge, Male Ambulant Toilet;
- o use a consistent sans serif font, eg, Helvetica, Clearview, Frutiger

## Proposed Right 2: Aviation industry customers have the right to accurate, timely and accessible information and customer service

As noted in the overview, one issue that is not clear in the Draft Charter is the responsibility of airlines and airports for the actions of their agents in various aspects of service delivery, eg, security staff, travel agents, etc. The obligation to ensure fulfilment of the rights in the Charter should rest with the principals, that is, the airlines and airports and this should be clearly set out in the Charter.

In respect of the specific content of the right (Right 2), DVT recommends the following amendments to the text, with new content underlined and deleted content struck through:

- Airlines will provide customers/members of the public ~~They will be provided~~ with clear, ~~simple~~ easily understood and transparent concise terms and conditions that are easily available, ~~and~~ identifiable and accessible when purchasing airline tickets and related products, eg, extra leg room, extra baggage allowance, etc. These will be available in accessible formats electronically and on all travel documents provided by the airline or its agents.
- Airports will provide customers/members of the public with clear, simple and concise terms and conditions that are easily available, identifiable and accessible in respect of the use of ~~ing~~ airport services, such as parking.
- Customers/members of the public ~~They will be~~ provided with clear and easy to understand conditions of carriage (including all fees) by airlines, outlining their rights regarding lost or damaged luggage, assistance, delays, refunds, changes, denial of boarding, and cancellations and arrangements for unaccompanied minors.
- Airlines and airports will ensure that all communication is accessible to people with disability. Where information is provided digitally, the formats used will be compatible with adaptive technologies used by people with disability. Where information is provided audibly, a visual display of the same information will be available in all areas where the announcement is audible. Where information is provided in paper format, the airport or airline will be able to provide a copy in large print, Braille or a digital format on request.
- A customer service representative will be available at the point of sale of airline tickets and at airports and/or on the phone to assist. There will



be no additional charge for accessing a customer service representative.

- Information about delays, cancellations and disruptions will be provided to customers promptly after it is known by the airline.
- ~~Any~~ Call centres ~~should have include~~ the capability for a customer call-back option or voicemail, to ensure customers are not on hold for excessive periods of time.
- The airline and airport will have a customer service statement or charter which will outline their specific commitments to customers, including timelines for responses to queries or feedback.

## Proposed Right 3: Aviation industry customers have the right to prompt and fair remedies and support during and after cancellations, delays and disruptions

The content here refers to disruptions, etc, 'within the airline's control' but provides not information about what this encompasses and what is excluded from this concept. DVT notes that the [Canadian Air Passenger Protection Regulations](#)<sup>2</sup> detail in section 10 what situations are outside the carrier's control. The Canadian Transportation Agency provides, on its website, [a guide to the 'highlights' of the Regulations](#).<sup>3</sup> Both of these aspects of the Canadian approach should be considered for appropriate adoption and the commentary should make the scope of what is outside the airline's control very clear and should also detail what rights customers have when disruptions, etc, are outside the control of the airline.

For some people with disability the lack of accessible toilet facilities on planes means additional stress, planning (including limiting fluid intake to avoid the need to use a toilet) and potential health hazard. Delays and other flight disruptions can significantly add to this stress and health impacts. Airlines and airports need to implement effective mechanisms to minimum such impacts and this should be expressly dealt with in the Charter.

Some people with disability require, because of disability, a personal assistant to travel with them to provide specialist assistance to them during travel and at their destination. The cost of such assistance will be affected where the person experiences travel delays as they will bear the cost of additional hours of assistance. Compensation of delays and cancellations needs to include compensation for these additional personal support costs.

Disability Voices Tasmania is also aware of many people with disability who have missed flights owing to ineffective assistance or processes at airports. In

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<sup>2</sup> *Air Passenger Protection Regulations (Can) SOR/2019-150* <<https://laws.justice.gc.ca/eng/regulations/SOR-2019-150/index.html>>.

