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Reforms of the Disability Standards for Accessible Public Transport

Submission from the Public Transport Ombudsman

9 August 2022
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Reforms of the Disability Standards for Accessible Public Transport

Thank you for the opportunity to make a submission to the Reforms of the Disability Standards for Accessible Public Transport 2002 - Stage 2 Consultation. This submission draws on the experiences of people who have made complaints to the Public Transport Ombudsman (PTO), the data our office holds and the insights we have gained through our outreach activities with groups and individuals who use public transport in Victoria.

The Disability Standards for Accessible Public Transport (DSAPT) play a vital role in articulating standards for public transport operators to meet to support the removal of discrimination from public transport services. They are important in setting minimum standards and encouraging operators to innovate to improve access to public transport.

The PTO acknowledges the work that our members do in relation to improving the accessibility of the public transport network and the constructive approach taken to resolving complaints in this area and identifying opportunities for broader system improvements.

The PTO also acknowledges the experience of consumers who face barriers to access who can take the time to provide feedback and utilise the PTO's dispute resolution services. The PTO focuses on accessible public transport in recognition that poor experiences and responses to complaints may discourage essential travel and reduce people's ability to connect with their families, work, services, social lives, and support networks.

The Role of the Public Transport Ombudsman

The Public Transport Ombudsman (PTO) is an industry specific dispute resolution scheme, established in 2004 to receive, investigate and resolve complaints about public transport services in Victoria. The PTO can look at complaints about public transport operators who are members of our scheme, including complaints about matters covered by the Transport Standards.

Our members include passenger train, tram and bus operators and other organisations that provide public transport services, such as Public Transport Victoria (PTV) (ticketing and timetables) as well as authorities responsible for delivering major public transport infrastructure projects, such as level crossing

removals and the Melbourne Metro Tunnel. The membership of the PTO includes a mix of private and government entities.

The PTO provides an informal dispute resolution service for customers that complies with both Government and peak body benchmarks. The Federal Government's Benchmarks for Industry-based Customer Dispute Resolution are reflected in all levels of the PTO's activities, from strategic planning and policy development to complaint handling and engaging with consumers.

The Benchmarks are:

Accessibility | Independence | Fairness | Accountability | Efficiency | Effectiveness

The PTO also identifies, investigates, and resolves systemic issues facing the public transport industry. We work constructively with public transport operators to address systemic issues and improvement opportunities that are identified through complaints.

This collaborative approach has the effect of improving services, reducing complaints, and restoring and maintaining public confidence in the public transport system.

Accessibility complaints to the PTO

From 1 July 2018 the PTO changed the way we record data for cases involving accessibility in our database to make it easier to monitor the approaches we receive. Since this time, we have received 307 cases in which public transport accessibility issues were raised by people in their complaints. COVID-19 has had a significant impact on public transport patronage levels in Victoria since 2020 and this has had led to a decrease in overall approaches to the PTO. Nonetheless accessibility issues have remained a consistent area of complaint and more than doubled between the 2020/2021 and 2021/2022 year.

