



Victorian Equal Opportunity
& Human Rights Commission

Who's on board?

> Public transport for people
with disabilities in Victoria



**Victorian Equal Opportunity
& Human Rights Commission**

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Introduction

Access to public transport is essential to ensure that Victorians are able to participate in and be included in our community. For many people with disabilities, public transport and taxi services are the only means for accessing employment opportunities, goods and services, education, healthcare, social and cultural life. Access to public transport is therefore central to a person's quality of life and upholding their right to equality.

The *Disability Standards for Accessible Public Transport 2002* (Cth) (the Transport Standards) are a key means of ensuring that barriers to accessible transport are removed. However, full compliance with the Transport Standards is not expected until 2032, meaning that people with disabilities face a long wait. Of more concern, full compliance with the Transport Standards as they stand will not necessarily equate to accessible services. Several key milestones that have been met to date show that improving accessibility of one element of a service is insufficient if the system as a whole is inaccessible.

The Australian Government is currently reviewing the efficiency and effectiveness of the Transport Standards to assess whether discrimination has been removed, as far as possible, and to advise on any necessary amendments to the Transport Standards. This review provides a good opportunity for transport providers to reflect on whether access to public transport has improved for people with disabilities. It is important to acknowledge the improvements that have been made to accessibility, such as the construction of superstop tram platforms, the introduction of the SmartBus and the development of tramTRACKER, a mobile application that advises passengers which services will use a low floor tram. The review also offers the Australian Government the opportunity to consider how the Transport Standards can be shaped to remove discrimination from public transport services.

Importantly, the review is also an opportunity to keep pace with emerging issues, such as the use of new technology, and the community's developing understanding of the experiences of people with disabilities. While the Transport Standards were originally drafted with a focus on improving physical infrastructure, the broader understanding of accessibility issues has progressed since they were introduced. As an example, the Victorian Equal Opportunity and Human Rights Commission (the Commission) considers that the Transport Standards should better consider access to public transport for people with disabilities other than physical and sensory disabilities (including mental health disability, which is also referred to as psycho-social disabilities and cognitive disabilities). The full recommendations that the Commission submitted to the 2012 review of the Transport Standards are included at the end of this report.

It is essential that the voices of people with disabilities are heard in this conversation. For this reason, the Commission invited people with disabilities to respond to a survey to inform our submission to the review. This report communicates the results of that survey, and further contributes to evidence that public transport in Victoria is not currently accessible to all.

Chapter 1:

> About the research

The Commission's interest

All Victorians have the right to access the public transport system free from discrimination. People with disabilities also have the right to reasonable adjustments so that they can access public transport.

For people with disabilities, barriers to accessing transport prevent full participation in areas of life including education, employment and social activity. Removing these barriers is necessary to increase opportunities for participation, improve quality of life and ultimately to uphold the right to equality.

The Commission can assist with complaints of discrimination against public transport authorities under the *Equal Opportunity Act 2010 (Vic)*. In some cases, this can lead to improvements in service delivery or compensation for individuals. The Commission has recently made a submission to the Australian Government's review of the Transport Standards to advocate for the need for greater accessibility to public transport. The Commission is also currently working with the Disability Persons Taxi Advisory Committee (DPTAC) to ensure that transport options for people with disabilities are more affordable, safer and physically accessible.

Objectives

The objectives of the survey were to:

- understand the experiences of people with disabilities accessing public transport
- determine the extent to which the Transport Standards have improved the accessibility of public transport
- highlight if discrimination is experienced by people with disabilities when accessing public transport.

Methodology

The Commission invited people with disabilities to participate in an online survey, which was posted on the Commission's website from 1 May 2013 to 30 June 2013. Disability advocacy and support organisations assisted by distributing the survey link to their networks.

Respondents were able to request a hard copy of the survey, and were also able to complete the survey over the phone with Commission staff assistance.

A copy of the survey form is provided at the **Appendix**.

Survey design

The survey targeted people with disabilities and asked about their disability in order to understand the particular barriers they face in accessing public transport. The survey asked whether respondents lived in Melbourne public transport Zone 1, Zone 2 or outside Melbourne.

Respondents were asked to respond to questions about the accessibility of trams, trains, buses and multiple modes of transport over the past year. Respondents were also asked about the accessibility of taxi services, given their importance for many people with disabilities and the specific requirements that exist for taxi services under the Transport Standards.

Respondents were asked if they think that the accessibility of each type of transport had improved, declined or stayed the same over the past year. Respondents could also choose to respond that they did not use that form of transport regularly enough to comment.

Respondents were able to describe their experiences in their own words in the survey, with open questions about what they thought was the biggest issue for each type of transport in Victoria. Respondents were also asked if there was anything else they would like to tell the Commission about their experiences of public transport in Victoria.

Limitations of the research

The research has a number of limitations. The research is largely qualitative and is based on a small number of survey responses. The survey relied on people with disabilities to voluntarily respond, resulting in a non-randomised or representative group. This means that it is not possible to extrapolate results across the broader community.

Although the survey welcomed responses from people with any form of disability, some forms of disability were more represented than others. This limits the ability to analyse the experiences of people with one form of disability in comparison to another.

Some respondents did not answer every question in the survey. Therefore, the number of answers to certain questions does not always match the total number of responses received.

Many respondents also provided multiple responses when asked to identify the biggest issue for people with disabilities when accessing the various forms of transport. Therefore, in some instances, the total number of answers to a question appears to exceed the total number of responses received.

Chapter 2:

> Public Transport for people with disabilities in Victoria: Survey findings

The Commission's online survey asked respondents whether their accessibility to trains, buses, trams and taxis had improved, declined or stayed the same over the past year. It also gave respondents the opportunity to describe their experiences of public transport in Victoria.

Summary of findings

The Commission received 160 responses to the survey. Twenty seven per cent of survey respondents lived in Melbourne public transport zone 1, 42 per cent lived in Melbourne public transport zone 2, and 31 per cent lived outside of Melbourne.

The majority of survey respondents experienced a physical disability (34 per cent), a sensory disability (13 per cent) or Autism Spectrum Disorder (11 per cent). The remaining respondents experienced an illness or medical condition, mental health disability, behavioural-related disability (including attention deficit hyperactivity disorder), intellectual disability or a combination of disabilities.

