

## 2022 Review of the Disability Standards for Accessible Public Transport

28 June 2023

**About SCIA:** Spinal Cord Injuries Australia (SCIA) is a for-purpose organisation working for people living with spinal cord injury (SCI) and other neuro conditions. We were founded by people with SCI over fifty years ago; people with disability make up 35% of our staff, and the majority of our board live with spinal cord injury. We have been providing individual and systemic advocacy for many years with funding through the National Disability Advocacy Program and funding from the NSW government's Disability Advocacy Futures Program, with an advocacy team of 14 members working across the Sydney and Northern Rivers teams.

**SCIA takes this opportunity to fully endorse the submission and recommendations of the Public Interest Advocacy Centre (PIAC) to this inquiry.** Their analysis has highlighted all the deficiencies that exist with the standards, with very little progress being made with the current five yearly reviews. It is SCIA's view that PIAC's recommendations, set out below, would vastly improve the standards and go some way towards fixing the systemic transport issues people with disability still encounter on a regular basis.

### PIAC's Recommendations

#### ***Recommendation 1 – More frequent evaluation of Transport Standards***

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*The Australian Government review and evaluate the Transport Standards every three years. The results of each evaluation be properly considered and the Transport Standards amended as appropriate. The Australian Human Rights Commission, as the recommended independent oversight body monitoring and enforcing compliance, be permitted to request the Minister initiate ad hoc inquiries to address emerging issues and new modes of transport.*

#### ***Recommendation 2 – Mandatory reporting and publication of data on compliance***

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*The Transport Standards be amended to require public transport operators and providers to report data on their compliance with the Transport Standards to the Department. Reporting*

requirements should apply to all assets (existing, new, refurbished or upgraded) and to all sections of the Transport Standards. All data be provided in accessible formats and accompanied by plain English explanations prepared by the transport operator or provider.

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### **Recommendation 3 – Publication of Action Plans**

The Transport Standards be amended to require transport operators and providers to develop and publish Action Plans indicating the steps they will take to meet the targets set out in the Standards.

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### **Recommendation 4 – Comprehensive collection and publication of data**

The Government collect and publish compliance data reported per Recommendation 3, together with other data held by government including organisational data, data from complaints and submissions, research, consultation with staff, customers and the Australian Human Rights Commission. The data collected should be compiled into a publicly available report with a jurisdictional breakdown, published on an annual basis, or at a minimum every two years.

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### **Recommendation 5 – Address the use of Australian Standards in the Transport Standards**

The Transport Standards be updated to either replace references to the Australian Standards with the full text of the applicable standard, or the relevant provisions of the Australian Standards which are used in the Transport Standards be attached to the Transport Standards.

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### **Recommendation 6 – Free access to Australian Standards for non-commercial use**

Access to the Australian Standards for non-commercial use be made free.

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### **Recommendation 7 – A breach of the Transport Standards should be unlawful**

The Transport Standards be amended to state that a breach of the Transport Standards is unlawful. The amendment should expressly provide that a person may lodge a standalone complaint alleging breach of the Transport Standards in the Australian Human Rights Commission.

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### **Recommendation 8 - The Australian Human Rights Commission Act 1986 (Cth) be amended to introduce an 'equal access' costs model for all discrimination and harassment matters**

The Australian Human Rights Commission Act 1986 (Cth) be amended to insert a cost determination model in which:

- Applicants will not be liable for adverse costs unless their claim is found to be vexatious, or they have acted unreasonably in the course of proceedings and so caused the other party to incur costs; and
- Where a court finds a respondent has engaged in unlawful discriminatory conduct, the respondent will be liable to pay the applicant's costs.

***Recommendation 9 – The Australian Human Rights Commission be funded to provide independent oversight of industry compliance with the Transport Standards***

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*The Australian Human Rights Commission provide independent oversight of reported compliance and Action Plans of transport operators and providers.*

*The Commission should be adequately funded to carry out this oversight function.*

***Recommendation 10 – The Australian Human Rights Commission be empowered and funded to enforce the Transport Standards***

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*The Australian Human Rights Commission be empowered to enforce the Transport Standards,*

*including to:*

- *proactively and directly observe all modes of transport to monitor compliance;*
- *conduct reviews or audits of compliance relating to systemic issues;*
- *investigate and inquire into potential breaches and provide recommendations to achieve compliance;*
- *issue fines for breaches of Transport Standards;*
- *issue compliance notices specifying the action an operator or provider must take, or refrain from taking, to comply;*
- *apply to the federal courts for an order to direct compliance with the compliance notice; and*
- *enter into enforceable undertakings with operators and providers.*

*The Commission should be adequately funded to carry out these enforcement functions.*

***Recommendation 11 – Make clear the Transport Standards apply to rideshare services***

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*The Transport Standards be amended to explicitly include rideshare services, and to make both rideshare companies and drivers responsible for complying with the Standards. This should be done by defining ‘rideshare service’ in the Transport Standards as including private entities that are primarily engaged in a business providing point-to-point transport to people.*