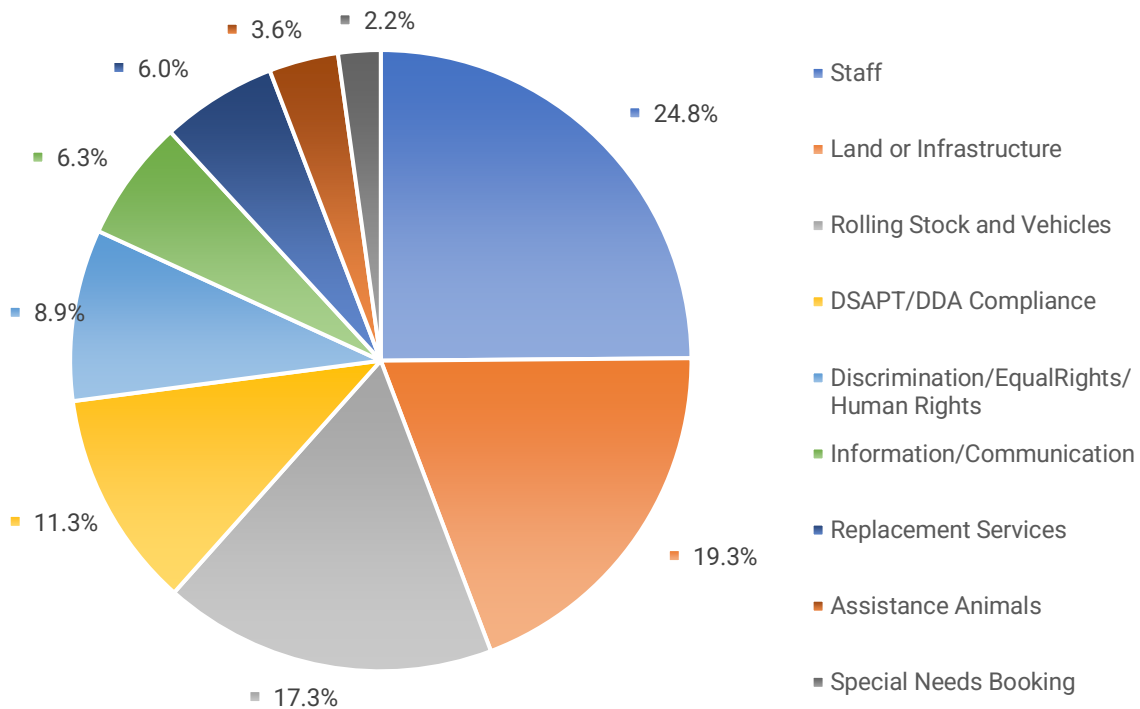
These issues include:

- Access to vehicles, building or platforms
- Issues with escalators and ramps at stations and stops
- Issues with vehicle ramps and boarding devices
- Driver and staff conduct issues including failure to pick up or set down passengers

- Wheelchair restraints on buses
- Availability of accessibility information
- Passengers with disabilities feeling unsafe

The breakdown of the different types of issues that arise in accessibility complaints we receive is shown in the graph below.

Issues within Accessibility Complaints 2018-2022



Complaint outcomes

We have an informal and accessible complaint process, and we resolve the majority of our complaints by agreement between the parties. Typical outcomes include:

- Apology.
- Explanation.
- Change of policy or procedure.
- Refund.
- Goodwill gesture.

- Staff training.

We recognise that in cases where the person complaining is more vulnerable, extra steps may need to be taken by the operator to rebuild trust and confidence in using public transport. These extra measures can include:

- Providing the person with an operator contact who they can call directly if the problem recurs.
- Exploring other temporary transport options such as taxi.
- Referring the person to a program or service that supports confident public transport use such as PTV's "Try Before You Ride" event.

Systemic issues

Systemic issues are one way in which we work with public transport operators to address systemic failings in respect of accessibility and bring about improvements in the public transport system. A systemic issue is an issue we have identified where the effect of the issue may be felt by more people. We work with public transport operators to:

- Investigate the systemic issue;
- Identify who is affected and the impact of the issue; and
- Come up with a fair and reasonable resolution to the issue.

We look for systemic issues in the complaints we receive. We also speak to community and advocacy groups to get feedback on issues and practices that impact public transport.

Some of the systemic issues we have reviewed in recent years include:

- Accessibility of trams and operator decision-making when short shunting trams;
- Failure to stop for passengers with a disability;
- Access to toilets and lifts at stations;
- Height of handholds on trams and trains;
- Problems with lowering ramps on buses; and
- Bus replacement services during Metro train works.

Some systemic issues are beyond our ability to resolve through the systemic issues process, for example where they are impacted by government policy or budget or they involve stakeholders that are not members of our scheme such as councils. However, where possible we will inform the relevant body about this feedback.

Recognising the value of feedback and complaints

The PTO submits that there is enormous value for operators and service providers in actively responding to feedback and complaints by listening and understanding people's experiences, providing meaningful resolutions, and incorporating feedback into improvement efforts and future system design. It is essential that public transport operators recognise the impact of service failures and disruptions on the customer experience and people's confidence in using public transport.

Positive complaint management gives consumers a voice and acknowledges that their experience and confidence in the system are at the heart of providing public transport services. It also provides an opportunity for operators to listen to the lived experience of people with disability and recognise opportunities for improvement.