Variations in responses across disability type were mostly expected, such as respondents with a sensory impairment identifying a lack of signage or audible announcements as an issue.

Table 1: Form of disability experienced by respondents

Form of disability	Proportion
Physical disability	34%
Combination of disabilities	17%
Sensory disability	13%
Autism Spectrum Disorder	11%
Intellectual disability/Acquired Brain Injury / Cognitive impairment	8%
Illness or medical condition (e.g. diabetes, epilepsy, HIV)	4%
Mental health disability (e.g. depression)	1%
Behavioural-related disability (including ADHD)	>1%
Learning disability (e.g. dyslexia)	>1%
Complex communication needs	>1%
Other	10%

Is accessibility improving?

A high proportion of respondents thought that public transport had not improved over the past year. This was most pronounced for responses relating to trains, where 26 per cent of respondents

thought accessibility has declined and 47 per cent thought that it has stayed the same. Almost a quarter of respondents (23 per cent) also thought that the accessibility of taxis has declined in the past year.

Table 2: Overview of responses

	Trains	Buses	Trams	Taxis
Accessibility has improved	12%	20%	19%	13%
Accessibility has stayed the same	47%	32%	31%	36%
Accessibility has declined	26%	13%	10%	23%

The journey

In order to achieve meaningful access to public transport, there must be greater emphasis on improving whole-of-journey accessibility outcomes for passengers with disabilities, rather than piecemeal compliance with the Transport Standards.

This means that the focus needs to shift from minimum compliance with the technical requirements set out in the Transport Standards, to creating a continuous accessible path of travel for people with disabilities.

The Victorian Council of Social Service's (VCOSS) 2011 report, *Creating Accessible Journeys*, identified the "focus on making isolated pieces of public transport infrastructure compliant with accessibility standards, while often ignoring broader concepts of accessibility, whether these pieces fit together, or failing to consider the impacts of operational decisions or the skills of staff on access outcomes. If a journey does not provide a continuously accessible path from beginning to end, then it cannot be used, regardless of how many pieces of compliant infrastructure exist along the way." Put another way, "compliance involves reaching the standard, whereas accessibility involves reaching the destination."

For this reason, the Commission's online survey asked respondents about their experiences of using multiple modes of transport for their usual travel journey. The survey found that of the 83 survey respondents that use multiple modes of transport:

- 12 per cent of respondents felt that accessibility to multiple modes of transport had improved in the past year
- 49 per cent felt that it had stayed the same, and
- 38 per cent of people felt it had declined.

Key issues identified by survey respondents in relation to using multiple modes of transport for their usual travel journey include:

- difficulty getting from one mode of transport to another. For example, there may not be a continuous accessible path of travel from one mode of transport to another, or the path may not be well signed.
- unreliable connections between different modes of transport
- insufficient time to reach and/or find a connecting service
- infrequency of accessible modes of transport (particularly accessible buses), and
- last minute timetable changes resulting in missed connections.

“Getting from train to bus and vice versa can be difficult at some stations as you have to cross railway tracks and negotiate different obstacles at some locations which is unsafe when blind. Waiting for the connecting transport means standing in exposed locations for considerable time which is unpleasant when the weather is bad. Being blind means you can't see better places to stand and you can't see the approaching bus or train from a distance and therefore can't get back to the stop on time.”

“Time delays often mean that the bus for the next leg of the journey has already left. This can leave people who have limited coping/ planning isolated and vulnerable, as they struggle to know what to do when the expected routine has been disturbed.”

“I don't use multiple modes because it is too difficult. The linkages, both timetabling and physical, are often poor. Often there is inadequate seating, assistance, signage and understanding of the nature of the obstacles.”

Survey respondents raised other issues that were not necessarily related to catching multiple forms of transport but indicate some of the additional barriers that people with disabilities face when they are planning their public transport journey. Some of these are described below.

Accessible information

Respondents with sensory disabilities highlighted the inaccessibility of essential information when catching trains, buses and trams, with the lack of visual information for people with a hearing impairment and the lack of audible announcements for people with vision impairment making it difficult to access replacement services, disembark at the correct stop or read timetables.

Respondents with vision impairment also reported that the lack of tactile information prevented them from safely accessing a vehicle without other passengers' assistance.

Reports that the announcement system on the SmartBus network are not always used, are difficult to hear because of competing noise, and are often out of kilter with the actual stops, highlights one way in which people with disabilities rely on public transport staff in order to fully access services.

“For people who are low vision the signage is appalling. The station names are quite small and can only be read, if at all, when the train has stopped and the sun is not shining on them ...I am sick of being a second class citizen, forced to accept a lower standard of convenience because I can't drive.”

“For vision impaired people, you cannot usually know which stop the bus, train, tram is coming up to (in order to get ready), or now at. Many times the form of transport is too quick to pull away and you do not have enough time to get up from your seat and get to the door before they pull away.”

Accessible ticketing

Respondents noted that the myki ticketing system is difficult to understand, particularly for people with a cognitive impairment or Autism Spectrum Disorder. Some respondents with a physical disability also noted that it can be difficult to touch on when boarding trams and buses.

“Difficulty with ticketing. I forgot my myki top up, at Flinders St station, didn't understand how to do it, and didn't have a phone to call family.”

“Understanding how to use the myki system is difficult for my son, he has to be reminded every time to touch on and touch off. He can't use the system alone as he won't do it if no one is with him.”

Access Travel Pass

Some people with disabilities are eligible for the Access Travel Pass, which means that they do not have to use the myki ticketing system and travel free on public transport. The Access Travel Pass is for people with a significant permanent disability who travel independently on Victoria's public transport network and can demonstrate that due to their disability they cannot use ticketing systems. This includes people who are in a wheelchair and have limited fine hand movement as well as some people who have an intellectual disability.

Public Transport Victoria also issues the Vision Impaired Travel Pass to people who are legally blind and the Scooter and Wheelchair Travel Pass to support independent travel for people who are dependent on scooters and wheelchairs. These passes also entitle the holder to free travel on public transport, and can be used with the myki ticketing system, allowing independent access.

Enough time to board

Respondents emphasised that boarding trams, buses and trains can take longer for people with disabilities, and the vehicle beginning to move before passengers have had time to find a seat can be dangerous and frightening.

"Trains stop in stations for too short a time for getting on and off safely without panic for someone with clumsy mobility, autism and other cognitive impairments."