<sup>3</sup> Canadian Transportation Agency, *Air Passenger Protection Regulations Highlights* (2023) <<https://otc-cta.gc.ca/eng/air-passenger-protection-regulations-highlights>>.



many cases, this has resulted in delays of up to 24 hours. This is unacceptable and appropriate remedies for this must be included.

In respect of the specific content of the right (Right 3), DVT suggests the following amendments to the text, with new content underlined and deleted content struck through:

- If a flight is delayed, the airline should provide customers with regular updates on the status of the flight and the expected departure times.
- If a flight is disrupted or delayed for more than 3 hours, for reasons within the airline's control, customers should, at no cost to the customer, receive:
  - assistance to rebook with original or alternative airlines, without fees or any additional flight cost and no limits due to airline policies about the number of people travelling with mobility devices
  - the option to cancel time-dependent flights with a full refund
  - meals, meal vouchers/reimbursement or access to a lounge where food is available, where flights are delayed
  - accommodation and transfers where a customer is required to remain in an away-from-home port overnight
  - financial compensation to cover any additional costs for customers who require a personal assistant to travel with them
- If customers have had to book a new flight with another airline due to their original airline not having a reasonable replacement flight, then the original airline will cover the cost of the replacement flight ticket ~~refund the cost of the original flight~~.
- Customers should receive a refund for a cancelled flight within 14 days of the cancellation being notified, regardless of the fare type, where an alternative flight has not been agreed. The refund should be to the full amount paid by the customer, including baggage charges, pre-purchased meals, extra leg room fees and any ~~payment~~ other fees and charges.
- The default position of airlines will be the provision of a refund in the original form of payment (including cash, credit or flyer reward points), with a travel voucher only being issued if the customer chooses that option.
- If a flight has boarded, but is disrupted through a delayed take-off for longer than 1 hour, subject to safety requirements, customers will be

provided access to amenities, appropriate refreshments and regular information updates about the delay. Customers requiring accessible toilets will be assisted to access those toilets in the relevant terminal if no accessible toilets are available on the delayed take-off flight.

## Proposed Right 4: Aviation industry customers have the right to safe and timely baggage handling and fair remedies for damage and delays

The commentary notes the work the Government has committed to doing to improve compensation for damage to disability aids and equipment. There should be no limit on the amount of compensation owing where such aids and equipment are damaged and the compensation should include the cost of obtaining replacement equipment while repairs are undertaken or fully tailored replacements are being manufactured. This should be included in the commentary on what can be expected.

In respect of the specific content of the right (Right 4), DVT suggests the following amendments to the text, with new content underlined and deleted content struck through:

- Luggage will be safely handled through the aviation journey, from originating airport to plane to destination airport, including on the tarmac.
- If luggage is temporarily lost by an airline, customers should be reimbursed for the necessary purchase of appropriate clothing and toiletries where this occurs away from the customer's home port, and for the hire of any equipment needed due to disability that has been lost.
- If luggage is damaged in the course of carriage, the airline will finalise a claim for damages in a timely manner. Damage to disability aids and equipment will be compensated as a matter of urgency. Compensation for damage to disability aids and equipment will be for the full cost of repairs by the equipment repairer chosen by the customer or the full cost of replacement equipment where repair will not provide the same level of mobility or other assistance required, and will also cover the cost of hire of replacement aids or equipment while repairs are being undertaken or the replacement is being sourced.
- When any lost luggage is located, it should be delivered to the customer at the earliest possible time and at no cost to them.

## Proposed Right 5: Aviation industry customers have the right to the protection of their personal information

The reference to 'according to law' is not particularly helpful to customers as they are unlikely to be aware of the extent of legal obligations on airlines and airports to disclose information about customers and under what laws privacy may be compromised and is protected.

