

# Response to The Aviation Industry Ombuds Scheme Consultation paper

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# About Queenslanders with Disability Network (QDN)

Queenslanders with Disability Network (QDN) is an organisation of, for, and with people with disability. QDN operates a state-wide network of 2,000+ members and supporters who provide information, feedback and views based on their lived experience, which inform the organisation's systemic advocacy activities. QDN has worked with members around the NDIS for over 10 years since its introduction and has been actively involved in the design and formation prior. QDN's work is focused on the rights and full social and economic inclusion of people with disability, along with areas of key importance identified by Queenslanders with disability – the NDIS and mainstream services that people with disability rely on every day, including health, housing, employment and transport.

QDN members have actively engaged to provide feedback, input and their lived experience at the Commonwealth level including the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC), the National Disability Insurance Scheme (NDIS) Review and improving housing and support options for vulnerable people with disability. QDN commends systemic reform to the NDIS. While Queenslanders with disability acknowledge the positive impacts of the NDIS and other systems, they also acknowledge that there is a need to improve the implementation, performance and outcomes for people with disability as end users. Fundamental is the authentic consultation and meaningful engagement of people with disability, their families, providers and the broader sector. We believe people with disability should always be at the table when decisions are made that directly impact their lives, including experiences relating to airline and airport accessibility.

## Introduction

Queenslanders with Disability Network (QDN) welcomes the opportunity to submit to the Aviation Industry Ombuds Scheme Consultation in response to the Consultation Paper. The establishment of this scheme in response to a recommendation within the Aviation White Paper: Towards 2025 is welcomed by our members with disability, their families, carers and kin, as a supportive mechanism to provide feedback about the rights of people with disability to access inclusive and accessible air travel.

The need for an Ombuds Scheme has been established through prior consultations about air travel, including response to the two workshops held in November 2022 by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disabilities (DRC). These workshops heard that there are systemic failures occurring in airline and airport

accessibility for people with disability.<sup>1</sup> These failures are captured in the response to this Consultation, plus relevant measures that are flagged for updating in relation to the *Disability Standards for Accessible Public Transport (DSAPT) 2002*.<sup>2</sup>

In our response to the Consultation Paper, QDN outlines how each area of the Ombuds Scheme design and implementation must consider accessibility needs and inclusion of Queenslanders with disability. Specifically, this paper responds to:

- Design of the Aviation Industry Ombuds Scheme
- Complaints handling
- Guidance and reporting
- Show cause arrangement
- Scheme compliance.

In addition to this submission, we refer the Government to our [2023 submission to the Aviation Green Paper](#).

## Discussion

The following sections of this submission focus on the question raised within the Consultation Paper under each element relating to the Ombuds Scheme development and implementation.

### Design of the Aviation Industry Ombuds Scheme

Objectives of the Aviation Industry Ombuds Scheme?

The proposed objectives for the Aviation Industry Ombuds Scheme are sufficient to enable a mechanism for people with disability to seek resolution where they have not been able to achieve a sufficient outcome by lodging a complaint with an airline or airport about their air travel experience.

It is proposed that the objectives of the Scheme are set out explicitly with an additional objective that access to the Ombuds Scheme is inclusive and accessible for people with disability.

Further, it is essential that there are mechanisms to ensure that occurrences of disability discrimination can be transparently shared between authorities to the Australian Human Rights Commission (AHRC) for consistency of data collection and reporting of disability discrimination experiences in all air travel contexts.

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<sup>1</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disabilities (2022). [Air travel workshops](#)

<sup>2</sup> Commonwealth of Australia (2023). [Reform of the Disability Standards for Accessible Public Transport 2002 \(Transport Standards\)](#)

**Recommendation 1:** That the Aviation Industry Ombuds Scheme projected objectives include an objective that access any airline or airport under the Ombuds Scheme must provide inclusive and accessible access for people with disability, including compliance with the Disability Discrimination Act 1992 (DDA) and further disability-specific Aviation Standards under the DDA, which may include positive duty measures.

**Recommendation 2:** That the Aviation Industry Ombuds Scheme establishes a mechanism to share data with the Australian Human Rights Commission (AHRC) regarding disability discrimination and disability consumer issues raised with Ombuds Scheme.

#### Powers and functions of the ombudsperson

The powers and functions that have been outlined in the Consultation Paper provide a sufficient base to address ongoing concerns and issues that people with disability experience when travelling by air. It is noted that the functions include provision of an accessible Ombuds Scheme which is essential for people with disability. Additionally, the outlined powers and functions provide scope for people with disability to be empowered through provision of education about their rights, including those legislatively enforced, when travelling by air. This includes rights under the *Competition and Consumer Act 2010*, with information and assistance provided by the Ombuds Scheme to seek recourse with the ACCC.

