

**2012 Review of the Disability Standards for Accessible Public Transport 2002
(Transport Standards)**

Submission by the ACT Human Rights Commission

Via email to DisabilitiesTransportAccessSecretariat@infrastructure.gov.au

ABOUT THE ACT HUMAN RIGHTS COMMISSION

The Human Rights Commission is established under the *Human Rights Commission Act 2005* (the HRC Act). Our role includes:

- promotion of the human rights and welfare of people living in the ACT by making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community.
- promotion of the rights of users of disability services, health services, services for children and young people and services for older people; and
- promotion of improvements in services for those groups .

The Commission handles complaints, and has a statutory oversight role, in respect of service provision to people with disabilities and their carers, older people, children and young people and their carers, health consumers and in respect of discrimination, for all in the ACT community. The Human Rights and Discrimination Commissioner handles discrimination complaints and promotes the right of people to be free from unlawful discrimination in access to premises and the provision of facilities. Her role is also to promote human rights and advise government on the operation of the *ACT Human Rights Act 2004*. The Disability and Community Services Commissioner's mandate is to handle complaints regarding services for people with disabilities and promote service improvement. The Health Services Commissioner's role also includes the promotion of service improvement for older people, who face many of the same concerns as people with disabilities in accessing transport.

As an independent statutory authority of the ACT Government, we will respond to those questions 'for the community generally' that are relevant to our functions

1. Has your accessibility to public transport improved since the commencement of the first Transport Standards review in 2007?

In recent years two reviews in the ACT have examined these issues in detail. In 2010, the ACT Auditor-General undertook a performance audit on the Delivery of ACTION bus services. Also in 2010, the Commission participated in a review of the ACT taxi industry.

Taxis

Partly due to ongoing community concerns regarding wheelchair accessible taxis (WATs), the ACT Government in 2010 commissioned a review of the ACT Taxi Industry, in which the Commission participated.¹

The Review noted in relation to WATs that:

- 'Although the taxi networks were achieving the currently mandated waiting time standards for booked WAT services in the peak periods, they were failing to meet the off-peak performance measure';
- Wheelchair accessible taxi (WAT) users continued to express their frustration with the poor performance of the WAT fleet;
- Feedback indicated that response times where a WAT had been booked on a 'ready to travel now' basis (rather than a day before) were considerably worse than for standard taxi bookings;

¹ PriceWaterhouseCoopers, ACT Taxi Industry Review Report, November 2010, http://www.rego.act.gov.au/assets/PDFs/Taxi_Report_by_TAMS.pdf

- Users viewed the networks as having a poor focus on WAT job allocations;
- The taxi networks reported 13,756 booked WAT hirings for the financial year 2008/09. However, data obtained by the Review indicated that those hirings may represent only 55% of WATs jobs, with the other 45% not recorded by the networks because the jobs are organised through private arrangements between the WAT driver and customer;
- WATs were generally under utilised by people with disabilities. Of the 25 WAT vehicles operating, only 8 had carried out WAT work in excess of 20% of the total jobs undertaken [range 64% - 22%]. At the other end of the scale, there were 10 WATs that recorded WAT work at less than 5% of the total jobs undertaken [range 1%-4%]. The remaining 7 WATs tended to have about 6% of their total jobs as WAT work; and
- A number of stakeholder expressed negative views of the single wheelchair (Tarago) WATs. These included concerns that the carriage compartment was cramped, particularly in regard to head room, little protection was offered in the event of a rear collision, the inability of the vehicle to carry two wheelchairs was an inconvenience when two wheelchair users wanted to travel together, and due to limited space, the vehicles were not suitable to carry large people and/or large wheelchairs or scooters.

The Review made a range of recommendations regarding WATs:

1. The ACT introduce a centralised 24/7 Wheelchair Accessible Taxi (WAT) management and booking service based on the South Australian arrangement (including driver and booking service provider performance incentives), but modified to account for ACT specific circumstances.
2. The provider of the centralised booking service be selected by tender and that the RTA/proposed taxi directorate consult with taxi industry and WAT user stakeholders in determining the KPIs for the centralised booking service.
3. The centralised booking service be tendered for an initial period of 2 years, with the option of extension, subject the outcome of a performance review at 18 months.
4. If the centralised booking service fails to deliver the required KPI outcomes for service levels, the ACT Government consider alternative approaches to the provision of transport services for wheelchair users, including options involving a higher degree of Government management of these services.
5. Private WAT bookings between client and driver be allowed to continue, but measures be implemented to ensure that drivers must log the private job with the CWBS which will assist in the proper management of the WAT fleet.
6. From 1 July 2011, new WAT vehicles be required to be able to carry a minimum of 2 people in wheelchairs. This will address ride quality and safety issues raised by some stakeholders and also positions the WAT fleet to better respond to the larger and heavier mobile wheelchairs and scooters that are presently being manufactured in greater numbers.
7. The Taxi Subsidy Scheme (TSS) subsidy level be increased by 32% which equates to the percentage increase in taxi fares since the last subsidy review in 2003.
8. All future subsidy increases align with increases in taxi fares to maintain parity between taxi fares and the TSS subsidy.

9. The annual cap on the number of TSS vouchers available to a member of the TSS scheme be removed.
10. Review the eligibility criteria to consider access to the TSS for people who, through temporary disability, are unable to drive and require financial assistance for their transport needs.
11. A study be undertaken to determine the feasibility of replacing the current TSS paper based voucher system with an electronic 'smart card' style of payment system.

