

PUBLIC TRANSPORT OMBUDSMAN FIVE-YEAR REVIEW



Under the PTO Charter we are required to have our performance independently reviewed every five years. We provide our services in line with the six benchmarks for industry-based customer dispute resolution (The Benchmarks) which are accessibility, accountability, effectiveness, efficiency, fairness and independence.

2019 marks the 15th year of operation for the PTO and the third such review of our performance.

We engaged the service of Dr Gavin McBurnie from the Consumer Dispute Resolution Centre (CDRC) at Queen Margaret University (Scotland, UK) because it is a centre of excellence in the provision of research and consultancy services for consumer complaint handling organisations such as the PTO.

The Board of the PTO took this opportunity to look at the scheme broadly and asked the reviewers to consider the governance structures of the PTO and provide us with advice based on aspiring to achieve a 'best in breed' consumer dispute resolution model. To that end, the Board and Ombudsman are looking forward to working with the Department of Transport and the Minister for Public Transport on the ideas presented by Dr. McBurnie.

The recommendations also highlighted opportunities for the PTO to review aspects of our operations to improve fairness, and to consider changes to some of our governance arrangements. There were also recommendations regarding the scope and reach of the Scheme in light of broader consumer feedback.

While there may be some logical areas where expanding the PTO's jurisdiction might improve consumer outcomes, overall the Scheme meets the needs of the travelling public and those affected by public transport works.

Increasing public awareness of the PTO and improving the ease of which a person can complain to us when they are dissatisfied continues to be an area of opportunity and the report recommended the PTO continue to simplify how consumers find out about and access the PTO.

The following summarise the recommendations against each of the Benchmarks for Customer-based Dispute Resolution Schemes along with the responses from the PTO Board.



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1. ACCESSIBILITY

1.1 Raising awareness

- It is recommended that the PTO works with operators on the development of a consumer engagement strategy to promote both the overall public transport complaints system and, specifically, the role of the PTO at transport facilities.
- It is recommended that the PTO develops a fully resourced overarching awareness promoting strategy.

Accepts recommendation

- The Board asks the Ombudsman to review the current Member Awareness policy taking into consideration clauses within the current Operator Franchise Agreements relating to awareness of the PTO at transport facilities.
- The Board will seek a proposal from the Ombudsman in the 2020/21 business plan to develop and resource a structured and measurable awareness strategy.

1.2 Vulnerability

- It is recommended that the PTO should particularly focus its awareness raising activities on under-represented socio-demographic groups.
- It is recommended that the PTO reviews its provision of material for those with additional needs.

Accepts recommendation

- The Board asks the Ombudsman to provide a proposal for increased resourcing and associated costs of producing more specific and targeted materials



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2. INDEPENDENCE

2.1 Structure of the Board

- It is recommended that the Board of PTO consider reducing its Board size to five members.
- It is recommended that as, well as reducing the Board from seven members to five members, the Board should be established on the basis of an independent chairperson, one industry director, one consumer director, drawn from consumer interest groups active in the area of public transport, and two independent directors.
- It is recommended that the Board assumes responsibility to appoint directors. In implementing this change, the Board of the PTO should review the activities of consumer ombudsman that have such a role and agree a revised process based upon this experience.
- The Chairperson of the PTO should also be appointed by the Board following a recommendation from the nominations committee, but in this case the nomination should also be passed to the Department of Transport for consideration but not approval.
- It is recommended that the Constitution of the PTO be amended to include the length of appointment for both directors and the chairperson.

Supports recommendation

- The Board recommends the Ombudsman and Company Secretary liaise with the Department on these recommendations

2.2 The position of the Ombudsman

- It is recommended that the Board consider appointing the Ombudsman as an additional sixth board member.

Does not support recommendation

- The Board is not persuaded that this would add value to the effectiveness of the Board given the size of the organisation

2.3 The role of the Board

- It is recommended that the Board reviews its role in the development of organisational strategies and policies and work with the senior staff members to create a culture which encourages senior staff to implement these strategies and policies as freely as possible while being held to account.
- It is recommended that the PTO establish an Advisory Committee, consisting of relevant industry and consumer interests to support the work of the Board.



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Accepts recommendation

- The Board previously developed a Strategy Committee and will review how this committee functions
- In conjunction with the overall review of the Board structure, the Board asks the Ombudsman to provide a proposal for developing an Advisory Committee

2.4 Funding of the PTO

It is recommended that the requirement for members of the PTO to approve the annual budget figure at a general meeting is removed, with this responsibility being delegated to the Board

Supports the rationale of the recommendation

- The Board will undertake a mapping exercise of other Schemes' funding models and consult with the PTO Members

2.5 Other governance issues

- It is recommended that references to the PTV or any subsequent replacement entity are removed from the Charter of the PTO.
- It is recommended that the PTO discuss with the relevant Department and/or Minister the establishment of the PTO on a statutory footing.

Supports recommendation

- The Board recommends the Ombudsman and Company Secretary liaise with the Department



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3. FAIRNESS

3.1 Procedural fairness

- It is recommended that where versions of events differ on significant points, in seeking further evidence by which to take a view, caseworkers conduct interviews of all relevant witnesses or participants, enabling the caseworker to establish a view on the weight that should be given to the competing versions, thus helping make a robust decision.