In most cases, consumers do not have a choice of public transport provider, so it is of vital importance that complaints are received and addressed in a way that restores their confidence in the operator and their own ability to continue to use public transport. We are aware that the most vulnerable users of public transport may feel less comfortable making a complaint about poor experiences. For this reason, the process to make a complaint should be accessible and welcoming.

The challenge for public transport operators is to create an environment in which all consumers feel that their complaints are important, and their experiences are valued, and to have an avenue where consumers can go if they feel the operator has not resolved their complaint.

In Victoria, consumers with unresolved public transport complaints have recourse to my office. The public transport operators who are members of the PTO scheme are required to advise consumers about the PTO, and about their right to refer a complaint to the PTO.

Consumers are empowered by having an independent, simple process to have their unresolved complaint investigated to ensure there is a fair outcome. Often the involvement of an independent body can provide a new impetus for the parties to identify solutions and recognise the impact of an individual's experience. Consumers also know that we use the information obtained from complaints to identify systemic

issues and improvement opportunities, which allow us to work with operators and governments to improve the public transport system for everyone.

Feedback on Stage 2 Reform Areas

The PTO makes the following comments on specific Stage 2 Reform Areas. The references are to the sections of the Regulatory Impact Statement.

A number of the following case studies were collated for the PTO's submission to the Victorian Auditor General's Tram Accessibility Audit in 2019. We see issues across operators and modes of transport and note Yarra Trams' positive approach in working with the PTO and addressing accessibility issues more broadly.

Reporting (1)

Appropriate data collection is vital for monitoring the progress of compliance with DSAPT. Public reporting of data in a clear and consistent manner in aggregate and by operator/ agency is essential to providing accountability and can help to drive service improvement.

Equivalent access (2)

DSAPT allows public transport operators to provide equivalent access as a means of complying with DSAPT when they cannot comply with the operational standards. Our experience is that public transport operators generally have not had a systematic approach to exploring equivalent access when operational compliance falls short. The Australian Human Rights Commission (AHRC) has recognised the uncertainty around equivalent access and has released guidelines to support operators with guidance on applying equivalent access.

In the context that targets for DSAPT compliance will not be met for many services, equivalent access remains an important mechanism. The PTO submits that more should be done to provide certainty to operators and facilitate meaningful solutions that meet the needs of people with disabilities.

The PTO suggests that a more systematic approach to implementing equivalent access is needed. A non-regulatory response may be sufficient to support this. Evaluation of the effectiveness of the AHRC guidelines would provide important evidence about the value of a non-regulatory approach. The PTO also supports consideration of a regulatory response. A genuine co-design approach should sit at the centre of either approach and any bodies established for this purpose should have strong representation and leadership from people with disability.

Rideshare (3)

Although the PTO's jurisdiction does not extend to taxi or rideshare services, the PTO supports the amendment of DSAPT to clarify and make explicit the compliance requirements of rideshare services.

There is a move for further integration of rideshare and other forms of public transport. Rideshare services can facilitate access to public transport for people with disability.

This amendment is necessary to align the standards with the current landscape and the available options for people to travel, create certainty for operators and increase confidence in all forms of public transport for people with disability.

Better communication of accessibility features (5)

The PTO supports a nationally consistent approach to the communication of accessibility features. The development of guidance material would assist operators to provide best practice information that supports passengers to plan their journeys. This would not only provide consistency to people who are travelling in different states but would ensure that users of different forms of transport within the same state or city were able to access information that was presented consistently.

Real-time communication (7)

The PTO agrees that there is a clear need for passengers to receive real time communication about service-related issues. This is particularly important for passengers with a disability who need to be able to make informed decisions about their travel plans. The PTO supports amendments that include a requirement for real time communication between operators or providers and people with disability undertaking a public transport journey.

The PTO regularly receives complaints where there has been a failure to provide real-time communication or to respond to a consumer's request for information in real-time.

Irene's case study demonstrates the importance of staff being able to provide timely and accurate advice to a consumer.