"Buses take off far too quickly before you are seated and I often lose balance and had a few falls."

Crowding

Once on board buses, trains and trams, 50 survey respondents reported that a frequent issue was the lack of room to accommodate passengers with disabilities. Respondents noted that this may be due to crowded vehicles or other passengers without a disability using allocated seating. Several respondents highlighted that space allocated for passengers with wheelchairs was frequently full of bicycles or prams. While some respondents were able to request that this space be vacated, this was not always the case, and did not always lead to being offered a seat.

"Buses get too crowded during peak times so there is no room for wheelchairs on the bus – there aren't enough wheelchair spaces."

"Clear signage to be placed on compartment behind driver – stipulating that this space is allocated for people who use aids. I am finding this area can be packed – bicycles, prams, shopping jeep, people."

"My biggest issue is having to stand when it's crowded and all the disabled seats are full – typically by people who do not obviously have a need to use them. But since I don't look disabled either, I don't have the courage to ask them if they are able to give up the seat."

"Able bodied commuters sitting in the areas designated for people with special needs and not having the courtesy to move even when asked."

Assistance dogs

Across all public transport types, respondents reported instances where they, or a person that they knew, had been refused access to public transport because of their assistance dog. Under the Equal Opportunity Act, it is discriminatory to refuse a service to a person with disabilities using an assistance dog.¹

“Buses have driven straight past myself and my guide dog.”

“Failure of some drivers to pick up assistance animals; I have witnessed a taxi slowing up and then driving on when they have observed the dog.”

“I still hear stories every week that people who are vision impaired or hearing impaired and have assistance dogs are regularly denied service by untrained (taxi) drivers... I have also heard of drivers wanting to put assistance dogs in the boot (not joking!). This needs to be a priority as this kind of treatment turns people away from using services, which for many provide essential access to the community. They should know dogs are trained to sit at the feet of the owner.”

Trams

The Commission’s online survey found that:

- 19 per cent of respondents felt that the accessibility of trams had improved in the past year
- 31 per cent of respondents felt that it had stayed the same
- 10 per cent of survey respondents felt that it had declined
- 40 per cent of respondents did not use trams enough to comment.

The high proportion of respondents who reported that they do not use trams enough to comment is most likely explained by the high proportion of all respondents who live in Zone 2 or outside Melbourne (42 per cent and 31 per cent respectively), where tram services are limited.

Respondents identified a number of barriers to accessing trams in Victoria.

¹ Section 7 (4) of the *Equal Opportunity Act 2010* (Vic) clarifies that discrimination because of disability or impairment includes discrimination on the basis of an assistance aid that alleviates the effects of a person’s impairment, including an assistance dog.

“I would love to be able to take trams more often and look forward to the day when they are more accessible.”

Lack of low floor trams

Twenty-two respondents noted challenges boarding older trams with steps at each entrance, and suggested that the system should upgrade to low floor trams and superstops with level access.

“The steps on the older trams are really difficult to negotiate – they are too high and too narrow.”

“Think that getting on and off most trams is a problem as the steps are very high. Not enough low floor trams yet.”

“The step up into the tram is difficult for a person with physical and sensory impairment such as myself and my guide dog.”

Superstops

Despite several respondents noting the improvements to accessibility made by the introduction of low floor trams and superstops, many also noted that their inconsistent provision creates a barrier to safe and reliable access. Thirteen respondents also expressed frustration that there is no information about the location of superstops, meaning that the benefit of low-floor trams cannot be fully utilised.

“Getting on board from one accessible tram stop doesn’t mean there will be another accessible stop at the end of the journey.”

“You never know where the superstops (accessible stops) are located and so you don’t want to get on a tram and not be able to get off where you want.”

Seven respondents who use wheelchairs also noted that the gap between low floor trams and superstops is too wide, with some gaps posing the serious safety threat of catching the wheels of most wheelchairs. Unlike other low floor trams (Citadis and Bumblebee trams), Combino trams were not fitted with a bridging plate and were more likely to be inaccessible. To alleviate this problem, Yarra Trams engineers came up with a solution to fit the Combino trams with a bridging plate to reduce the gap between the Combino trams and the platform stops..

“Although more super stops are appearing, there are often few or even zero accessible trams on the routes. Most importantly, when an accessible tram does arrive at a super stop the step and the gap between the platform and the tram almost always make it unusable for me, even though I have one of the most common electric wheelchairs (a Quantum 6000). The Met’s advice to me? Sell your wheelchair and buy one that suits our trams!”

“I am generally only able to get an “accessible” tram when I have a friend with me and I use my trusty portable ramp to bridge the inaccessible gap. Another point: It’s possible to get on at one super stop with a perfectly accessible 3 centimetre gap and then arrive at another super stop with an insurmountable 10 or 12 centimetre gap.”

Trains

The Commission’s online survey found that:

- 12 per cent of respondents felt that the accessibility of trains had improved in the past year
- 47 per cent of respondents felt that it had stayed the same
- 26 per cent of survey respondents felt that it declined
- 15 per cent of respondents didn’t use trains regularly enough to comment.

Respondents from outside Melbourne reported more negative experiences with the overall accessibility of trains than those from inside Melbourne. Thirty-six per cent reported that the accessibility of trains had declined in the past year (compared with 20 per cent of those from inside Melbourne). Only four per cent reported that the accessibility of trains had improved (compared with 16 per cent of those from inside Melbourne).

Respondents identified a number of ongoing issues with trains in Victoria that create significant barriers to access for people with disabilities.

Access to platforms

When asked to identify the biggest issue for people with disabilities using trains in Victoria, 10 respondents with a physical disability identified challenges in reaching the platform, particularly for passengers with wheelchairs. Some respondents had difficulty accessing a platform where no ramp is provided, while others described the difficulty of having to use ramps that are too steep or too long to negotiate.

“Many times trains come in on different platforms, and for those in wheelchairs it can take ages to catch a lift, which may be used by vendors restocking their supplies at their food outlet, or prams, or scooters, etcetera, so you can often only have one or two in each lift. They travel up and down slowly. Some platforms, like Caulfield have no lift but steep ramps, which can be slow to propel yourself up, especially when in a rush if the train has changed platforms.”