There are two primary considerations here. First, the publication of reports on airline and airport conduct must be clear, consistent and transparent, to enable adequate policy recommendations and actions for recourse where issues have been systemically identified. Further, they must be accessible for the communication needs of all air travel consumers with disability.

Second, the Ombuds Scheme must provide accessible and inclusive processes to ensure that any person with disability contacting the scheme can get the assistance and advice they need, or to lodge a complaint.

Finally, QDN supports the point raised by Dr John McPherson AM in his submission that the Ombuds Scheme must be adequately resourced and have the power to execute its functions, particularly noting that it is not an enforcement body, but one rather that can play a role in identifying conduct by airlines or airports that require regulatory oversight.

**Recommendation 3:** That the Aviation Industry Ombuds Scheme must provide clear, consistent, transparent and accessible public reports on airport and airline conduct.

**Recommendation 4:** That the Aviation Industry Ombuds Scheme provides accessible and inclusive processes to any person with disability accessing the Scheme.

**Recommendation 5:** That the Commonwealth Government provide funding to the Aviation Industry Ombuds Scheme to enable it with the resources to acquit its functions.

#### Governance arrangement for the Ombuds Scheme

The governance arrangement adopted by the Ombuds Scheme must include representation with disability to be the consumer voice of people with disability. It is noted in the Consultation

Paper that consumer and industry representative voices are typically included in industry Ombuds Scheme and complaints handling boards. It is essential that someone with experience of disability and governance can be a representative voice to ensure that strategic oversight relating to the Scheme is accountable in terms of meeting accessibility and inclusive practices for air travel. As QDN's motto goes, nothing about us without us.

Further, the suggestion to implement two individual ombudspersons within the scheme for aviation consumer issues and aircraft noise respectively is supported. They are discrete functions.

**Recommendation 6:** That the board of the Aviation Industry Ombuds Scheme includes at least one person with disability with relevant governance skills, expertise and experience.

**Recommendation 7:** That the Aviation Industry Ombuds Scheme includes two ombudspersons with responsibility for aviation consumer issues and aircraft noise respectively.

#### Membership of airlines and airports with the Ombuds Scheme

All Australian airports and Australian airlines operating in Australian territory should be subject to the Aviation Industry Ombuds Scheme, notwithstanding passenger volumes. It is important that passengers have consumer protections no matter the size of the airline.

It should be noted in addition to this though that there must be a function for the Ombuds Scheme to support any person with disability who needs to file complaints and seek recourse through an airline that may operate in Australian air territory, even if not Australian-owned or operated. All complaints must consider the Australian aviation-specific disability standards, noting the Consultation Paper's point that the Scheme must also comply with Australia's international obligations.

Whether or not a phased approach to the Ombuds Scheme is adopted overall to the implementation of the Aviation Scheme, it is essential that all airlines and airports immediately adopt and implement compliance with the aviation-specific disability aviation standards as soon as they are created.

**Recommendation 8:** All Australian airlines and airports should be members of the Aviation Industry Ombuds Scheme.

**Recommendation 9:** That the Aviation Industry Ombuds Scheme should provide assistance to any person with disability who contacts them due to an issue that has occurred in Australian territory, even if the airline is not Australian owned, to assist with directing them to where they can provide feedback or make a complaint about an accessibility or inclusion issue.

#### Learning from existing industry aviation ombuds scheme or authorities

In relation to learning from existing industry aviation ombuds schemes or authorities, in the United Kingdom (UK), there is legislation that stipulates a right to assistance when accessing UK air travel and airports for people with disability. Whilst Australia has the *Disability Discrimination Act 1992* (DDA),

there are no existing aviation-specific disability standards to guide the work for an Australian ombuds scheme.

Therefore, it is essential that Australia learns lessons from implementation of the UK's aviation legislation, the *Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007* and commits to genuine codesign with people with disability and their representative organisations to develop the proposed Aviation Standards.

**Recommendation 10:** That the Aviation Industry Ombuds Scheme works with the Civil Aviation Authority (CAA) to learn from the implementation of the *Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007* in the UK, to take advice when designing relevant Aviation Standards in Australia. This must be done in conjunction with genuine codesign with the Australian disability community to develop Australian disability-specific Aviation Standards under the DDA.

## Complaints handling

### Eligible types of complaints

The types of complaints that should be eligible include but are not limited to:

- Any consumer issue that arises in the course of being in an Australian airport, when departing from, or arriving to that airport
- Any consumer issue on an Australian airline.

If someone is travelling on an international airline in Australian space, there needs to be referral mechanisms, or if it is disability-specific, then the Ombuds Scheme must have an obligation to assist the person with disability to the correct place and people to raise an issue and seek resolution. This may also include referral to the AHRC.