Irene's story

Irene has a young son who is a wheelchair user. She called PTV to find out options for accessible travel from the Royal Children's Hospital to Etihad Stadium where she was taking her son to see a show. Irene was told that they could get a tram. They waited for an hour and a half on the advised route but none of the trams that arrived at the stop were wheelchair accessible. During this time, she made four phone calls to the contact centre but was advised by staff that there was no way to tell when the next accessible tram would be. Given the long wait, Irene and her son had to catch a taxi to Etihad Stadium to make it to the show. Irene strongly felt that trams in this area should be accessible and that she did not think it was fair that she had to wait at the stop for hours until an accessible tram arrived.

Irene made a complaint to Yarra Trams but was advised that there was nothing they could do as there was no way to tell when an accessible tram service would run. Our investigation found that Irene was likely given a non-accessible route in the first instance as the agent didn't select the accessible option when plotting the journey. Additionally, in one of Irene's calls to PTV, our office found the agent to be unhelpful, dismissive, and lacking in empathy. We concluded that the type of information Irene was requesting was available to call centre staff, it just wasn't accessed.

Yarra Trams provided Irene with an apology and a goodwill gesture for her experience and the incorrect information that had been provided. Further, our office referred Irene's complaint to our systemic area for a systemic review and we requested that Yarra Trams refer this complaint to their own Accessibility Team to assist future customer experiences. We advised Irene how she can use the PTV journey planner function or tramTRACKER app to plan her next accessible journey.

These types of complaints often arise in the context of unplanned disruptions. Unplanned disruptions have a significant impact on the ability of people with disability to navigate the transport system and make alternative arrangements both before and during their travel.

Ms B's story

Ms B relies on a wheeled walker for mobility and plans her tram journeys according to which stops are equipped with accessibility ramps, so that she may disembark the tram independently. After boarding a tram in the CBD with the intention of getting off at an accessible outer suburb stop, the driver announced

that the service was running late, and the tram was being short-shunted. Passengers were told to disembark at a non-accessible depot stop. An elderly passenger assisted Ms B to disembark the tram, along with her walker.

Ms B felt that the customer service staff were not concerned with her problem. The staff instructed her to wait for the next tram in order to get to her destination, but Ms B felt that it would have been impossible for her to board this tram which was high floored and had more than 50 other passengers waiting to get on. She contacted our office and explained that, as a result of the incident, she had lost confidence in her ability to use the tram system independently.

The PTO decided to open an investigation into Ms B's complaint. We felt that Yarra Trams' initial response to our investigation had failed to address the specific circumstances of Ms B's complaint and were willing to put Ms B's offer to Yarra Trams. Our office was able to set up a meeting with Yarra Trams at Ms B's request to discuss Yarra Trams' future use of short shunting. In the meeting, Ms B spoke with Yarra Trams about her experience, and the parties discussed the issues of short shunting, the development of the tram network and accessibility more generally. Yarra Trams explained that the short shunting that occurred in Ms B's incident was due to impacts from changes to a nearby rail line. Yarra Trams apologised for the inconvenience caused to Ms B and offered her a goodwill gesture of a daily myki money fare. After attending the meeting, Ms B was satisfied that her complaint had been resolved and the PTO was able to close her case.

In our systemic work (described above) we regularly consider the travel experience of people with disability during service disruptions or when services don't operate as planned or expected. Unplanned disruptions are a fact of life in public transport but when they occur there is a need to provide clear and timely information.

Systemic case study - Janine

Janine contacted our office after she was forced to disembark her regular tram route without warning due to a service disruption. Janine is visually impaired and was unable to identify where she was or how she would get home. Janine was not provided with any directions or assistance by Yarra Trams' staff. The PTO initially decided to refer this complaint back to Yarra Trams for further comment. However, in its response, Yarra Trams simply advised that they had contacted Janine and confirmed their policy and procedures regarding assisting passengers with special needs during disruptions. Upon providing this information to Janine, she was still confused and unsure of the proper policy and procedures that would assist her in her future travels.

The PTO decided that the issues experienced by Janine had the potential to impact a number of passengers and we decided to undertake a Systemic Enquiry into the matter. In response to the Systemic Enquiry, the response provided by Yarra Trams provided proper authority of these procedures and general comments about staff training. Yarra Trams confirmed that it is the duty of front-line staff to look after consumers and to ensure no one is left behind, especially during disruptions. Further, Yarra Trams confirmed that drivers are expected to contact the OC to arrange alternative arrangements help the affected consumer reach their final destination.