The Commission has received a complaint relating to train stations without ramp access to the platforms. The Commission is concerned that newly constructed or renovated train stations in Melbourne have been designed and built without ramp access to the train platforms. For example, South Morang, Epping and Thomastown train stations only have access to platforms by lift or stairs. While it is positive that the new stations have accessible lifts, it would be preferable for there to be an alternative form of access for people with mobility devices in the event of a lift failing (for example, if there is a power outage, fault or vandalism). If a lift fails, a person with a mobility device may not be able to access the platforms or may get stuck on a platform. This is not only inconvenient, but a serious safety hazard. These issues are compounded when there is no active communication when lifts are not working.

Level access boarding on trains

On metropolitan trains in Melbourne, level access boarding is only available at the first door of the first carriage, and is provided by the manual deployment of a boarding ramp by the driver. On country trains, the manual deployment of a boarding ramp is available at all carriage doors.

The survey revealed the inadequacy of having to rely on staff to deploy a ramp. Seven respondents reported that drivers frequently forget to deploy the ramp at the requested stop, forcing passengers to travel further than planned. Also concerning are reports of drivers refusing to deploy the ramp if they consider the train to be too crowded or if it is running behind schedule. Other survey respondents with wheelchairs travelling on V/Line services reported that they were required to sit in the baggage compartment, without access to the dining car or an accessible toilet.

“Some drivers are not willing to get the ramp out for fear of being late. On a number of occasions, I have been left at the station with nothing to do but hope that another train comes soon. I have also been the victim of verbal assaults by train drivers angry at me for “throwing off their schedule.” There should be an automatic ramp at each door so that I can access the train like anybody else and remove the human error from the equation.”

Eight respondents also highlighted the problems associated with passengers with a wheelchair being required to board at a designated place. In many cases, the designated place is not under shelter, is at the far end of a platform, and is not clearly marked. One survey respondent noted that it can be “very scary and isolated” waiting at the end of the platform.

“Many stations don’t have rain shelters near the end of the platform, so people in wheelchairs/ scooters have to wait in the rain.”

“Only being able to get on the train on the first carriage can be dangerous especially when:

- the train is about to leave
- you don’t know which end the start of the train will be
- the platform is too crowded and we have to drive our wheelchairs over the yellow line and dangerously close to the edge in order to get to the first carriage of the train.”

These responses echo a complaint received by the Commission. In this case, the complainant, who is in a wheelchair, waited for a train near the front of the train platform where the previous train had stopped. When the train arrived it went past the marker where the complainant thought it would stop. The complainant proceeded to the front of the train, however the driver ignored the complainant and did not get out to deploy the ramp.

The Commission supports best practice for long-term level access boarding set out in the 2011 Victorian Council of Social Services report, *Creating Accessible Journeys*. The report recommends that level access boarding on trains, trams and buses should be “independent, gapless and equal”:

- independent access – Allowing people to board a vehicle without intervention or assistance from another person
- gapless access – Ensuring that no part of a person, their equipment or possessions can be caught or fall into a gap
- equal access – Ensuring that all people can use all of the entrances and exits on a vehicle.

Replacement buses

“When the replacement bus stop is located away from a manned station people with disability have to rely on other passengers to get them to it.”

Survey respondents identified that service disruptions and changes to timetables can create significant challenges for people with disabilities. Replacement buses that are deployed when there is a disruption to a train service are often not accessible for people with disabilities because:

- there is a lack of appropriate and accessible information about the replacement service (such as signage, visual displays and audible announcements)
- the pathway to the replacement bus may not be accessible and the replacement service may be difficult to locate
- the replacement bus may not be accessible for people with mobility devices – passengers with disabilities often have to wait a longer period of time than others for an accessible bus.

Accessibility to public transport is not just about providing accessible planned services; it is about ensuring that changes to services are managed in a way that enables access for people with disabilities.

“It is too confusing when something happens to the train and you have to change to a bus. They are too crowded and I get frightened.”

“My 18 year old daughter relies on the train to get to a course once a week. There have been many times the train has been delayed or replaced by buses causing her to be late for class. The impact that this has on her anxiety levels is significant and affects her ability to focus and learn in class.”

Buses

The Commission's online survey found that:

- 20 per cent of respondents felt that the accessibility of buses had improved in the past year
- 32 per cent of respondents felt that it had stayed the same
- 13 per cent of survey respondents felt that it had declined
- 34 per cent of respondents didn't use buses regularly enough to comment.

It is notable that approximately a third of all respondents and a third of respondents with a physical disability reported that they don't use buses enough to comment. This may indicate that the issues identified by respondents are significant enough to prevent their ability to access bus services at all. This is concerning given that the Victorian Government has largely met the Transport Standards 2012 milestones for buses.

Respondents identified a number of ongoing issues with access to buses in Victoria.

"Don't use due to being unable to get on and off with a walking stick."

Lack of low floor buses

Fifty-four survey respondents highlighted the lack of accessible buses as the most significant issue for people with disabilities accessing buses, particularly in regional Victoria. Buses with higher floors pose issues for people with a physical disability, and are inaccessible for people with a wheelchair or scooter.

"Not enough low floor buses across the board."

"Older buses that have high steps. I find it quite difficult to safely get on and off these buses, especially if there are people pushing behind me to get out."

"People in wheelchairs still can't catch any bus they want because – the old buses have steps – the old buses which have ramps have damaged handles or no handles so some drivers can't flip them open – the new buses which have electric ramps don't work all the time and some drivers don't know how to operate the ramp properly."

Respondents also noted that it is not always clear when a low floor bus would be used, creating a sense of uncertainty and an inability to rely on bus services in the same way that people without a physical disability do.

"Not knowing when the older non-disabled friendly buses are being used."

"In my area we have to ring the bus company to request a low-to-the-floor bus. My experience has been I can get to a location but I cannot get home by bus."

Inadequate assistance

Eighteen respondents commented on inadequate assistance or the rudeness of bus drivers as a barrier to accessing bus services. When low floor buses are available, six survey respondents reported that bus drivers are not always willing to assist people with disabilities to board, either refusing to lower the bus or failing to deploy a ramp. This highlights the importance of infrastructure, such as raised bus stops, that enables independent access for people with disabilities. These responses also indicate that there may be a need to provide bus drivers with further training on their obligations.

"Some drivers will not lower the bus to save time, making the ramp too steep to ascend."