Accepts recommendation

- The Board asks the Ombudsman to review current practice and report back to the Board.

3.2 The fair and reasonable test

- It is recommended that the PTO keep under review its approach to the fair and reasonable test and its use by casework staff.

Accepts recommendation

- The Board asks the Ombudsman to review current practice and report back to the Board.

4. ACCOUNTABILITY

4.1 Data

- It is recommended that the PTO publishes more of its complaints data, decisions, particularly the result of systemic investigations along with information about its other activities.

Accepts recommendation

- The PTO is currently updating its publications and website to improve information about its work, including open systemic investigations. The Ombudsman will report regularly to the Board on the impact of these changes.
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5. EFFICIENCY

5.1 The public transport complaints system in Victoria

- It is recommended that the potential for complainant confusion, dissatisfaction and complaint fatigue be reduced by removing the role of the PTV from the complaints process other than for those issues for which they have sole responsibility.
- It is recommended that the PTO should liaise with the PTV about the provision of data which the PTV would find of assistance in its role as provider, co-ordinator and promoter of the public transport system in Victoria.

Supports the recommendation

- The Board asks the Ombudsman to liaise with PTV/The Department and develop proposed changes to the PTO Charter for review by the Board prior to presenting to the Minister for Public Transport

5.2 Review of investigations

- It is recommended that the PTO review its complaint handling process to clarify the process for when a case should move from attempted conciliation to case assessment and ultimately adjudication.
- It is recommended that the PTO reviews its criteria by which it decides whether or not to treat a complaint as a Refer for Internal Escalation (RFIE) or as an investigation. Should a complaint be treated as an RFIE, there should be more active follow up by the PTO with the complainant of action taken by the operator.

Accepts recommendation

- The Ombudsman will review the case handling procedures and, The PTO will work with Members to review the referral process, including initiating a follow up process for all referrals. The Ombudsman will report back to the Board

5.3 The PTO as design authority

- It is recommended that, based upon its expertise and knowledge, the PTO should lead the system in designing a good complaint system.

Broadly supports the recommendation

- The Board asks the Ombudsman to develop a best practice model for complaint handling

5.4 Assessing performance

- It is recommended that the Board of the PTO review its set of performance indicators with a view to developing a more holistic view of office performance.
- It is recommended that the PTO provides detail of its performance against its KPIs in its Annual Report.



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Accepts recommendation

- The Board asks the Ombudsman to review the current KPI's and propose new performance Indicators where appropriate for Board approval
- The PTO will report its performance annually

6. EFFECTIVENESS

6.1 The Public Transport Ombudsman

- It is recommended that the mission and aims of the PTO and contained within the PTO Charter should explicitly incorporate each of the five functions of a modern CDR scheme, namely, consumer advice, individual dispute resolution, data analysis, data publication and improving market behaviour, as part of its formal role.
- It is recommended by the review team that the data analysis conducted by the PTO on complaints is not only produced and provided to members but is also published on its website

Supports the recommendation

- The Board agrees with the inclusion of these functions as part of updating the Charter

Accepts recommendation

- As part of the review of the PTO website, complaint data will be published on the PTO website at regular intervals

6.2 Jurisdiction

- It is recommended that the role of the PTV, described in paragraphs 1.8, 5.1(a) and (b), and 7.1(d) are removed.
- It is recommended that the PTO discuss with the DoT the inclusion under its jurisdiction both VicRoads and all infrastructure projects being developed under the auspices of Victoria's Big Build.
- It is recommended that the PTO discuss with the DoT the issue of it having the ability to take on complaints about travel infringement notices in certain circumstances.
- It is recommended that the PTO should be able to exercise discretion in multi-faceted complaints, including some complaints about TINS, where there are special or exceptional circumstances.



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Supports the recommendation

- The Board agrees in principle with the inclusion of these functions as part of updating the Charter and asks the Ombudsman to work with the Department to further develop a proposal for their review prior to further recommendations to the Minister.

6.3 Other jurisdictional issues

- It is recommended that the PTO discuss with the Department of Education whether there is a second-tier complaints service for those using free school bus services, and, if there is not, it is further recommended that the PTO should become the second-stage complaints operator for those services.
- It is recommended that the PTO is established as the single public transport complaints body which enables easy access by complainants to a single body able to deal with almost all their complaints.

Supports the recommendation in principle

- The Board asks the Ombudsman to canvas the Department of Education on their current complaint processes and respond to the Board.
- Notes this recommendation is largely outside of the scope of the review but asks the Ombudsman to prepare an analysis of approaches to the PTO which are currently out of jurisdiction and the options available for consumers whose complaints are not covered by the PTO.

6.4 Binding limits

- It is recommended that the PTO reviews its binding limits.

Accepts recommendation

- The Board asks the Ombudsman to review cases to determine if the current binding limits are suitable to the complaints currently or potentially handled by the PTO

6.5 Systemic investigations

- It is recommended that the PTO revises its approaches to systemic investigations to adopt a broader range of approaches, ideally all four detailed above, and work with operators on the development of this policy.

Accepts recommendation

- The Ombudsman is currently reviewing the systemic investigation process. The Ombudsman will report to the Board once member consultation is completed.