The complaint can be directly raised by the consumer, or on behalf of the consumer by an advocate or representative from an Australian-registered Not-for-Profit (NFP) or small business with an Australian Business Number (ABN), if the air travel has been business-related.

It is presumed that a referral pathway would need to be in place where a travel agent or third-party supplier for air travel is involved, potentially to the ACCC.

**Recommendation 11:** Any issue can be raised by consumers using Australian airport or airlines, Australian owned businesses with an Australian Business Number (ABN) or Australian registered Not-for-Profit (NFP) organisations.

Also see **Recommendation 9**.

### Complaints resolution process

It is essential that the complaint resolution process adopted by the Ombuds Scheme is accessible, inclusive and timely. The Ombuds Scheme should be codesigned with stakeholders which include people with disability to ensure that it is accessible and inclusive, while timeliness

needs to be established with targets for complaints handling and resolution, with public, transparent reporting for accountability, similarly to the public reporting for the NDIS Participant Guarantee.<sup>3</sup> The state bodies for consumer complaint resolutions may provide direction. For example, the Office of Fair Trading aims to resolve complaints within 30 days.

**Recommendation 12:** That the Aviation Industry Ombuds Scheme adopt a process that is accessible, inclusive and timely, considering the directives provided by other state bodies for consumer complaints resolution e.g., Queensland Office of Fair Trading aims to resolve complaints within 30 days.

**Recommendation 13:** That the Aviation Industry Ombuds Scheme publishes details about the complaint making process in an accessible format and commits to public reporting of progress against benchmarks like [the NDIS Participant Guarantee](#).

### Guidance and reporting – publications and procedural fairness

The Ombuds Scheme should provide regular reports about complaints and activities undertaken regarding compliance, training and education of airports and airlines to comply with the Scheme. For consumers, the Ombuds Scheme could provide accessible format information about consumer rights and protections, including complaints processes.

Regarding procedural fairness in data reporting, it is essential that individual cases are deidentified, however there needs to be transparency in the provision of data reporting including resolutions around disability discrimination for airlines and airports to improve their commitment to providing inclusive and accessible services.

It is strongly recommended that benchmarking is used to lift accessibility and inclusive practices across Australian airlines and airports, by setting targets and providing public reporting against these targets annually.

**Recommendation 14:** That the Aviation Industry Ombuds Scheme publishes regular reports with aggregate data about complaints and resolutions made to the Scheme. Further, there must be a commitment to these reports being timely and provided in ways that meet the communication needs of people with disability.

**Recommendation 15:** That the Aviation Industry Ombuds Scheme in conjunction with the aviation industry and working with the Australian Human Rights Commission (AHRC) establishes benchmarking for airlines and airports around ensuring good conduct by airports and airlines, including but not limited to disability access and inclusion.

### Show cause arrangement

The Ombuds Scheme must require specific powers to ensure that airlines provide timely information about delays and cancellations, particularly noting the impact on our membership. The Whole of

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<sup>3</sup> National Disability Insurance Scheme (2024). [Participant Service Guarantee](#)

Journey approach<sup>4</sup> outlines the considerations that people with disability make in planning pre-journey, during the journey especially if adjustments to a planned route are needed, to reach an end destination. Delays and cancellations can impact a person with disability either requiring part or the whole of their journey to be re-routed for accessibility, noting that not all airports or airlines have accessible or inclusive practices that meet the needs of all people with disability e.g., rules around allowances for travelling with powered mobility devices, access for travelling with a service or guide dog or diversions to an unfamiliar airport meaning it is inaccessible for someone without orientation and mobility training there etc.

**Recommendation 16:** The Aviation Industry Ombuds Scheme must have discretionary powers to compel Scheme members to provide timely and accessible information to the public about cancellations and delays. For people with disability, this has a disproportionate adverse impact, if not provided sufficient time to make alternative arrangements.

### Scheme compliance

If legislation is considered to support the work of the Ombuds Scheme, an amendment to the Disability Discrimination Act 1992 to enforce aviation industry disability standards could include positive duty for non-compliance.

See **recommendation 1**.

## Conclusion

It is essential that design and implementation of an Aviation Industry Ombuds Scheme considers 5.5 million Australians with disability who access air travel across Australia, which includes our Queensland membership. QDN emphasises that it is not only essential that the Scheme itself is accessible to people with disability who might be seeking advice or lodging complaints, but that the Scheme holds airlines and airports to account for their disability inclusion and accessibility conduct.

The work of the Scheme will be aided with the development and implementation of aviation-specific disability standards, which QDN urges to be genuinely codesigned and guided by input from people with disability and their representative organisations.

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<sup>4</sup> Commonwealth Government (2017). [The Whole Journey: A guide for thinking beyond compliance to create accessible public transport journeys](#)