"Drivers in some cases need to have a reality check, and when someone with disabilities comes to access the low floor bus, actually get out of their seat and put a ramp down!"

"Being told that they cannot get on the bus because it will take too long and the driver has to get the students on the bus to school in time... What about those with disabilities who have appointments or work?"

Chapter 3:

> Taxi services for people with disabilities in Victoria: Survey findings

Taxi services are particularly important for people with disabilities. In Victoria, many people with disabilities rely on taxis as their primary form of transport, or require access to taxis to connect to other public transport options.

The Commission's online survey found that:

- 13 per cent of respondents felt that the accessibility of taxis had improved in the past year
- 36 per cent of respondents felt that it had stayed the same
- 23 per cent of survey respondents felt that it had declined
- 28 per cent of respondents did not use taxis enough to comment.

Respondents identified a number of concerns with access to taxis in Victoria.

Response times

Thirty-three reported having to wait lengthy periods for a taxi. The Transport Standards stipulate that response times for accessible vehicles are to be the same as for other taxis by December 2007. The responses to this survey, as well as earlier Commission research², suggest that this milestone has still not been met.

“Difficulties in getting one: they either take too long to arrive or don't turn up at all. It's not uncommon for me to have to wait for over an hour at the shopping centre.”

“When you ring taxi directory there is always a long wait. This system is not reliable and I rely on making connections with individual drivers to maintain a reasonable service.”

² Victorian Equal Opportunity and Human Rights Commission, *Time to respond – three years on: Realising equality for people with a disability utilising taxi services*, (2010).

Earlier Commission Research

In 2006, in response to stakeholder feedback and complaints from people with disabilities, the Commission conducted research on the accessibility and quality of taxi services for people with disabilities. This research formed the basis of the Commission's submission into the 2007 Review of the Disability Standards for Accessible Public Transport.

The resulting report, *Time to respond: Realising equality for people with a disability utilising taxi services*, identified aspects of the provision of taxi services that may discriminate against people with disabilities.³ In 2010, the Commission produced a follow-on report, *Time to Respond – three years on*, charting progress against the recommendations from the initial report.⁴

Since the release of the initial report, the Commission has worked closely with the Victorian Taxi Directorate and the Taxi Services Commission to progress the Commission's recommendations.

However, as these survey results demonstrate, there is still a lot of work to do to achieve accessibility to taxi services for people with disabilities.

The 2007 milestone in the Transport Standards relating to response times for accessible taxis has still not been met. Passengers with wheelchairs continue to experience unacceptably long waiting times for wheelchair accessible taxis (WATs), or in some cases, non-attendance of WATs.

This concern is raised in the public comments made by the Commission in December 2012:

“Just last week, the need for reform was again highlighted when members of the Commission's Disability Reference Group were forced to wait more than one hour for wheelchair accessible taxis that had been pre-booked. While they were waiting on the street many empty taxis slowed down as they went past, however they soon sped up upon seeing the wheelchairs. Unfortunately, this is not an uncommon experience for people with disability... In fact, just two months ago the same group of people waited more than two hours for their pre-booked taxis.”⁵

A key issue is the failure to effectively audit or manage the serious issue of drivers passively rejecting wheelchair accessible jobs. A request by the Commission to the Victorian Taxi Directorate to determine the number of WATs that had refused to pick up a passenger with a wheelchair from the Commission offices in 2012 highlighted this issue.

The Commission was informed that of 64 available WATs in the vicinity over the 90 minutes that the passenger was waiting for the taxi, only five taxis could be audited, because they had actively rejected the job. The Commission was advised that the other 59 taxis could not be audited for non-compliance due to the way the system is configured, and advice that only active refusal of the job constituted a breach of regulations.

The positive duty under the Equal Opportunity Act requires that service providers, including taxi services, take reasonable and proportionate steps to improve their procedures, policies and practices to prevent discrimination. There are existing contractual and legislative obligations that require WAT drivers to prioritise wheelchair jobs, and the Commission notes that the positive duty also requires services to actively monitor and prevent issues such as passive rejection.

The Taxi Industry Inquiry, conducted by Professor Allan Fels in 2011, has led the Victorian Government to making a number of commitments to improve taxi services. The Victorian Government's response to this Inquiry, released in May 2013, acknowledges that people with disabilities “comprise a considerable proportion of taxi customers but continue to experience unacceptable levels of service quality, availability and accessibility.” In relation to passengers with disabilities, the Victorian Government has committed to:

- improved training for drivers to assist people with a disability
- changes in regulations to allow more accessible and purpose-built taxis
- measures to discourage wheelchair accessible taxis from doing non-wheelchair work
- ‘talking’ taximeters to clearly communicate details of the fare
- develop a new Central Booking Service in metropolitan areas to reduce wait times and provide more accurate booking information.

The Commission notes that the Central Booking Service should be designed and implemented as a priority to ensure that WATs are more responsive and meet the 2007 milestone relating to response times, and looks forward to continuing its work with the Taxi Services Commission to support these improvements to taxi services for people with disabilities.

3 Victorian Equal Opportunity and Human Rights Commission, *Time to respond: Realising equality for people with a disability utilising taxi services*, (2007).

4 Victorian Equal Opportunity and Human Rights Commission, above n 2.

5 Victorian Equal Opportunity and Human Rights Commission, *Commission welcomes ‘Customers First: Service, Safety, Choice’ Taxi Industry Inquiry Report*, (2012), <<http://www.humanrightscommission.vic.gov.au>> at 30 October 2013.

Refusing the fare

The Commission continues to be concerned by the 21 survey respondents who described taxi drivers refusing to accept their fare because of their disability. This included respondents describing conventional taxis refusing to pick up people with mobility devices who do not require a WAT and WATs prioritising airport fares. These actions all contravene existing contractual and legislative obligations. WAT drivers are required to prioritise wheelchair jobs, taxi drivers are required to accept a fare regardless of trip length and the Equal Opportunity Act makes it against the law for taxi providers to discriminate against a person with disabilities in the provision of taxi services.

“I have a guide dog – I no longer go anywhere I cannot reach via public transport as taxis so often refused service or took me the long way, at times costing triple the usual fare. This was met by indifference by the companies when a complaint was made.”