While the PTO doesn't usually contact a consumer directly as part of the systemic process, we did in this instance as we felt that information would be useful to Janine. After communicating this information to Janine, she felt confident that she could assert these procedures and that appropriate assistance would be rendered to her in times of need. Janine was not satisfied with the driver's conduct on the day as they didn't follow the procedures, but she was satisfied that the PTO looking into the issue via our systemic process.

The PTO is currently undertaking a multi-operator systemic inquiry to understand the current practices of public transport operators in Victoria when arranging equivalent or alternative travel for passengers with disability when an accessible service isn't available. This might be due to disruption to an entire service or a lack of accessible option that result in a disruption for the individual. Examples of the latter include:

- An accessible carriage is removed from service, or an accessible space is already occupied by other passengers, which means a passenger with accessibility requirements can't board the service.
- Accessible infrastructure can't be used because a train overshoots a platform, or a tram is short shunted at a stop that isn't accessible.

Boarding devices (38-39)

A common area of accessibility complaints received by the PTO is around boarding devices. These complaints often involve issues around how the device is used rather than the device itself. This is particularly the case with bus services where drivers play a major role in both the delivery of the public transport service, as well as on the spot customer service.

Operator training is a major avenue through which accessible practices are developed and implemented. One of the reasons for incidents that compromise the

accessibility of a service is the failure or absence of formal practices that instruct staff when assisting passengers with a disability.

Lea's story

Lea complained to us after she fell out of her wheelchair, exiting a bus. She told us that the bus driver engaged the ramp but did not lower the bus and as a result the ramp was too steep. Luckily Lea was not injured, but her wheelchair was damaged. The bus driver told Lea it was her fault because she was moving too fast, but we were able to access CCTV footage to confirm Lea's story. We contacted the bus company operating the service and commenced an investigation. During our investigation it became apparent that the bus operator did not have any formal instructions for drivers on how to operate the ramp. The bus operator consulted with the manufacturer and created a procedure for ramp operation. The procedure was made mandatory and issued in a bulletin to all bus drivers. The bus operator apologised to Lea for her experience and asked her to contact them if she had any problems in future.

Nominated assistance points (43)

Nominated assistance points are an important means for people to board safely with appropriate support where required. Nominated assistance points have been the subject of a number of complaints to the PTO. Nominated assistance points are important not just for passengers with mobility issues who need ramp access. People with a range of disabilities can require assistance with boarding or feel more confident travelling when they are able to access assistance. The following case studies demonstrate some of the challenges that arise with nominated assistance points.

Helen's story

We received a complaint from a teacher travelling with several people with disability who required assistance to board the train. Passengers requiring assistance to board are instructed to wait near where the front carriage will stop, so they can receive assistance from the driver and a ramp can be deployed if necessary.

The group had been waiting in the correct position but were not aware that they had arrived during the reversal of service, and the next train would be travelling in the opposite direction. When the train arrived, they realised it was travelling the other way and they needed to board at the other end of the platform. We looked at CCTV footage of the incident which showed the group travelling along

the platform alongside the train, with several members of the group clearly requiring a ramp to board. The train departed before they were able to reach the first carriage.

James' story

James contacted our office after he was unable to board a city tram service during peak hour. James waited in the designated disability area at the start of the tram platform with his assistance dog whilst waiting for his tram to arrive. Despite several trams arriving at the stop, he was unable to board as each service was full. He said that any attempts to board made it unsafe for him and his assistance dog to travel. James signalled multiple drivers by waving his cane that he needed to board, however, no one helped him board his service. A further five tram services went past James and did not allow him to board. Whilst waiting, James was unable to locate a Yarra Trams attendant to assist him in boarding a tram. He then contacted the Yarra Trams' Call Centre for further assistance.

Eventually, James was given a lift to his destination by Victoria Police when they noticed him distressed and stranded at a tram stop. James indicated he has experienced other similar instances where tram drivers do not notice him resulting in him missing his tram service. The PTO decided to open a systemic enquiry into what assistance is available for vulnerable consumers to board trams in the CBD.