In respect of the specific content of the right (Right 5), DVT recommends the following amendments to the text, with new content underlined and deleted content struck through:

- Clear information about airline and airport handling of personal information will be available and readily locatable on their the websites of the airlines and airports.
- Airlines and airports (including their contractors) will collect, handle and store any personal information, according to the law.
- Airlines and airports will only store any personal information for the length of time that is necessary for the provision of the aviation service they are providing, or as authorised by law.
- The means adopted by airlines and airports for collecting required personal information will be ~~done~~ securely, with minimal risk of compromise by unauthorised third parties.
- Personal information (for example, meal preferences) that are provided by an airline or airport to a third party for the purposes of providing a service will be transmitted securely, handled appropriately and disposed of promptly.
- Airlines and airports will respond promptly to individual and systemic privacy breaches (including through malevolent actions of staff or third parties) to inform all customers whose data has been compromised and to assist customers to remedy any negative impacts of such breaches.

## Proposed Right 6: Aviation industry customers have the right to provide feedback, make complaints and exercise their rights without retribution

The commentary could usefully include reference to the airlines and airports making it clear how complaints will be dealt with at first instance (by the provider) and how it will be dealt with if the customer is not happy. Reference to 'how the complaint will be escalated' is not particularly accessible language.

One significant concern that has repeatedly arisen before and since the establishment of the Disability Transport Standards is the lack of accessible data from public transport providers. The Charter should include an obligation on airlines and airports to keep a record of all complaints and feedback and will provide data on numbers of complaints received, timeliness of acknowledgement, timeliness of resolution and number referred to the AIO. Airlines and airports should be expressly required to report those data in a public-facing page of their website as well as to the AIO on an annual basis.

Reference in the bullet points to 'improve ... complaint handling systems' is unhelpful as it does not set out what the expected level of service is.

In respect of the specific content of the right (Right 6), DVT suggests the following amendments to the text, with new content underlined and deleted content struck through:

- Airlines and airports will ~~improve their~~ establish and maintain effective complaint handling systems that are readily understood, can be accessed via a range of different media, are timely, responsive and treat customers with dignity and respect. A primary goal of the complaint handling systems will be seeking to resolve customer complaints in the first instance ~~and so that complaints do not require escalation~~ need to be referred to external complaints agencies.
- Airlines and airports will make it clear that a family member, carer, advocate or legal representative will be is able to support and/or represent a customer.
- ~~Information will be supplied by the Airlines or~~ and airports will make clear and accessible information available to all customers on how to provide feedback or make a complaint, and how the complaint will be escalated dealt with, including what will happen if you are the customer is not happy with the response, including how to contact the Aviation Industry Ombudsperson.
- All feedback and/or complaints will be acknowledged by, and responded to, by the airline or airport in a reasonable timeframe (with a target of 24 hours to acknowledge and 30 days to resolve).
- Airlines and airports will facilitate the exercise of customer rights under the Charter without customers being concerned about retribution.
- Airlines and airports will keep a record of all complaints and feedback and will provide data on numbers of complaints received, timeliness of acknowledgement, timeliness of resolution and number referred to the AIO. Airlines and airports will report those data in a public-facing page of their website as well as to the AIO on an annual basis.

## Conclusion

Reports of abuse, discrimination and loss of dignity have been widespread in the disability community and in many cases, people with disability have been subject to outright violence from airline and airport staff. For this reason, Disability Voices Tasmania asserts the importance of this Charter and the necessity of strong incentives and/or penalties for its enforcement. The rights of people with disability are inherently no less important than those of any other individual and this must be clearly understood by the airline industry.

DVT commends Government for taking this step and we stand with our community with the expectation that our rights will be understood and upheld. It is not acceptable that we people with disability should be treated like second class citizens by an industry where we pay the same fares as any other person. Whilst recognising safety as paramount, people with disability should not have to undergo excessive scrutiny, answer invasive questions and be subject to excessive requirements and we argue that this charter, if sufficiently modified and reinforced, will go a long way toward equal access for people with disability.

For any enquiries or clarification, please contact Vaughn Bennison – CEO, by E-mailing 