“WATs bypassing wheelchair passengers for more airport jobs (even when WAT booked); regular taxis not picking up people with chairs even though manual chairs will fit on back seat or boot.”

“I have had taxis drive off when they see me in my wheelchair, refuse to drive me short distances and not turn up when booked or [are] extremely late.”

“I have a constant fight to get a seat belt. They often try and talk me out of having a seat belt, and then spend 20 minutes rummaging. If they do manage to find tie-downs and a seat belt that works, they don't know how to use it. Often they place a seat belt over my shoulder and around my neck (i.e. the sash) without any lap component. When I point out that this would probably strangle me if I had an accident they claim it's “how it was designed”. About 30 per cent of the time I abandon the cab, get out and try another. The cab drivers response: most people in wheelchairs don't bother with a seat belt. I must admit when I have been in a hurry and spent 30 minutes fighting with them I am often tempted to travel without a seatbelt myself but this just encourages them. It's almost always the “relief drivers” working the evenings that cause this problem.”

“Taxi drivers have been known to take short cuts when putting in wheelchairs, which has led to people not being secure and feeling safe. Drivers have also ignored people's pleas to stop the taxi because they didn't feel safe not being fixed in.”

Driver knowledge and safety

While some respondents provided positive feedback on taxi drivers, particularly those that they had developed a good connection with, 31 others reported drivers' attitudes or lack of knowledge as the biggest issue for people with disabilities using taxis in Victoria. Of particular concern are reports that drivers refused to provide safety devices when they were requested, or did not know how to install them properly.

Chapter 4:

> Legal and Policy Context

This chapter outlines the legislative and policy framework governing public transport in Victoria.

State laws

Equal Opportunity Act 2010

The Equal Opportunity Act makes it unlawful in Victoria to discriminate on the basis of disability in relation to the provision of goods and services (including transport),⁶ and in relation to access to, or the use of, public premises (including vehicles).⁷

People can make a complaint to the Commission or the Victorian Civil and Administrative Tribunal where they believe there has been discrimination in these areas.

The Act also requires people to take positive steps to prevent discrimination. This supports one of the key objectives of the Equal Opportunity Act, which is to promote and facilitate the progressive realisation of equality, by recognising that “discrimination can cause social and economic disadvantage.”

Under the Equal Opportunity Act, all organisations covered by the law – including government, business, employers and service providers – are required to take reasonable and proportionate measures to eliminate discrimination as far as possible⁸. This is known as the positive duty.

While individuals cannot pursue a complaint of discrimination against an individual or organisation for not complying with the positive duty, a contravention of the duty may be the subject of an investigation undertaken by the Commission. It can also be relevant to individual complaints where someone might be responsible for the actions of their employee or agent. This is known as vicarious liability, and the organisation may need to demonstrate that it took reasonable precautions to prevent a breach of the Equal Opportunity Act.

Instead of allowing organisations to react to complaints of discrimination when they happen,

6 *Equal Opportunity Act 2010* (Vic), s 44.

7 *Equal Opportunity Act 2010* (Vic), s 57.

8 *Equal Opportunity Act 2010* (Vic), s 15.

these positive obligations in the Act requires them to be proactive about discrimination and take steps to prevent discriminatory practices.

This means that public transport providers in Victoria have a legal obligation to take proactive measures to prevent discrimination in the provision of public transport on the basis of particular attributes, including disability.

The Charter of Human Rights and Responsibilities Act 2006

The Charter protects the fundamental rights and freedoms of all people in Victoria. It requires public authorities to act compatibly with human rights and to properly consider human rights when they make decisions, develop policies and deliver services to the community.

With regard to this research, relevant public authorities include government departments, public transport operators, and private companies that are contracted to provide public transport services.

A key right under the Charter that is relevant to the provision of public transport is the right to equality – that is, the right of every person to enjoy their rights without discrimination, including people with disabilities.⁹

Another important right under the Charter is the right to freedom of expression, which includes the freedom to obtain information about public transport in accessible formats.¹⁰

9 *Charter of Human Rights and Responsibilities Act 2006* (vic) s 8.

10 *Charter of Human Rights and Responsibilities Act 2006* (vic) s 15.

Specific laws regulating public transport in Victoria

Victoria's principal law governing public transport is the *Transport Integration Act 2010* (Vic) but there are a number of laws that apply in this area.

Below are some of the key Acts and Regulations that impact on issues of public transport accessibility.

Transport (Compliance and Miscellaneous) Act 1983

The *Transport (Compliance and Miscellaneous) Act 1983* (Vic), originally enacted as the *Transport Act 1983*, supports the *Transport Integration Act* by regulating taxi and hire car services and compliance and enforcement, particularly in areas like safety and public transport ticketing and conduct.

Transport Integration Act 2010

The *Transport Integration Act* aims to ensure that any one part of the transport system is not considered in isolation, and emphasises the importance of a sustainable transport system. Importantly, it aims for sustainability in economic, environmental and social terms, and states that:

"The transport system should provide a means by which persons can access social and economic opportunities to support individual and community wellbeing including by (a) minimising barriers to access so that so far as is possible the transport system is available to as many persons as wish to use it; (b) providing tailored infrastructure, services and support for persons who find it difficult to use the transport system."¹¹

Transport (Taxi-Cabs) Regulations 2005

The objectives of the *Transport (Taxi-Cabs) Regulations 2005* (Vic) are to prescribe measures intended to enhance passenger and driver safety and the reliability and quality of taxi-cab services. The Regulations specify requirements relating to: (a) driver certification, conduct and presentation; (b) taxi-cab construction, equipment, appearance and operation; (c) hirings, the charging and payment of fares and charges and the operation of taximeters; and (d) the conduct of passengers.

Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013

The *Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013* (Vic) implements key recommendations of the Taxi Industry Inquiry. The Commission contributed a comprehensive submission to the Enquiry in June 2011 with a focus on the improvement of taxi services for people with a disability. This Act amends a number of Victorian statutes and in addition, the current Government intends to create a standalone taxi and hire car statute. As of 1 July 2013, the Taxi Services Commission has increased powers and functions to provide better regulation of the industry. There are a number of other reforms contained in the Amendment Act, which will come into force at a later time. These include the creation of a four tier taxi zone and the removal of restrictions on the number of new taxi licenses to be issued.