***Recommendation 12 – Specific standards for air travel should be co-designed***

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*The Transport Standards be amended to include a Schedule with specific standards for accessibility relating to air travel. These standards should be co-designed with people with disability and representative organisations. In developing specific standards for air travel, the Department should refer to the US regulatory framework, as a starting point for the appropriate level of detail.*

***Recommendation 13 – The Australian Human Rights Commission be empowered and funded to enforce the specific standards for air travel***

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*As set out in Recommendation 10, the Australian Human Rights Commission be empowered as a regulator, with its remit to include the new specific standards for air travel described at*



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*Recommendation 12. The Commission should be adequately funded to carry out its enforcement functions.*

The current regulations and compliance regime of the standards are not operating as they should be to drive improvements across transport services in how they support people with disability. We know this because the same concerns are raised at each five yearly review with little progress made across the multiple transport modes. Without an appropriate nationally consistent reporting framework, there is no way to monitor changes and progress in meeting the standards and little accountability by the transport operators. And as recommended by PIAC, reporting must be mandatory.

As set out in the terms of reference, at point 1, we can definitively say that discrimination does still exist. This is best illustrated, to give one example, by all the issues people with disability experience in accessing air transport. You only have to look at recent media reporting on this, to know that. And these issues are not new; they are systemic with very little progress made.

It is incumbent upon this review to look at implementing recommendations in line with PIAC's recommendations.

SCIA would also like to add further comments consistent with the experiences of our membership covering wheelchair accessible taxis (WATs) and buses. We make three additional recommendations set out below.

### **Wheelchair Accessible Taxis**

With the introduction and integration of ridesharing services across point to point services, and the broader reforms that have been underway as a result, it has led to a seismic shift in the taxi industry as a whole, including the operation of wheelchair accessible taxis.

WATs are not the viable businesses they were as a result of these reforms, with the incentives (interest-free loans, free license fees, driver incentive bonuses) no longer having the impact they did. Add to that, the recent Covid 19 pandemic, which led to a lot of operators and drivers leaving the sector, we now have WAT services across all jurisdictions that are highly variable and not meeting the needs of people with disability who rely on their use, as they often cannot use public transport.

Short WAT trips, particularly in outer metropolitan and regional areas have been a long-standing issue with passengers waiting significant delays to be picked up. This is exacerbated with less drivers available, it has had an impact on the broader network with lengthy delays across the system. Some drivers are refusing to pick up wheelchair users because they can make more money transporting larger groups of people. Some regional areas are severely restricted by access to WATs.

Under schedule 1 of the transport standards, response times for WATs are to be the same as regular taxi services. We know that response times for WATs have been increasing significantly across many jurisdictions and are therefore in breach of the standards. However there is little incentive to address this because there are no consequences for non-compliance.

***Recommendation 14 - WATs Designed so Passengers Using Wheelchairs Can See Outside the WAT***

*SCIA recommends that all WATs be required to provide line of sight views to enable passengers sitting in wheelchairs to see more than just the streets and gutters which can be achieved with the provision of appropriately located windows. The Toyota Commuter is regularly used to convert into WATs but the top of the side windows are too low and require windows in the side roof panelling to enable passengers using wheelchairs to see outside of the vehicle. Alternatively, cameras and display screens should be installed to provide passengers using wheelchairs a view.*

## **Public Buses**

Many wheelchair users do not feel safe using bus services because of the allocated spaces require the user to face backwards in their wheelchair, and there are no restraints to secure the wheelchair and stop it from moving and sliding when the bus manoeuvres around bends and corners – unlike WATs where the wheelchair must be secured with restraints. This has led to people falling out of their wheelchair and sustaining injuries.

To improve wheelchair passenger safety, and prevent wheelchairs sliding into the aisle, SCIA recommends the Q'straint Quantum Automatic Wheelchair Securement Station<sup>1</sup> is installed in public buses or a similar device that acts to secure the wheelchair. The Q'straint is electric and driver operated to lower down alongside the wheelchair at floor level preventing the wheelchair from moving and sliding when the bus.

***Recommendation 15 – Travelling Safely on Public Buses for Wheelchair Users***

*Suitable wheelchair restraints such as the Q'straint Quantum Automatic Wheelchair Securement are installed on all public buses to stop wheelchairs moving and sliding during travel, as an important safety measure.*

## **Design and Consultation on All Modes of Transport**

Consultation on design of new stock across all modes of transport with people with disability and representative organisations.

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<sup>1</sup> Q'straint Quantum Automatic Wheelchairs Securement Station: [www.gstraint.com/quantum](http://www.gstraint.com/quantum)



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***Recommendation 16 -Transport Conveyances Design to be Approved Prior to Production***

*All new transport conveyance designs to be consulted on and approved and certification by an independent expert panel, including representation from people with disability, to ensure compliance with the appropriate standards across all modes of transport with special emphasis given to WATs, community transport and ridesharing to ensure they meet the minimum allocated space and safety requirements.*