In regards to recommendation 1, the ACT Government implemented a new Wheelchair Accessible Taxi Centralised Booking Service in December 2012. This is a contracted service to provide a centralised booking service for all WATs operating in the ACT. The Commission is not yet in a position to judge whether the new service has been successful.

In regards to recommendation 11, the Government also recently announced that Cabcharge had won the tender to provide a 'smart card' style of payment for TSS vouchers.

The Commission notes not all of the recommendations made in the 2010 Review of the ACT Taxi Industry are matters dealt with in the current Standards. Nonetheless, these recommendations were the result of extensive consultation and we would suggest they be considered for addition where appropriate. As the 2007 Standards Review noted, the standards largely include prescriptive regulation rather than performance standards. We note that Recommendation 11 of that Review suggested a change to the performance measure for WATs.

Public Transport

'ACTION' is the ACT Government owned and managed public transport provider. As an ACT Government agency, ACTION also has obligations under the ACT *Discrimination Act 1991* and *Human Rights Act 2004*.

The 2010 Auditor-General's Review found that ACTION was not meeting key obligations under the Standards as follows:

- The ACTION website incorrectly listed dedicated and non-dedicated DDA bus routes;
- Lack of connecting paths to bus stops;
- At the time of the Review, only 36% of the bus fleet was compliant with the standards. The Review also questioned if the 29% figure reported in 2007 was accurate;
- New 'adshel' bus stops may not meet the requirements of the Standards in relation to lighting and access to the shelters by people with a disability or the elderly;
- The previous reporting regarding performance in relation to bus stops meeting the December 2007 target of 25% compliance under the Standards may not have been accurate, as that figure incorrectly counted bus stops that were partially, not completely, compliant with all the requirements of the Standards (eg tactile pads, marked spaces, signage and linkages to paths);
- Lack of alternative options to access information on the ACTION website.²

² See ACT Auditor General, 'Delivery of ACTION Bus Services', August 2010, <http://www.audit.act.gov.au/auditreports/reports2010/Final%20ACTION%20report%20for%20website%2026%20Aug.pdf>

The Review also found that construction work around bus stops often resulted in the stops becoming inaccessible. However, the Review did find compliance with the international symbol of accessibility being clearly visible on the front of accessible buses.

In its response, the ACT Government stated that it would address non-compliance. The Commission notes that the ACTION website currently states that 'ACTION is committed to meet Commonwealth Disability Discrimination (DDA) targets of 55% by 2012, 80% by 2017 and 100% in 2022. As at 31 May 2012 54.34% of ACTION's current in-service fleet were DDA compliant.' The ACTION website also now includes alternative options for obtaining information.

In 2011, ACTION introduced a new ticketing system in 2011, called 'MyWay', which has led to some improvements. However, the Commission has also received complaints regarding the transfer time under the new system. Patrons may transfer from one paid service to another for free within 90 minutes. Some patrons have found that the lack of wheelchair-accessible buses means the trip is more than 90 minutes, and so are being charged an additional amount because of the delay to transfer.

The Commission is working with ACTION to promote awareness of anti-discrimination legislation amongst patrons and the role of the Commission more broadly.

2. *As a public transport user, are there areas of the Transport Standards where you consider that a more specific requirement for compliance would improve accessibility?*

n/a

3. *To what extent do you feel that the requirements in the Transport Standards address all of the accessibility requirements for people with a disability? Are there gaps in the coverage of requirements?*

The Commission has previously had the opportunity to provide input to ACTION on its network design, particularly in terms of long-term planning. We have been particularly mindful of ACTION's obligations as a public authority under the ACT *Human Rights Act 2004*. Public authorities must act and make decisions consistently with human rights. We submitted that the right to equality obliged ACTION to consider the impact on people with disability, as well as other members of the community, of any reduction in bus services to certain parts of the city. This positive obligation is unique to the ACT jurisdiction, and we query if the Standards might consider such obligations across all jurisdictions?

As the body responsible for handling complaints under the ACT *Discrimination Act 1991* we are also aware of the uncertainty regarding the application of Commonwealth Standards under the *Disability Discrimination Act 1992* to complaints of unlawful disability discrimination under State and Territory legislation. The Commission's current policy is to treat such Standards as evidence of what is reasonable, but the community expectation is that compliance with the Standards will be a complete defence to any unlawful discrimination complaint. That is something the Commonwealth Government may seek to clarify in future legislative amendments to the DDA.

4. *Do you find that the current processes with regard to making a complaint or seeking information are sufficient or sufficiently responsive?*

n/a

5. *As a body representing the views of people with a disability, do you have any specific responses or perspectives with regard to the issues raised in the questions above?*

n/a

6. *Other key issues you would like to see addressed?*

The Commission has previously raised concerns publicly regarding the changes to accessible parking standards made in conjunction with the new Access to Premises Standards under the DDA. While not directly relevant to this Review, that issue has highlighted that specific elements of the Premises Standards, particularly the technical standards it refers to, may need to be reviewed more regularly after implementation. We note that Recommendation 3 of the 2007 Review of the Transport Standards referred to similar technical standards being developed for transport. While supportive of such an approach, we suggest that these technical issues in particular be subject to on-going scrutiny after being implemented in practice.

Additionally, young people have raised with the Commission on a number of occasions the general inaccessibility of the ACTION bus service, as it is primarily designed with adult commuters in mind. The Commission is concerned that young people with a disability may therefore experience even greater disadvantage.

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