Transport (Conduct) Regulations 2005

These regulations prescribe the conduct of persons on public transport vehicles. Some of the regulations include that an occupant of a seat must comply with a request to vacate it at the request of a person with special needs. The regulations also create an exception for people with a guide or hearing dog from the general ban on animals being brought onto rail and road vehicles.¹²

Transport (Passenger Vehicles) Regulations 2005

The object of the *Transport (Passenger Vehicles) Regulations 2005* (Vic) is to provide for the safety and comfort of passengers on buses, hire cars and other small passenger vehicles. The Regulations include that the owner of a public passenger vehicle must ensure that relevant timetables are available and that fares are appropriately displayed. The Regulations also stipulate that the destination and route sign must be clearly visible at the front of a passenger vehicle.¹³

11 *Transport Integration Act 2010* (Vic) s 8.

12 *Transport (Conduct) Regulations 2005* (Vic) ss 11, 20.

13 *Transport (Passenger Vehicles) Regulations 2005* (Vic) ss 32, 42.

State policies

The legal framework is supported by a range of policy documents.

Victorian state disability plan 2013–2016

The *Victorian State Disability Plan 2013–2016* describes the four goals that the Victorian Government is working towards to achieve the vision of an inclusive Victorian society for people with disabilities:

1. A strong foundation in life
2. Upholding rights and promoting participation
3. Accessing information, transport, buildings and places
4. A contemporary approach through disability system reform.

The plan recognises that people need to be able to get to and move around in buildings, places and spaces to make use of opportunities for study, work and leisure, to use shops and services and visit family and friends. The plan highlights the need to make public transport more accessible and to make it easier for people with disabilities to use a range of forms of transport.

Accessible Public Transport in Victoria: Action Plan 2006–2012

In Victoria, the *Accessible Public Transport in Victoria: Action Plan 2006–2012* (the Action Plan) sets out the steps to meet the requirements of the Commonwealth *Disability Discrimination Act 1992* and the 2012 goals and milestones specified in the accompanying Transport Standards.

The Commission has recently had the opportunity to comment on the Victorian Government's draft Action Plan for 2013–2017. In particular, the Commission commented on:

- the need to incorporate and develop robust reporting on measures of progress and accessibility outcomes
- the need for accountability, through a commitment to consultation, focused prioritisation and detailed public reporting
- the need to provide planning and progress reporting on compliance with legal obligations, including the Transport Standards.

Commonwealth laws

Disability Discrimination Act 1992

Public transport providers are also required to comply with the Disability Discrimination Act, which like Victoria's Equal Opportunity Act, protects people from discrimination on the basis of disability if they:

- use a therapeutic device or aid (under the Equal Opportunity Act this is called "equipment" that "alleviates the effects of a person's disability", including a palliative or therapeutic device)
- have a carer or assistant, including situations where they are treated less favourably because they are accompanied by an interpreter, reader, assistant or carer who is helping them (under the Equal Opportunity Act this includes "a person who provides assistance or services to a person with a disability")
- have an assistance animal (the Equal Opportunity Act only covers assistance dogs, not assistance animals more generally).
- Under the Disability Discrimination Act, the federal Attorney-General may issue enforceable standards to specify rights and responsibilities about equal access and opportunity for people with disabilities.

At present, relevant to transport, the following disability standards are in force at the Commonwealth level:

- *Disability (Access to Premises-Buildings) Standards 2010* (Cth)
- *Disability Standards for Accessible Public Transport 2002* (Cth).

Compliance with both Standards is a vital starting point for achieving continuous accessible paths of travel for people with disabilities. Both Standards form part of the framework for progressing accessibility outcomes for people with disabilities and need to be considered together.

Disability Standards for Accessible Public Transport

The Disability Standards (Transport Standards) came into effect in 2002 and set out minimum accessibility requirements for public transport providers and operators. They consider the broad range of disability covered by anti-discrimination law and apply to most public transport services.

They aim to ensure that, over time, people with disabilities can enjoy the same public transport services as other members of the community. The Transport Standards set out accessibility requirements and five-yearly milestones that must be met for access paths, manoeuvring areas, ramps and boarding devices, allocated spaces, handrails, doorways, controls, symbols and signs, ticket machines and how information is provided.

All public transport vehicles, premises and infrastructure brought into service after 2002 must comply with the Transport Standards. All new facilities must comply with the Transport Standards, and an additional compliance timetable requires old infrastructure to be gradually replaced with accessible services and facilities.

As noted above, the Australian Government is currently reviewing the Transport Standards.

Victoria’s performance against the Transport Standards

Given the limited information available, it is difficult to measure Victoria’s performance against the Transport Standards milestones.

In response to the 2007 review of the Transport Standards, the Victorian Government reported that Victoria had met or exceeded most requirements for trains, stations, buses, and bus stops. However, Victoria is still well short of meeting its obligations regarding trams, and is still working towards compliance on regional buses.

Disability (Access to Premises – Buildings) Standards 2010

Public transport operators are also required to comply with the Disability (Access to Premises – Buildings) Standards. The object of the Premises Standards is to “ensure that dignified, equitable, cost-effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability.”

Convention on the Rights of Persons with Disabilities

The development of international human rights law also informs the Australian Government’s legal obligations in this area. Following the initial 2007 review of the Transport Standards, the Australian Government ratified the international Convention on the Rights of Persons with Disabilities (CRPD). This means that Australia now has additional obligations under the CRPD, including in relation to transport.

Relevantly, Article 9 of the CRPD states that in order to “enable persons with disabilities to live independently and participate fully in all aspects of life”, parties to the Convention must, amongst other things, take appropriate measures to ensure that people with disabilities have equal access to transport. This includes the requirement to identify and eliminate obstacles and barriers to accessibility.

National Policies

National Disability Strategy 2010–2020

The *National Disability Strategy 2010–2020* (the Strategy) represents a strong commitment to address the challenges faced by Australians with disabilities.

The Strategy covers six major policy areas, one of which is “inclusive and accessible communities,” including public transport.