In its response, Yarra Trams confirmed that there was no set process for assisting consumers that may have difficulties in boarding tram services. Yarra Trams further confirmed that more needed to be done on their end to help consumers in similar distressing and isolating situations. This systemic enquiry presented Yarra Trams with an opportunity to rethink their policy and procedures.

As a result, Yarra Trams confirmed that CSE staff scheduled at major CBD stops will approach consumers that appear to require assistance. Where no CSE staff are available, consumers can contact the PTV Call Centre who will then redirect the matter as a priority to the Yarra Trams Operations Centre. The Yarra Trams Operations Centre will then decide on a case-by-case basis to either direct ground staff to make their way to and approach the consumer or to contact the next-approaching tram driver and inform them of the consumer's situation. Yarra Trams confirmed that this process would be implemented immediately to restore James' and other consumer's confidence in available assistance offered by Yarra Trams. The PTO was satisfied that Yarra Trams took immediate action

to relieve James' concerns and to improve the experience of a wider group of consumers.

Mobility aid movement in allocated spaces (53-54)

The PTO has received several complaints from consumers who have felt unsafe or have tipped over while travelling in wheelchairs on buses. The PTO agrees with the issues identified in the RIS that arise from a lack of guidance in this area and supports reforms that would provide greater clarity. Rob's story is an example of what can happen when mobility devices are unrestrained on buses.

Rob's story

Rob was travelling on the bus and was thrown to the ground when his wheelchair tipped over. Rob felt that in responding to the incident the driver treated him like an object rather than a person. The driver also didn't take his details or check to see if he needed medical care.

Rob complained to the PTO. As part of the resolution of the complaint the bus operator apologised for the incident and acknowledged that the driver did not follow their policy. The operator then provided updates to the PTO on subsequent work in improving wheelchair restraints on buses.

The impact of inconsistent guidance on these issues was demonstrated a case the PTO considered in 2020. The PTO received a complaint from an authorised representative of a consumer who used a wheelchair. The complaint was about signage on the bus which informed passengers that a wheelchair must face backwards. However, as buses don't have restraints, the consumer said the safest way for them to travel was facing the aisle. The authorised representative experienced difficulties getting a response from the bus operator before being told the consumer should just ignore the sign as it wasn't going to be removed. The consumer wasn't comfortable with this advice and felt that they might be judged by other passengers if they didn't follow the instructions on the sign. The representative had approached the PTO to resolve the complaint.

The PTO felt this was an issue that had the potential to impact several passengers, so we sought information from DOT about safe travel on buses when using a wheelchair.

DOT explained that the Disability Standards for Accessible Public Transport (DSAPT) do not specify any direction of travel as being safer than another, so accordingly, DOT doesn't provide instruction about which direction to face when travelling using a

wheelchair. DOT directed the bus operator to remove the sign as the information it contained was not relevant in Victoria. It appears that the issue was isolated to that specific bus, as it had been purchased interstate and we felt that DOT's actions were appropriate in the circumstances.

While looking into the enquiry we identified that some bus operators provided information about travelling safely using a wheelchair that was inconsistent with the advice we received from DOT. The PTO recommended that DOT liaise with the bus operators to remove this information from their websites. We also recommended that DOT conduct a broader review of all bus operator websites to ensure that information was consistent in the industry. DOT accepted the recommendations, and the enquiry was closed.

Conclusion

This submission has shared some examples of cases that the PTO has handled where they provide some context for the areas of reform under consideration.

The PTO commends the work being undertaken to reform DSAPT to ensure that it reflects the needs of people with a disability to fully access public transport in a contemporary setting.

We note that *The Whole Journey Guide* provides a comprehensive and practical guide to making transport accessible. It plays an important role in enlivening the standards. Many of the proposed reforms include further amendment of the guide. The PTO supports regular review of *The Whole Journey Guide* to ensure that it reflects current best practice and continues to be a useful tool for policy makers, operators, and people with disability. We submit that any updates to the guide should be based on codesign principles and that the guide should provide detailed explanation and guidance on codesign to make sure that people with disability are actively part of formulating the solutions.