The Strategy recognises that:

The ability to move around the community underpins all aspects of life for people with disability and is essential to achieving all the policy outcomes outlined in this strategy—from learning and skills, to employment and to the enjoyment of rights. In order to move freely around the community, people with disability need access to private as well as public transport. This can be achieved through modified motor vehicles and accessible parking. However, people with disability are often still unable to make use of footpaths, cycle paths and local roads as many of these have not been designed to be fully accessible. A continuous accessible path of travel for people with disability needs to connect public transport nodes with local services and accessible housing.¹⁴

“I am sick of having to leave hours earlier than able bodied people to account for non-disabled-accessible services and incompetent, rude staff. I have a life and things to do like everyone else. I’m a full-time university student with a strict schedule and public transport often prevents me from accessing life.”

14 Council of Australian Governments, *National Disability Strategy 2010-2020*, [32].

Chapter 5:

> Conclusion and recommendations

Conclusion

The responses to the Commission's survey on transport accessibility show that despite the progress made to meet the Transport Standards, significant barriers to equal access to public transport for people with disabilities remain.

Key findings from the survey include:

- the majority of respondents thought that public transport had not improved over the past year
- barriers to access exist on all forms of public transport and taxi services. Some of these barriers could constitute direct discrimination, such as a taxi driver refusing to accept a fare because the respondent had an assistance dog. Also of particular concern are those barriers that threaten safety, such as insufficient awareness and knowledge among taxi drivers about how to install safety harnesses and large gaps between trams and superstop platforms.
- many respondents reported experiencing long waits for taxi services
- improvements to access are welcome but may be limited by other infrastructure or the service that exists around them. For example, accessible trains do not create accessible transport if a person in a wheelchair cannot access the train platform, if transport staff forget or refuse to deploy the portable ramp, or if the footpath/kerb outside the train station is not accessible.

These findings highlight the need to understand accessible public transport in terms of an independently accessible journey. This would promote the removal of barriers along all points of the travel trip, and encourage a focus on solutions that ensure people with disabilities have equal and fair access to public transport.

Commission's recommendations

The survey results reported here were used to inform the Commission's submission in June 2013 to the 2012 Review of the Transport Standards. In this submission, the Commission made the recommendations listed below to the Australian Government.

Recommendation 1: The Standards should put more emphasis on the need for service providers to take proactive steps to assist people to access their services.

Recommendation 2: That the Disability Discrimination Act is amended to provide that a breach of the Standards provides a stand alone mechanism for lodging a complaint of unlawful discrimination with the Australian Human Rights Commission.

Recommendation 3: Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government

Recommendation 4: That Part 37 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3) is included in the Standards to emphasise the importance of effective customer service. The Standards should also require compulsory disability awareness training and education for all public transport staff.

Recommendation 5: That the Standards specify that all new public transport premises and infrastructure must be accessible. That operators be required to have plans in place to address mechanical failures, such as when lifts are not working. This may require a range of alternative means of access be made available and a communication strategy which can be activated when problems arise. In addition, public transport operators should be required to consult with the community in the design and renovation of public transport premises and infrastructure.

Recommendation 6: That the Standards specify that all replacement services must be accessible and that general information about replacements services must be communicated in accessible formats.

Recommendation 7: That Part 16 of the Standards (Symbols) includes reference to Scope's Communication Access Symbol.¹⁵ The Communication Access Symbol should be used to identify public transport premises, conveyances and infrastructure that are "communication accessible" (i.e. they meet Scope's criteria and assessment for communication access).

Recommendation 8: The Standards should put more emphasis on the needs of people with a range of disabilities, not just physical disabilities.

Recommendation 9: That accessible toilets are provided with the same availability as standard toilets at public transport premises.

Recommendation 10: That Part 15 of the Standards requires new public transport premises to include a Changing Place toilet to ensure that people who require accessible toilets have a safe and dignified place to change.

Recommendation 11: That dedicated school bus services are phased in to the physical access requirements in the Standards.

Recommendation 12: That the Standards are amended to require new community transport vehicles to comply with the Standards.

The full submission is available on the Commission's website: humanrightscormission.vic.gov.au

15 <<http://www.scopevic.org.au/index.php/site/mediacentre/pressreleases/communicationaccesssymbol>> at 30 October 2013.

Appendix

Survey: Public transport for people with disabilities in Victoria

About you

1. Do you live in:

- Melbourne public transport zone 1
- Melbourne public transport zone 2
- Outside Melbourne

2. What form of disability do you experience? (only tick one)

- Physical disability
- Sensory disability (please tick which one)
 - Deaf or hearing impaired
 - Blind or vision impaired
 - Deaf and blind (hearing and vision impaired)
 - Other (please specify)_____
- Intellectual disability / Acquired Brain Injury / Cognitive impairment
- Behavioural-related disability (including ADHD)
- Autism Spectrum Disorder
- Mental health disability (e.g. depression)
- Learning disability (e.g. dyslexia)
- Complex communication needs
- Illness or medical condition (e.g. diabetes, epilepsy, HIV)
- Combination of disabilities
- Other (please specify)_____

3. In the last year, do you think the accessibility of **trains**:

- Has improved
- Has gotten worse
- Has stayed the same
- I don't use trains regularly enough to comment.

4. Currently, what do you think is the biggest issue for people with disability using **trains** in Victoria?

5. In the last year, do you think the accessibility of **buses**:

- Has improved
- Has gotten worse
- Has stayed the same
- I don't use buses regularly enough to comment.

6. Currently, what do you think is the biggest issue for people with disability using buses in Victoria?

7. In the last year, do you think the accessibility of **trams**:

- Has improved
- Has gotten worse
- Has stayed the same
- I don't use trams regularly enough to comment.

8. Currently, what do you think is the biggest issue for people with disability using **trams** in Victoria?

9. In the last year, do you think the accessibility of **taxis**:

- Has improved
- Has gotten worse
- Has stayed the same
- I don't use taxis regularly enough to comment.

10. Currently, what do you think is the biggest issue for people with disability using **taxis** in Victoria?

11. Do you use **multiple modes of transport** for your usual travel journey (for example, catching a bus and a train to work, or catching a tram and a bus to the shopping centre)?

- Yes
- No (skip to Q 14)

12. In the last year, do you think your experience/accessibility of using **multiple modes of transport** for your usual travel journey:

- Has improved
- Has gotten worse
- Has stayed the same

13. Currently, what do you think is the biggest issue for people with disability using **multiple modes of transport** in Victoria?

Tell us your story

14. Is there anything else you would like to tell us about your experiences of public transport in Victoria?



Victorian Equal Opportunity
& Human Rights Commission

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